

By the Committee on Commerce and Tourism; and Senator Ausley

577-02879-21

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1 A bill to be entitled
2 An act relating to broadband Internet service;
3 amending s. 364.0135, F.S.; revising legislative
4 findings; defining terms; revising the duties of the
5 Florida Office of Broadband within the Department of
6 Economic Opportunity; requiring local technology
7 planning teams or partnerships to work with rural
8 communities for specified purposes; requiring the
9 office to develop geographic information system maps
10 in collaboration with specified entities and
11 consistent with certain federal reporting standards by
12 a specified date; specifying required contents of the
13 maps; requiring the department to annually update such
14 maps and establish a mechanism to receive and verify
15 governmental and public input related to broadband
16 Internet service; authorizing the department to work
17 collaboratively with specified entities in developing
18 the mechanism; requiring the office to develop a
19 broadband infrastructure asset map by a specified
20 date; specifying required contents of the map;
21 establishing the Broadband Deployment Task Force
22 within the office for a specified purpose; requiring
23 the department to provide administrative and technical
24 assistance to the task force; providing for the
25 membership and duties of the task force; requiring the
26 task force to submit annual progress reports to the
27 Governor and the Legislature by a specified date;
28 providing that certain information provided to the
29 department from broadband service providers retains

577-02879-21

20211560c1

30 its exemption from public disclosure; creating s.
31 364.0136, F.S.; creating the Broadband Opportunity
32 Program within the office; providing for
33 administration of the program; providing requirements
34 for grant awards; providing eligibility requirements;
35 providing application requirements; requiring the
36 office to publish certain information related to grant
37 applications and grant awards on its website;
38 authorizing grant applications to be challenged under
39 certain circumstances; specifying contents of a
40 challenge; providing procedures to be used by the
41 office in evaluating challenges; providing direction
42 for prioritizing grant funding; specifying conditions
43 for the award of grants; requiring the office to enter
44 into an agreement containing specified information
45 with each grant recipient; requiring the office to
46 publish specified information annually on its website
47 and provide the information to the Governor and
48 Legislature; creating s. 364.0137, F.S.; defining
49 terms; requiring the office to establish a process to
50 identify eligible households to receive federal
51 Emergency Broadband Benefit Program funds under
52 certain circumstances; providing for direct subsidy
53 payments; providing for household participation in the
54 program; requiring the office to provide certain
55 information to potentially eligible households;
56 providing an effective date.

57
58 Be It Enacted by the Legislature of the State of Florida:

577-02879-21

20211560c1

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Section 1. Section 364.0135, Florida Statutes, is amended to read:

364.0135 Promotion of broadband adoption; Florida Office of Broadband.—

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

(2) DEFINITIONS.—As used in this section, the term:

(a) "Department" means the Department of Economic Opportunity.

(b) "Office" means the Florida Office of Broadband.

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

(d) "Task force" means the Broadband Deployment Task Force within the office.

(e) ~~(d)~~ "Underserved" means a geographic area of this ~~the~~ 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 100 ~~10~~ megabits per second downstream and at least 10 megabits ~~1 megabit~~ per second upstream.

(f) "Unserved" means a geographic area of this state in

577-02879-21

20211560c1

88 which there is no provider of broadband Internet service that
89 offers a connection to the Internet with a capacity for
90 transmission at a consistent speed of at least 25 megabits per
91 second downstream and at least 3 megabits per second upstream.

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

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

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

109 (b) Build and facilitate local technology planning teams or
110 partnerships with members representing cross-sections of the
111 community, which may include, but are not limited to,
112 representatives from the following organizations and industries:
113 libraries, K-12 education, colleges and universities, local
114 health care providers, private businesses, community
115 organizations, economic development organizations, local
116 governments, tourism, parks and recreation, and agriculture. The

577-02879-21

20211560c1

117 local technology planning teams or partnerships shall work with
118 rural communities to help the communities understand their
119 current broadband availability, locate unserved and underserved
120 businesses and residents, identify assets relevant to broadband
121 deployment, build partnerships with broadband service providers,
122 and identify opportunities to leverage assets and reduce
123 barriers to the deployment of broadband Internet services in the
124 community. The teams or partnerships must be proactive in
125 fiscally constrained counties in identifying and providing
126 assistance with applying for federal grants for broadband
127 Internet service.

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

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

138 2. Encourage the sustainable adoption of broadband in
139 primarily underserved areas by removing barriers to entry.

