

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 Committee on Commerce and Tourism

BILL: CS/SB 1166

INTRODUCER: Commerce and Tourism Committee and Senator Albritton

SUBJECT: Broadband Internet Service

DATE: January 28, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harmsen	McKay	CM	Fav/CS
2.			ATD	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1166 makes several updates to Florida's broadband initiatives and transfers the locus of broadband policy implementation from the Department of Management Services to the Department of Economic Opportunity. Specifically, the bill:

- Designates the Department of Economic Opportunity to replace the Department of Management Services as the agency responsible for the expansion of broadband in Florida;
- Creates the Florida Office of Broadband within the Department Of Economic Opportunity's Division of Community Development, to which it transfers specific duties regarding the development, marketing, and promotion of broadband;
- Permits the Department of Transportation to use up to \$5 million annually from the State Transportation Trust Fund's allocation to the Multi-use Corridors of Regional Economic Significance Program, for projects that assist in the development of broadband infrastructure within or adjacent to a multiuse corridor; and
- Repeals a provision of law that never took effect.

II. Present Situation:

Florida Agency Broadband Initiatives

Fixed and mobile broadband services provide Americans, especially those in rural and remote areas of the country, access to numerous employment, education, entertainment, and health care

opportunities.¹ Additionally, communities that lack broadband access can have difficulty attracting new capital investment because broadband access is so critical to businesses. “Corporate site selectors expect broadband. It is not a perk or special benefit.”² Florida’s urban areas are served at a fixed broadband coverage rate of 98 percent, but only 75.2 percent of its rural areas have coverage.³ This disparity between urban and rural broadband access is caused by the high construction costs required to build the broadband infrastructure across the larger swaths of rural geographic areas, and lower overall demand.⁴ A 2016 study determined that 16 Florida counties are underserved by fixed broadband services.⁵

Department of Management Services

In 2009, the Legislature authorized the Department of Management Services (DMS) to apply for grants and lead broadband planning and deployment throughout Florida, especially in rural, unserved, and underserved areas of Florida.⁶ Pursuant to s. 364.0135, F.S., DMS was directed to collaborate with Enterprise Florida, Inc., other state agencies, local governments, private businesses, and community organizations to:

- Monitor broadband adoption across Florida;
- Create a strategic plan to increase the use of broadband internet service in Florida;
- Map Florida’s broadband transmission speeds and availability;
- Build and facilitate local technology planning teams, especially with community members from the areas of education, healthcare, business, tourism, agriculture, economic development organization, and local government; and
- Encourage public use of internet service through broadband grant programs.

The DMS could also accept federal and private funds to further these goals.⁷ These activities were funded by an \$8,887,028 grant from the U.S. Department of Commerce National Telecommunications Information Administration’s (NTIA) State Broadband Initiative.⁸ However, Florida does not currently have a state broadband office, program, or funding source.⁹

¹ U.S. Federal Communications Commission, *2018 Broadband Deployment Report* at 1, Feb. 2, 2018, available at <https://www.fcc.gov/reports-research/reports/broadband-progress-reports/2018-broadband-deployment-report> (last visited Jan. 28, 2020).

² M. McQuade, *The Importance of Broadband to Economic Development* (Sept. 2011), Site Selection Magazine, available at <https://siterelection.com/issues/2011/sep/sas-optical-infrastructure.cfm> (last visited Jan. 28, 2020).

³ U.S. Federal Communications Commission, *supra* note 1, at 58-59. For purposes of this data, ‘fixed broadband services’ are measured at 25 megabits per second downstream and 3 megabits per second upstream.

⁴ American Broadband Initiative, *Milestones Report*, 11 (Feb. 13, 2019), available at https://broadbandusa.ntia.doc.gov/sites/default/files/resource-files/american_broadband_initiative_milestones_report_feb_2019_0.pdf (last visited Jan. 28, 2020).

