

1 A bill to be entitled
2 An act relating to broadband Internet infrastructure;
3 providing a short title; creating pt. XV of ch. 288,
4 F.S.; relating to the Florida Office of Broadband;
5 transferring, renumbering, and amending s. 364.0135,
6 F.S.; revising and providing definitions relating to
7 broadband Internet service; revising duties of the
8 Florida Office of Broadband; providing rulemaking
9 authority; creating s. 288.9962, F.S.; creating a
10 grant program within the Florida Office of Broadband;
11 providing for administration of the program; providing
12 requirements for grant awards; providing eligibility
13 requirements; providing application requirements;
14 requiring the publication of certain information
15 related to grant applications and grant awards on a
16 website; authorizing grant applications to be
17 challenged under certain circumstances; specifying
18 contents of a challenge; providing procedures to be
19 used by the office in evaluating challenges; providing
20 direction for prioritizing grant funding; specifying
21 conditions for the award of grants; requiring that
22 office to enter into an agreement containing specified
23 information with each grant recipient; requiring the
24 office to publish specified information annually on
25 its website; requiring specified information to be

26 delivered to the Governor and Legislature; creating s.
 27 288.9963, F.S.; providing legislative findings;
 28 providing definitions; establishing a promotional rate
 29 and related terms for wireline attachments of
 30 broadband facilities to municipal electric utility
 31 poles; providing procedures and requirements for
 32 receiving the promotional rates; establishing cost
 33 responsibility for replacement utility poles in
 34 certain circumstances; prohibiting municipal electric
 35 utilities from increasing certain fees for pole
 36 attachments for a specified period; providing an
 37 effective date.

38
 39 Be It Enacted by the Legislature of the State of Florida:

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 41 Section 1. This act may be cited as the "Florida Broadband
 42 Deployment Act of 2021."

43 Section 2. Part XV of chapter 288, Florida Statutes,
 44 consisting of sections 288.9961, 288.9962, and 288.9963 is
 45 created and entitled "Florida Office of Broadband."

46 Section 3. Section 364.0135, Florida Statutes, is
 47 transferred, renumbered as section 288.9961, Florida Statutes,
 48 and amended to read:

49 288.9961 ~~364.0135~~ Promotion of broadband adoption; Florida
 50 Office of Broadband.—

51 (1) LEGISLATIVE FINDINGS.—The Legislature finds that the
52 sustainable adoption of broadband Internet service is critical
53 to the economic and business development of this ~~the~~ state and
54 is beneficial for libraries, schools, colleges and universities,
55 health care providers, and community organizations.

56 (2) DEFINITIONS.—As used in this part, unless otherwise
57 specified ~~section~~, the term:

58 (a) "Broadband Internet service" means a service that
59 provides access to the Internet with a capacity for transmission
60 at a consistent speed of at least 25 megabits per second
61 download and 3 megabits per second upload.

62 (b) ~~(a)~~ "Department" means the Department of Economic
63 Opportunity.

64 (c) "Deployed" means that a provider meets either of the
65 following:

66 1. Currently provides broadband Internet service in a
67 specific geographic area; or

68 2. Is able to provide broadband Internet service in a
69 specific geographic area to a customer that requests that
70 service not later than 30 days after the customer requests
71 installation of that service and without an extraordinary
72 commitment of resources or construction charges or fees
73 exceeding an ordinary service activation fee. The 30-day time
74 period shall be extended to 60 days if permits are needed before
75 the broadband Internet service is installed and activated.

76 (d) ~~(b)~~ "Office" means the Florida Office of Broadband.

77 (e) ~~(c)~~ "Sustainable adoption" means the ability for
 78 communications service providers to offer broadband Internet
 79 services in all areas of this ~~the~~ state by encouraging adoption
 80 and utilization levels that allow for these services to be
 81 offered in the free market absent the need for governmental
 82 subsidy.

