

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 969 Broadband Internet Service
SPONSOR(S): Transportation & Tourism Appropriations Subcommittee; Drake
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1166

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Energy & Utilities Subcommittee	14 Y, 0 N	Keating	Keating
2) Transportation & Tourism Appropriations Subcommittee	12 Y, 0 N, As CS	Cobb	Davis
3) Commerce Committee	18 Y, 0 N	Keating	Hamon

SUMMARY ANALYSIS

In 2009, the Legislature authorized the Department of Management Services (DMS) to perform certain functions to promote the increased use of broadband Internet service in the state. Under this authority, DMS was awarded federal grant funding through a 2009 U.S. Department of Commerce State Broadband Initiative program. Those funds have since been depleted, and the state broadband program is dormant.

The bill designates the Department of Economic Opportunity (DEO) as the lead state agency to facilitate the expansion of broadband Internet service in the state. It creates the Florida Office of Broadband (Office) within DEO's Division of Community Development for purposes of developing, marketing, and promoting broadband Internet service in the state.

The bill transfers to the new office most of the powers and duties previously given to DMS. Specifically, the Office must:

- Create a strategic plan for increasing the use of broadband Internet service in the state;
- 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; and
- Encourage the use of broadband Internet service, especially in rural, unserved, and underserved areas of the state through grant programs.
- Monitor, participate in, and provide input in proceedings of the Federal Communications Commission and other federal agencies related to the geographic availability and deployment of broadband Internet service in Florida.

For these purposes, the bill authorizes DEO to apply for and accept federal grant funds, enter into necessary or useful contracts, and establish any committee or workgroup to administer the program.

The bill also repeals ch. 2012-131, L.O.F., which became obsolete when the federal grant funds previously awarded to DMS were depleted.

The bill provides that up to \$5 million of the funds transferred to Florida's Turnpike Enterprise for the Multi-use Corridors of Regional Economic Significance (M-CORES) program may be used for projects that assist in the development of broadband infrastructure within or adjacent to a multiuse corridor.

DEO estimates that in order to implement the bill initially the workload will be absorbed by existing staff. There is no estimate as to any further recurring costs necessary to operate the program. The bill provides for an additional use of M-CORES funds, but does not affect revenues or expenditures. See fiscal comments.

The bill provides an effective date of July 1, 2020.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Fixed and mobile broadband services provide access to numerous employment, education, entertainment, and health care opportunities.¹ Communities that lack broadband access can have difficulty attracting new capital investment. While Florida's urban areas are served at a fixed broadband coverage rate of 98 percent, its rural areas are served at a rate of 75.2 percent.² This disparity is caused primarily by high per-unit construction costs required to build broadband infrastructure across larger swaths of rural geographic areas.³

Florida Broadband Program

In 2009, the Legislature authorized the 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; 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, as well as gifts and donations from individuals, foundations, and private organizations, for these purposes.⁴

In 2009, the U.S. Department of Commerce's National Telecommunications Information Administration (NTIA) launched the State Broadband Initiative (SBI) to implement two federal laws, the American Recovery and Reinvestment Act of 2009 and the Broadband Data Improvement Act of 2008. According to the NTIA's SBI website,⁵ twelve separate entities within Florida were awarded grants totaling \$183.7 million for broadband infrastructure, sustainable adoption, and public computer center projects. Among those grants, DMS was awarded a total of \$8,877,028.⁶

In 2012, the Legislature passed a law transferring the state's broadband program from DMS to the Department of Economic Opportunity (DEO) and designating DEO as the single state entity to receive and manage all federal SBI funds.⁷ By its terms, this law would become effective only if the U.S. Department of Commerce approved the transfer of the existing federal SBI grant from DMS to DEO.

¹ U.S. Federal Communications Commission, *2018 Broadband Deployment Report*, at 1 (Feb. 2, 2018), available at <https://docs.fcc.gov/public/attachments/FCC-18-10A1.pdf> (last visited Feb. 10, 2020).

² *Id.*, 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.

³ American Broadband Initiative, *Milestones Report*, at 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 Feb. 10, 2020).

⁴ Ch. 2009-226, L.O.F., codified at s. 364.0135, F.S.

⁵ Broadband USA - NTIA, *State Broadband Initiative*, <http://www2.ntia.doc.gov/SBDD> (last visited Feb. 10, 2020).

⁶ Broadband USA - NTIA, *Florida Department of Management Services*, <http://www2.ntia.doc.gov/grantee/florida-department-of-management-services> (last visited Feb. 10, 2020).

⁷ Ch. 2012-131, L.O.F.

This approval was never provided, thus the program remains under DMS. After depletion of the remaining SBI grant funds, the state broadband program has been unfunded and dormant.

Federal Broadband Initiatives

In January 2020, the Federal Communications Commission (FCC) established the Rural Digital Opportunity Fund (Fund) to fund the deployment of broadband networks in rural America over the next decade.⁸ The program will consist of two phases. Using data from the FCC's previous mapping efforts, the first phase will begin later this year and will make available up to \$16 billion to target census blocks that are wholly unserved with fixed broadband speeds of at least 25 megabits per second (Mbps) downstream and 3 Mbps upstream (25/3 Mbps). Using more precise data to be developed through a new FCC mapping effort, the second phase will make available at least \$4.4 billion to target census blocks where some locations lack access to 25/3 Mbps broadband.