⁵ Dr. Ed H. Moore, *Expanding Local Access to the Internet Infrastructure & Customized Distance Learning to Advance Educational Attainment, Economic Development & County Growth*, Independent Colleges & Universities of Florida, https://www.floridahighereducation.org/doc_meetings/20171030/Moore-10_30_17-Access-to-Internet-Distance-Learning-for-Educational-Attainment-Economic-Development-County-Growth.pdf (last visited Jan. 28, 2020).

⁶ Chapter 2009-226, s. 2, Laws of Fla. (creating s. 364.0135, F.S., effective July 1, 2009).

⁷ Section 364.0135(3), F.S.

⁸ U.S. Department of Commerce, National Telecommunications and Information Administration, *State Broadband Initiative*, <https://www2.ntia.doc.gov/SBDD> (last visited Jan. 28, 2020).

⁹ U.S. Department of Commerce, National Telecommunications and Information Administration, BroadbandUSA, *State Broadband Programs, Florida* (Summer 2018), <https://broadbandusa.ntia.doc.gov/> (last visited Jan. 28, 2020). The NTIA’s State Broadband Initiative’s grant funds continued through November, 2014. Julie Gowen, Florida Department of

Department of Economic Opportunity

The Department of Economic Opportunity's (DEO) Rural Infrastructure Fund (RIF) facilitates the planning, preparation, and financing of infrastructure projects, including broadband facilities, in rural communities that will encourage job creation, capital investment, and other economic benefits.¹⁰ The RIF program attracts local and federal government, and private funding by matching up to 40 percent of a project's cost with state grant funds.¹¹

Department of Transportation—Multi-use Corridors of Regional Economic Significance

The Florida Department of Transportation's (FDOT) Multi-use Corridors of Regional Economic Significance Program (M-CORES) is designed to advance construction of regional corridors that will accommodate multiple modes of transportation and multiple types of infrastructure, including those that promote broadband connectivity.¹² The M-CORES program has a designated appropriation of \$35 million each year, beginning with the 2022-2023 fiscal year.¹³ The FDOT must give preference to feeder roads, interchanges, and appurtenances that create or facilitate multiuse corridor access and connectivity when using these funds.

Senate Bill 1242 (2012)

In the 2012 Legislative Session, the Legislature passed a bill that would have transferred the state broadband programs from the DMS to the DEO. Although the enrolled bill was signed into law¹⁴ by the Governor on April 20, 2012, it never took effect and the transfer did not occur. The bill made the agency transfer contingent on the approval by the U.S. Department of Commerce of the transfer of the federal broadband grant to the DEO; the transfer of funds was never approved.¹⁵

Federal Broadband Initiatives

Federal funding for broadband comes from a range of sources,¹⁶ for example:

- The Federal Communication Commission's (FCC) Universal Service Fund subsidizes telephone service (including broadband internet access) to low-income households, high-cost areas, rural healthcare providers, and eligible schools and libraries;

Management Services, Division of Telecommunications, *Broadband Mapping in Florida: Analyzing Coverage, Speed and Demographics* (Jan. 28, 2014) (on file with the Committee on Commerce and Tourism).

¹⁰ Section 288.0655(2)(b), F.S.

¹¹ See s. 288.0655, F.S. See also, Florida Department of Economic Opportunity, *Rural Infrastructure Fund*, <http://floridajobs.org/community-planning-and-development/rural-community-programs/rural-infrastructure-fund> (last visited Jan. 28, 2020); Florida Department of Economic Opportunity, *2019 Incentives Report* at 17-18, available at http://www.floridajobs.org/docs/default-source/reports-and-legislation/2018-2019-annual-incentives-report---final.pdf?sfvrsn=c2a340b0_2 (last visited Jan. 28, 2020).

¹² Section 338.2278(1)(d), F.S. See also Florida Department of Transportation, *M-CORES*, <https://floridamcores.com/> (last visited Jan. 28, 2020).

¹³ Section 339.0801(2)(b), F.S.

¹⁴ Chapter 2012-131, Laws of Fla.

¹⁵ See note 1, s. 364.0135, F.S.

¹⁶ American Broadband Initiative, *supra* note 4, at 25-26.