83 ~~(d) "Underserved" means a geographic area of the state in~~
 84 ~~which there is no provider of broadband Internet service that~~
 85 ~~offers a connection to the Internet with a capacity for~~
 86 ~~transmission at a consistent speed of at least 10 megabits per~~
 87 ~~second downstream and at least 1 megabit per second upstream.~~

88 (f) "Unserved" means a geographic area of this state in
 89 which broadband Internet service is not deployed.

90 (3) STATE AGENCY.—The department is designated as the lead
 91 state agency to facilitate the expansion of broadband Internet
 92 service in this ~~the~~ state. The department shall work
 93 collaboratively with private businesses and receive staffing
 94 support and other resources from Enterprise Florida, Inc., state
 95 agencies, local governments, and community organizations.

96 (4) FLORIDA OFFICE OF BROADBAND.—The Florida Office of
 97 Broadband is created within the Division of Community
 98 Development in the department for the purpose of developing,
 99 marketing, and promoting broadband Internet services in this ~~the~~
 100 state. The office, in the performance of its duties, shall do

101 all of the following:

102 (a) Create a strategic plan that has goals and strategies
103 for increasing the use of broadband Internet service in this ~~the~~
104 state. The plan must include a process to review and verify
105 public input regarding transmission speeds and availability of
106 broadband Internet service throughout this ~~the~~ state.

107 (b) Build and facilitate local technology planning teams
108 or partnerships with members representing cross-sections of the
109 community, which may include, but are not limited to,
110 representatives from the following organizations and industries:
111 libraries, K-12 education, colleges and universities, local
112 health care providers, private businesses, community
113 organizations, economic development organizations, local
114 governments, tourism, parks and recreation, and agriculture.
115 These local technology planning teams shall work with rural
116 communities to help the communities determine their current
117 broadband Internet service availability, locate unserved
118 customers, identify assets relevant to broadband deployment,
119 build partnerships with broadband Internet service providers,
120 and identify opportunities to leverage assets and reduce
121 barriers to the deployment of public and private broadband
122 Internet service in the community. The teams or partnerships
123 must be proactive in fiscally constrained counties in
124 identifying and providing assistance with applying for federal
125 grants for broadband Internet service.

126 (c) Encourage the use of broadband Internet service,
127 especially in the rural or, ~~unserved, or underserved~~ communities
128 of this ~~the~~ state through grant programs having effective
129 strategies to facilitate the statewide deployment of broadband
130 Internet service. For any grants to be awarded, priority must be
131 given to projects that:

132 1. Provide access to broadband education, awareness,
133 training, access, equipment, and support to libraries, schools,
134 colleges and universities, health care providers, and community
135 support organizations.

136 2. Encourage the sustainable adoption of broadband
137 Internet service in primarily unserved ~~underserved~~ areas by
138 removing barriers to entry.

139 3. Work toward encouraging investments in establishing
140 affordable and sustainable broadband Internet service in
141 unserved ~~underserved~~ areas of this ~~the~~ state.

142 4. Facilitate the development of applications, programs,
143 and services, including, but not limited to, telework,
144 telemedicine, and e-learning to increase the usage of, and
145 demand for, broadband Internet service in this ~~the~~ state.

146 (d) Monitor, participate in, and provide input in
147 proceedings of the Federal Communications Commission and other
148 federal agencies related to the geographic availability and
149 deployment of broadband Internet service in this ~~the~~ state as
150 necessary to ensure that this information is accurately

151 presented and that rural or, ~~unserved, and underserved~~ areas of
152 ~~this the~~ state are best positioned to benefit from federal and
153 state broadband deployment programs.

154 (e) Administer the Broadband Opportunity Program
155 established in s. 288.9962.

156 (5) ADMINISTRATION.—The department may:

157 (a) Apply for and accept federal funds for purposes of
158 this section.

159 (b) Enter into contracts necessary or useful to carry out
160 the purposes of this section.

161 (c) Establish any committee or workgroup to administer and
162 carry out the purposes of this section.

163 (d) Adopt rules to implement this part.