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

143 4. Facilitate the development of applications, programs,
144 and services, including, but not limited to, telework,
145 telemedicine, and e-learning to increase the usage of, and

577-02879-21

20211560c1

146 demand for, broadband Internet service in this ~~the~~ state.

147 (d) Monitor, participate in, and provide input in
148 proceedings of the Federal Communications Commission and other
149 federal agencies related to the geographic availability and
150 deployment of broadband Internet service in this ~~the~~ state as
151 necessary to ensure that this information is accurately
152 presented and that rural, unserved, and underserved areas of
153 this ~~the~~ state are best positioned to benefit from federal and
154 state broadband deployment programs.

155 (e) By June 30, 2022, develop geographic information system
156 maps of broadband Internet service availability throughout this
157 state. The office shall collaborate with broadband service
158 providers, state agencies, local governmental entities, private
159 businesses, educational institutions, and community
160 organizations and leaders to develop such maps.

161 1. The maps must do all of the following:

162 a. Be consistent with the Digital Opportunity Data
163 Collection program reporting standards established by the
164 Federal Communications Commission.

165 b. Identify where broadband-capable networks exist and
166 broadband Internet service is available to end users.

167 c. Identify download and upload transmission speeds made
168 available to businesses and individuals in this state.

169 d. Identify gaps in broadband Internet service coverage,
170 specifying underserved and unserved areas within those areas of
171 this state designated as a rural area of opportunity under s.
172 288.0656(2).

173 e. Include any other mapping information already compiled
174 by other state agencies.

577-02879-21

20211560c1

175 f. Be updated annually.

176 2. Any mapping data received from another governmental
177 entity or a contractor must be verified. Such data must be
178 verified against the source of the data and whether such entity
179 is able to demonstrate that it has employed a sound and reliable
180 methodology in the collection, organization, and verification of
181 the data it has submitted to the office. If a governmental
182 entity enters into a valid contract with a contractor to collect
183 broadband availability data, the entity must describe the third
184 party providing the data as well as the methodology used to
185 collect, organize, and verify the availability data provided.

186 3. The office must establish a mechanism to receive and
187 verify public input which identifies locations in which
188 broadband Internet service is not available, including locations
189 in which broadband Internet service is provided at data
190 transmission speeds below the standard established by the
191 Federal Communications Commission for broadband Internet
192 service. Upon verification, the board shall adjust its
193 geographic information system maps to reflect information
194 received from the public. In developing and implementing this
195 mechanism, the office may work in collaboration with, and
196 receive staffing support and other resources from, Enterprise
197 Florida, Inc., state agencies, local governments, private
198 businesses, and community organizations.

199 (f) By June 30, 2022, develop a broadband infrastructure
200 asset map that includes, but is not limited to:

201 1. State and federal assets, including, but not limited to,
202 municipally or city-owned towers that may be used by providers;
203 rights-of-way that may be made available for easier and less

577-02879-21

20211560c1

204 expensive access to burying or stringing fiber optic cable;
205 public transportation corridors; capital projects that may be
206 used as an opportunity to lay new fiber optic conduit for future
207 activation; and federal E-rate funding commitments; and

208 2. Community-owned land and infrastructure, including, but
209 not limited to, land that may be leased and utility poles that
210 may be used to expand broadband networks.

211 (g) Administer the Broadband Opportunity Program
212 established in s. 364.0136.

213 (5) BROADBAND DEPLOYMENT TASK FORCE.—The Broadband
214 Deployment Task Force, a task force as defined in s. 20.03(8),
215 is established within the department to support and provide
216 recommendations to the office for the deployment of broadband
217 Internet service throughout this state, including, but not
218 limited to, rural buildout and urban adoption strategies. The
219 department shall provide administrative and technical assistance
220 to the task force in the performance of its duties. The task
221 force shall operate in a manner consistent with s. 20.052.

222 (a) The task force shall be composed of the following
223 members, who must be appointed by September 1, 2021, and who
224 must have an interest and significant expertise in broadband
225 Internet services:

226 1. One member from each of the following state agencies,
227 who shall be appointed by his or her agency head: the Department
228 of Agriculture and Consumer Services, the Department of
229 Management Services, the Department of Transportation, the
230 Department of Education, the Department of Health, and the
231 Office of Technology and Information Services.