- The U.S. Department of Housing and Urban Development¹⁷ and Department of Education¹⁸ offer block grants to support broadband infrastructure; and
- The U.S. Department of Agriculture (USDA) offers loans and grants to facilitate broadband deployment in rural areas that don't have sufficient access¹⁹ to broadband through the ReConnect Program.²⁰

The ReConnect Program is currently the most significant federal grant program that supports broadband infrastructure, but of the \$300,687,772 awarded in its first round of grants and loans, no Florida recipient was included.²¹ Applicants that apply for a grant or loan/grant combination under the ReConnect Program are required to submit a scoring sheet by which the USDA may analyze nine separate evaluation criteria to score the applicant. One of the criteria is whether the proposed project is in a state with a broadband plan that has been updated within the previous 5 years.²²

Since 2000, the FCC has collected data regarding the deployment of advanced telecommunications capability to Americans by requiring telecommunications services, especially broadband internet, providers to report the availability of their services at a census block level.²³ The FCC uses this data to annually report on broadband availability, update service policies and monitor whether the goal of nationwide service is achieved, and maintain coverage maps²⁴ to inform the industry and the public of the availability of broadband internet in their areas.²⁵ In 2019, the FCC adapted its reporting requirements to collect geospatial broadband coverage information to allow the agency to better identify gaps in broadband coverage.²⁶

¹⁷ U.S. Department of Housing and Urban Development, *State CDBG Program Broadband Infrastructure FAQs* (Jan. 7, 2016), <https://files.hudexchange.info/resources/documents/State-CDBG-Program-Broadband-Infrastructure-FAQs.pdf> (last visited Jan. 28, 2020).

¹⁸ U.S. Department of Education, Rural and Low-Income School Program, <https://www2.ed.gov/programs/reaprlisp/index.html> (last visited Jan. 28, 2020). See also, Broadband USA, *Funding Guide- Department of Education- Rural and Low-Income School Program*, <https://broadbandusa.ntia.doc.gov/funding-program-details-funding-guide/department-education-rural-low-income-school-program-0> (last visited Jan. 28, 2020).

¹⁹ Sufficient access is defined as 10 megabits per second downstream and 1 megabit per second upstream. Pub. Law No. 115-334, 115th Cong. (Dec. 20, 2018) Agriculture Improvement Act of 2018. See also, Congressional Research Service, *The ReConnect Broadband Pilot Program* (Jul. 3, 2019), available at <https://www.usda.gov/reconnect/awardees> (last visited Jan. 28, 2020).

²⁰ U.S. Department of Agriculture, *ReConnect Loan and Grant Program: About*, <https://www.usda.gov/reconnect/program-overview> (last visited Jan. 28, 2020).

²¹ U.S. Department of Agriculture, *ReConnect Program Awardees*, <https://www.usda.gov/reconnect/awardees> (last visited Jan. 28, 2020).

²² U.S. Department of Agriculture, *ReConnect Program Evaluation Criteria*, <https://www.usda.gov/reconnect/evaluation-criteria> (last visited Jan. 28, 2020).

²³ See 47 U.S.C. §1302(b) (Section 706 of the Telecommunications Act of 1996 requires the FCC to determine and report annually on “whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion.”) Federal Communications Commission, *Report and Order and Second Further Notice of Proposed Rulemaking*, WC Docket Nos. 19-195, 11-10, at 3-4 (filed Aug. 6, 2019), available at <https://www.fcc.gov/document/fcc-improves-broadband-mapping-0> (last visited Jan. 28, 2020).

²⁴ See FCC, *Fixed Broadband Deployment*, <https://broadbandmap.fcc.gov/#/> (last visited Jan. 28, 2020).

²⁵ *Id.* at 4.

²⁶ FCC, *FCC Establishes New Digital Opportunity Data Collection* (Aug 1, 2019), available at <https://www.fcc.gov/document/fcc-improves-broadband-mapping> (last visited Jan. 28, 2020).

III. Effect of Proposed Changes:

The bill consolidates broadband policy and state action within the DEO by transferring the duties of developing, marketing, and promoting broadband to the newly created Florida Office of Broadband (Office) within the DEO's Division of Community Development.