164 Section 4. Section 288.9962, Florida Statutes, is created
165 to read:

166 288.9962 Broadband Opportunity Program.—

167 (1) The Broadband Opportunity Program is established
168 within the office to award grants to applicants who seek to
169 expand broadband Internet service to unserved areas of this
170 state. The office must administer and act as fiscal agent for
171 the program and is responsible for receiving and reviewing
172 applications and awarding grants.

173 (2) Subject to appropriation, grants shall be awarded
174 under this section to fund the installation or deployment of
175 infrastructure that supports the provision of broadband Internet

176 service. State funds may not be used to install or deploy
177 broadband Internet service to a geographic area in which
178 broadband Internet service is already deployed by at least one
179 provider.

180 (3) Applicants eligible for grant awards include:

181 (a) Corporations, limited liability companies, general
182 partnerships, and limited partnerships that are organized under
183 the laws of this state or otherwise authorized to transact
184 business in this state.

185 (b) Political subdivisions.

186 (c) Indian tribes.

187 (4) The office may not award, directly or indirectly,
188 grants under this section to a governmental entity or an
189 educational institution or affiliate to provide broadband
190 Internet service to any residential or commercial premises,
191 unless other broadband Internet service providers have not
192 deployed service to an unserved area.

193 (5) An eligible applicant shall submit a grant application
194 to the office on a form prescribed by the office. A grant
195 application must include the following information:

196 (a) A description of the project area.

197 (b) A description of the kind and amount of broadband
198 Internet service infrastructure that is proposed.

199 (c) Evidence demonstrating the unserved nature of the
200 project area.

201 (d) The number of households and businesses that would
202 have access to broadband Internet service as a result of the
203 grant.

204 (e) A list of significant community institutions that
205 would benefit from the grant.

206 (f) The total cost of the project and the timeframe in
207 which it would be completed.

208 (g) A list identifying sources of funding or in-kind
209 contributions that would supplement any awarded grant.

210 (h) Any other information required by the office.

211 (6) (a) At least 30 days before the first day grant
212 applications may be submitted each fiscal year, the office shall
213 publish on its website the specific criteria and quantitative
214 scoring system it will use to evaluate or rank grant
215 applications. Such criteria and quantitative scoring system must
216 include the criteria set forth in subsection (8).

217 (b) Within 3 business days after the close of the grant
218 application process, the office shall publish on its website,
219 from each grant application submitted, the proposed unserved
220 areas to be served and the proposed broadband Internet speeds of
221 the areas to be served.

222 (c) A broadband Internet service provider that provides
223 existing service in or adjacent to a proposed project area may
224 submit to the office, within 45 days after publication of the
225 information under paragraph (b), a written challenge to an

226 application. The challenge shall contain information
227 demonstrating that:

228 1. The provider currently has deployed broadband Internet
229 service to retail customers within the project area;

230 2. The provider has begun construction to provide
231 broadband Internet service to retail customers within the
232 proposed project area within the timeframe proposed by the
233 applicant; or

234 3. The provider commits to providing broadband Internet
235 service to retail customers within the proposed project area
236 within the timeframe proposed by the applicant.

237 (d) Within 3 business days after the submission of a
238 written challenge, the office shall notify the applicant, in
239 writing, of the challenge.

240 (e) The office shall evaluate each challenge submitted
241 under this subsection. If the office determines that the
242 provider currently has deployed, has begun construction to
243 provide, or commits to provide broadband Internet service in the
244 proposed project area, the office may not fund the challenged
245 project.

246 (f) If the office denies funding to an applicant as a
247 result of a broadband Internet service provider's challenge and
248 the provider does not fulfill its commitment to provide
249 broadband Internet service in the unserved area, the office may
250 not consider another challenge from the provider for the next

251 two grant application cycles, unless the office determines that
252 the failure to fulfill the commitment was due to circumstances
253 beyond the provider's control.