In addition, the U.S. Department of Agriculture (USDA), through its ReConnect Program, offers federal loans, grants, and loan/grant combinations to facilitate broadband deployment to rural areas without access to sufficient broadband service.⁹ Eligible entities include cooperatives and non-profits, for-profit companies, and state and local governments and their agencies and political subdivisions. Applicants requesting a grant or a loan/grant combination under the ReConnect Program are required to submit a scoring sheet by which USDA may analyze nine separate evaluation criteria to score the application. One of the evaluation criteria is whether the proposed project is in a state with a broadband plan that has been updated within the previous 5 years.¹⁰

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.¹¹ The FDOT must give preference to feeder roads, interchanges, and appurtenances that create or facilitate multiuse corridor access and connectivity when using these funds.

Effect of Proposed Changes

The bill designates DEO as the lead state agency to facilitate the expansion of broadband Internet service in the state. It creates the Florida Office of Broadband (Office) within DEO's Division of Community Development for purposes of developing, marketing, and promoting broadband Internet service in the state.

The bill maintains most of the requirements previously imposed on DMS and imposes them instead on the new office. Specifically, the Office must:

- Create a strategic plan for increasing the use of broadband Internet service in the state which must include a process to review and verify public input regarding transmission speeds and availability of broadband Internet service throughout the state;
- 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; and

⁸ U.S. Federal Communications Commission, *FCC Launches \$20 Billion Rural Digital Opportunity Fund*, <https://www.fcc.gov/document/fcc-launches-20-billion-rural-digital-opportunity-fund-0> (last visited Feb. 10, 2020).

⁹ USDA, *Broadband*, <https://www.usda.gov/broadband> (last visited Feb. 10, 2020).

¹⁰ *Id.*

¹¹ S. 338.2278(1)(d), F.S. See also Florida Department of Transportation, *M-CORES*, <https://floridamcores.com/> (last visited Feb. 10, 2020).

- Encourage the use of broadband Internet service, especially in rural, unserved, and underserved¹² areas of the state through grant programs.
- Monitor, participate in, and provide input in proceedings of the FCC and other federal agencies related to the geographic availability and deployment of broadband Internet service as necessary to ensure that Florida’s rural, unserved, and underserved areas are best positioned to benefit from federal and state broadband deployment programs.

For these purposes, the bill authorizes DEO to apply for and accept federal grant funds, enter into necessary or useful contracts, and establish any committee or workgroup to administer the program.

The bill repeals ch. 2012-131, L.O.F. This law is obsolete. The contingency upon which this law would have become effective – federal approval of the transfer from DMS to DEO of a now-depleted federal grant – did not, and can no longer, occur.

The bill provides that up to \$5 million of the funds transferred to Florida’s Turnpike Enterprise for the Multi-use Corridors of Regional Economic Significance (M-CORES) program may be used for projects that assist in the development of broadband infrastructure within or adjacent to a multiuse corridor. The bill requires that priority be given to broadband infrastructure projects located in a rural area of opportunity¹³ that is adjacent to a multiuse corridor.

The bill provides an effective date of July 1, 2020.

B. SECTION DIRECTORY:

Section 1. Amends s. 339.0801, F.S., relating to the use of revenues for the Multi-use Corridors of Regional Economic Significance program.

Section 2. Amends s. 364.0135, F.S., relating to promotion of broadband adoption.

Section 3. Repeals ch. 2012-131, L.O.F.

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

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

¹² The bill defines “underserved” to mean a geographic area of this state in which there is no provider of broadband Internet service that offers a connection to the Internet with a capacity for transmission at a consistent speed of at least 10 Mbps downstream and at least 1 Mbps upstream

¹³ Section 288.0656, F.S., defines a rural area of opportunity (RAO) as a rural community, or region composed of rural communities, designated by the Governor, that has been adversely affected by an extraordinary economic event, severe or chronic distress, or natural disaster that presents a unique economic development opportunity of regional impact. RAO’s are eligible for assistance and other support through the Rural Economic Development Initiative, administered by DEO. According to DEO’s website, the currently designated RAOs are:

- 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.

2. Expenditures:

DEO estimates that in order to implement the bill initially the workload will be absorbed by existing staff. There is no estimate as to any further recurring costs necessary to operate the program.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill may improve the opportunity for entities within the state to receive funding to support deployment of broadband Internet service in rural, underserved, and unserved areas of the state, which may enhance economic development in those areas.

The bill provides that up to \$5 million of funds transferred to the Florida Turnpike Enterprise may be used for projects that assist in the development of broadband infrastructure within or adjacent to a multiuse corridor. Current law transfers \$35 million to the Turnpike Enterprise. This provision simply expands the use of these funds to include broadband infrastructure, thus it will not affect revenues nor expenditures.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS / COMMITTEE SUBSTITUTE CHANGES

On February 3, 2020, the Transportation & Tourism Appropriations Subcommittee adopted one amendment, and one amendment to the amendment. In summary, the amendments:

- Provide that up to \$5 million of the funds transferred to Florida's Turnpike Enterprise for the M-CORES program may be used for projects that assist in the development of broadband infrastructure within or adjacent to a multiuse corridor;
- Provide a definition of for the term "underserved";

- Provide that the broadband strategic plan must include a process to review and verify public input regarding transmission speeds and availability of broadband Internet service throughout the state; and
- Provide that DEO must monitor, participate in, and provide input in proceedings of the FCC and other federal agencies related to the geographic availability and deployment of broadband Internet service in Florida.

This analysis is written to the committee substitute as passed out of the Transportation & Tourism Appropriations Subcommittee.