Section 1 permits the FDOT to use up to \$5 million per year of the \$35 million annual allocation made to the Florida Turnpike Enterprise for the administration of the M-CORES Program from the State Transportation Trust Fund by s. 339.0801(2), F.S., to develop broadband infrastructure within or adjacent to a multiuse corridor. This section also requires the FDOT to prioritize broadband infrastructure projects that are located in a rural area of opportunity (RAO)²⁷ that is adjacent to a multiuse corridor. The currently designated RAOs are:²⁸

- The Northwest RAO, comprised of Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Wakulla, and Washington counties, and the part of Walton County north of the Intracoastal Waterway, including the cities of DeFuniak Springs, Freeport, and Paxton;
- The South Central RAO, comprised of DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee counties, the cities of Pahokee, Belle Glade, and South Bay in Palm Beach County, and the city of Immokalee in Collier County; and
- The North Central RAO, comprised of Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor, and Union Counties.

Section 2 transfers state broadband policy from the DMS to the DEO and creates the Florida Office of Broadband (Office) within the DEO's Division of Community Development. The Office must develop, market, and promote broadband Internet services to Florida, and is directed to:

- Create a strategic plan that has goals and strategies for increasing broadband use in Florida;
- Build and facilitate community-level, local technology planning teams, the membership of which may include education, health care, private business, agriculture, economic development organizations, local government, and tourism representatives;
- Encourage broadband use through state grant programs that facilitate broadband deployment, especially in Florida's rural, unserved, or underserved communities; and
- Monitor, participate in, and provide input on FCC proceedings that are related to the geographic availability and deployment of broadband internet in Florida.

The bill defines "underserved" as a geographic area of Florida in which there is no broadband internet service with a capacity for transmission at a consistent speed of at least 10 megabits per second downstream and at least 1 megabit per second upstream. This conforms the definition to that of "sufficient access" as provided in the Agriculture Improvement Act of 2018.

²⁷ Section 288.0656, F.S., defines a rural area of opportunity (RAO) as a rural community or region composed of rural communities, that have been adversely affected by extraordinary economic events or natural disasters. RAO's are eligible for assistance and other support through the Rural Economic Development Initiative, administered by the DEO.

²⁸ Florida Department of Economic Opportunity, *Rural Areas of Opportunity*, <http://www.floridajobs.org/community-planning-and-development/rural-community-programs/rural-areas-of-opportunity> (last visited Jan. 28, 2020).

This section also transfers the authority to apply for and accept federal funds, to enter into contracts, and to establish committees or workgroups for the purposes of broadband expansion and implementation to the DEO. Unlike the DMS' funding authority, however, this bill does not permit the DEO to accept private funds to coordinate and implement broadband in Florida.

Section 3 repeals ch. 2012-131, Laws of Florida, language that was enrolled by the House and Senate in the 2012 Legislative Session and approved by the Governor on April 20, 2012, but that never took effect as a result of the terms of the conditional effective date that were never met.

Section 4 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The incentives to build broadband infrastructure in rural areas may drive a greater level of broadband development to those areas. This may result in a positive impact to both individuals and businesses in impacted areas.

C. Government Sector Impact:

The DEO may incur costs associated with the creation, staffing, and operation of the Office.

The American Broadband Initiative cites coordination between state and federal broadband programs as a challenge to further broadband development, and states that “[f]ederal program officers would benefit from local insights provided by State leaders.”²⁹ The re-institution of a Florida Broadband Office may facilitate better coordination, and create additional opportunities to receive federal funding for broadband development.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 339.0801 and 364.0135 of the Florida Statutes, and repeals ch. 2012-131, Laws of Florida.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Commerce and Tourism on January 27, 2020:

- Defines the term “underserved,” to mean a geographic area in which there is no broadband internet service at a consistent speed of at least 10 megabits per second downstream and at least 1 megabits per second upstream; and
- Extends the Office’s duties to include monitoring, participating in, and providing input on FCC proceedings regarding geographic availability and deployment of broadband internet service.

- B. **Amendments:**

None.

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

²⁹ American Broadband Initiative, *supra* note 4 at 27-28.