254 (7) (a) In evaluating grant applications and awarding
255 grants, the office must give priority to applications that:

256 1. Offer broadband Internet service to important community
257 institutions, including, but not limited to, libraries,
258 educational institutions, public safety facilities, and health
259 care facilities;

260 2. Facilitate the use of telemedicine and electronic
261 health records;

262 3. Serve economically distressed areas of this state, as
263 measured by indices of unemployment, poverty, or population loss
264 that are significantly greater than the statewide average;

265 4. Provide for scalability to transmission speeds of at
266 least 100 megabits per second download and 10 megabits per
267 second upload;

268 5. Include a component to actively promote the adoption of
269 the newly available broadband Internet service in the community;

270 6. Provide evidence of strong support for the project from
271 citizens, government, businesses, and institutions in the
272 community;

273 7. Provide access to broadband Internet service to the
274 greatest number of unserved households and businesses;

275 8. Leverage greater amounts of funding for a project from

276 private sources; or

277 9. Demonstrate consistency with the strategic plan adopted
278 under s. 288.9961.

279 (b) The office must endeavor to award grants to qualified
280 applications serving all regions of this state.

281 (8) (a) The office may not award any grant to an otherwise
282 eligible grant applicant to provide broadband Internet service
283 in a project area for which any other federal funding has been
284 awarded.

285 (b) A grant awarded under this section may not be used to
286 serve any retail end user that already has access to broadband
287 Internet service.

288 (c) A grant awarded under this section, when combined with
289 any state or local funds, may not fund more than 50 percent of
290 the total cost of a project.

291 (d) A single project may not be awarded a grant in excess
292 of \$5 million.

293 (9) For each grant awarded, the office shall enter into an
294 agreement with the applicant. The agreement must specify the
295 total amount of the grant, performance conditions that must be
296 met to obtain the grant, the schedule of payment, and sanctions
297 that would apply for failure to meet performance conditions,
298 including, but not limited to, requiring the return of grant
299 funds.

300 (10) By January 1, 2023, and each year thereafter, the

301 office shall publish on its website and provide to the Governor,
302 the President of the Senate, and the Speaker of the House of
303 Representatives:

304 (a) A list of all grant applications received during the
305 previous fiscal year and for each application:

306 1. The results of any quantitative weighting or scoring
307 system the office used to award grants or rank the applications.

308 2. The grant amounts requested.

309 3. The grant amounts awarded, if any.

310 4. A report on the progress of each grant recipient in
311 acquiring and installing infrastructure that supports the
312 provision of broadband Internet service in the project areas for
313 which that grant was awarded and in securing adoption of such
314 service in each project area.

315 (b) All written challenges filed during the previous year
316 and the results of those challenges.

317 Section 5. Section 288.9963, Florida Statutes, is created
318 to read:

319 288.9963 Attachment of broadband facilities to municipal
320 electric utility poles.—

321 (1) The Legislature finds that there is a need for
322 increased availability of broadband Internet access throughout
323 this state, particularly in areas where citizens do not have
324 access to acceptable Internet download and upload speeds, or any
325 access at all. The lack of Internet connectivity and widespread

326 broadband availability is detrimental to the growth of the
327 economy, access to telehealth, and educational opportunities.
328 The federal government has provided vast resources for private
329 cable and other broadband providers to expand the deployment of
330 broadband Internet infrastructure in areas where Internet access
331 and broadband Internet services are inadequate or non-existent.

332 (2) As used in this section, the term:

333 (a) "Broadband provider" means a person or entity who
334 provides fixed broadband Internet service.

335 (b) "Broadband service" means a service that provides high
336 speed access to the Internet at a rate of at least 25 megabits
337 per second in the downstream direction and at least 3 megabits
338 per second in the upstream direction.

339 (c) "Safety and reliability standards" includes all
340 applicable engineering, reliability, and safety standards
341 governing the installation, maintenance, and operation of
342 facilities and poles and the performance of all work in and
343 around electric utility facilities, including particular utility
344 standards made available to a broadband provider, and shall
345 include the most current versions of the National Electric
346 Safety Code, the National Electric Code, and the regulations of
347 the Occupational Safety and Health Administration, and other
348 reasonable non-discriminatory safety and engineering
349 requirements, including, but not limited to requirements
350 addressing overloading of electric utility facilities.

351 (d) "Underserved" means there is no retail access to the
352 Internet at speeds of at least 25 megabits per seconds for
353 downloading and 3 megabits per second for uploading.

354 (e) "Unserved" means that there is no retail access to the
355 Internet at speeds of at least 10 megabits per seconds for
356 downloading and 1 megabits per second for uploading.

357 (f) "Wireline attachment" means a wire or cable and
358 associated equipment affixed to a utility pole in the
359 communications space of the pole.

360 (3) Beginning July 1, 2021, a broadband provider shall
361 receive a promotional rate of \$1 per wireline attachment per
362 pole per year for any new attachment necessary to make broadband
363 service available to an unserved or underserved end user within
364 a municipal electric utility service territory for the time
365 period specified in this subsection.

366 (a) A broadband provider who wishes to make wireline
367 attachments subject to the promotional rate shall submit an
368 application, including a route map, to the municipal electric
369 utility specifying which wireline attachments on which utility
370 poles are necessary to extend broadband service to unserved and
371 underserved end users and therefore qualify for the promotional
372 rate set forth in this subsection, together with such
373 information necessary to identify which unserved or underserved
374 end users within the municipal electric utility's service
375 territory will gain access to broadband service as a result. A

376 copy of the application and plan shall also be submitted
377 simultaneously to the office.

378 (b) A municipal electric utility shall report to the
379 office which attachments on which utility poles were made
380 available to broadband providers subject to the promotional
381 rate, together with any information available to it regarding
382 which of its municipal electric utility customers do and do not
383 have access to broadband service and whether they are unserved
384 or underserved.

385 (c) A broadband provider who makes application for
386 wireline attachments under the promotional rate shall make all
387 reasonable efforts to make broadband service available to the
388 unserved or underserved municipal electric utility customers
389 identified in the application. If a broadband provider fails to
390 make broadband service available to those customers within 12
391 months, it may be required to pay the prevailing rate for those
392 attachments that failed to make broadband service available to
393 the intended customers.

394 (d) Except as provided in this section, wireline
395 attachments which are subject to the promotional rate must
396 conform to all other terms and conditions of existing pole
397 attachment agreements between the broadband provider and the
398 municipal electric utility. If no agreement exists, the parties
399 shall have 90 days to enter into a pole attachment agreement for
400 all other terms and conditions of attachment.

401 (e) The promotional rate of \$1 per wireline attachment per
402 pole per year applies to all pole attachments made pursuant to
403 this subsection until July 1, 2024.

404 (4) All wireline attachments must comply with safety and
405 reliability standards; provided, however, wireline attachments
406 and their replacements, which complied with safety and
407 reliability standards when installed, do not need to be modified
408 to comply with new requirements except as may be necessary for
409 safety reasons, as reasonably determined by the municipal
410 electric utility.

411 (5) If the municipal electric utility is required to
412 replace a utility pole due to a broadband provider's attachment,
413 the municipal electric utility may require, as a condition to
414 attachment, that the broadband provider reimburse all reasonable
415 and nondiscriminatory costs attributable solely to the new
416 attachment minus the salvage value of the removed pole, if
417 positive. The municipal electric utility may not require a
418 utility pole to be replaced to accommodate a broadband
419 provider's attachment except where necessary to comply with
420 applicable engineering and safety standards. With respect to
421 such replacement poles, if the replacement is necessary to
422 correct an existing violation, to bring the pole into compliance
423 with any changes in applicable standards, or because the pole is
424 at the end of its useful life, the replacement cost may not be
425 charged to the broadband provider. As used in this subsection,

426 | the term "useful life" means not less than 30 years for wood
427 | utility poles and 50 years for concrete, steel, ductile iron,
428 | and all other utility poles.

429 | (6) A municipal electric utility may not increase the fees
430 | charged to broadband providers for pole attachments between July
431 | 1, 2021 and July 31, 2022.

432 | Section 6. This act shall take effect July 1, 2021.