232 2. One member from the Florida Association of Counties as a

577-02879-21

20211560c1

233 representative of underserved or unserved rural communities, who
234 is recommended by the association and appointed by the executive
235 director.

236 3. One member from the Florida League of Cities as a
237 representative of underserved or unserved rural communities, who
238 is recommended by the league and appointed by the executive
239 director.

240 4. Two members of the public who are appointed by the
241 Governor, including one member who resides in an underserved
242 area of this state and one member who resides in an unserved
243 area of this state.

244 5. One member from each of the following segments of the
245 broadband industry, who shall be appointed by the Governor: a
246 wireless provider, a wireline provider, a broadband satellite
247 provider, a cable provider, a rural local exchange carrier, and
248 a competitive local exchange carrier.

249 (b) Any vacancy on the task force must be filled in the
250 same manner as the original appointment.

251 (c) The task force shall:

252 1. Identify any available federal funding sources for the
253 expansion or improvement of broadband Internet services in this
254 state.

255 2. Identify any gaps in broadband Internet service coverage
256 for any area of this state.

257 3. Develop strategies to expand broadband Internet service
258 to any area of this state designated as a rural area of
259 opportunity, including, but not limited to, methods of building
260 partnerships with local governments, other state and federal
261 entities, electric utilities, the business community, and the

577-02879-21

20211560c1

262 public to support broadband Internet service in such areas.

263 4. Develop an urban adoption strategy to address areas of
264 this state which have broadband Internet service, but where such
265 service is not affordable.

266 5. Identify specific projects that will accomplish the
267 deployment of broadband Internet service throughout this state,
268 including grants provided through the rural infrastructure fund
269 pursuant to s. 288.0655(2)(b).

270 6. Coordinate with the Cabinet, state agencies, and other
271 governmental entities with oversight in broadband Internet
272 activities or potential funding opportunities.

273 7. Recommend outreach strategies and partnerships for
274 maximum use of the federal Emergency Broadband Benefit Program
275 within the Consolidated Appropriations Act, 2021, Pub. L. No.
276 116-260 and regulations adopted thereunder.

277 (d) The task force shall submit a report of its findings
278 and recommendations to the Governor, the President of the
279 Senate, and the Speaker of the House of Representatives by
280 December 30, 2022, and each year thereafter.

281 (6) CONFIDENTIALITY.—Any information that is confidential
282 or exempt from public disclosure under chapter 119 when in the
283 possession of the department retains its status as confidential
284 or exempt from disclosure under chapter 119 when provided by a
285 broadband service provider under this section.

286 (7)~~(5)~~ ADMINISTRATION.—The department may:

287 (a) Apply for and accept federal funds for purposes of this
288 section.

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

577-02879-21

20211560c1

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

293 Section 2. Section 364.0136, Florida Statutes, is created
294 to read:

295 364.0136 Broadband Opportunity Program.—

296 (1) The Broadband Opportunity Program is established within
297 the Florida Office of Broadband within the Department of
298 Economic Opportunity to award grants to applicants who seek to
299 expand broadband Internet service to unserved and underserved
300 areas of this state. The office must administer and act as
301 fiscal agent for the program and is responsible for receiving
302 and reviewing applications and awarding grants. Funding for the
303 program shall be subject to appropriation.

304 (2) Grants awarded under this section shall fund the
305 installation or deployment of infrastructure that supports the
306 provision of broadband Internet service. State funds may not be
307 used to install or deploy broadband Internet service to a
308 geographic area in which broadband Internet service is already
309 deployed by at least one provider.

310 (3) Applicants eligible for grant awards include:

311 (a) Corporations, limited liability companies, general
312 partnerships, and limited partnerships that are organized under
313 the laws of this state or otherwise authorized to transact
314 business in this state.

315 (b) Indian tribes.

316 (4) The office may not award, directly or indirectly,
317 grants under this section to a governmental entity, a rural
318 electric cooperative or its broadband affiliate, or an
319 educational institution or affiliate to provide broadband

577-02879-21

20211560c1

320 Internet service to any residential or commercial premises,
321 unless other broadband Internet service providers have not
322 deployed service to an unserved or underserved area.

323 (5) An eligible applicant shall submit a grant application
324 to the office on a form prescribed by the office. A grant
325 application must include all of the following information:

326 (a) A description of the project area.

327 (b) A description of the kind and amount of broadband
328 Internet service infrastructure which is proposed.

329 (c) Evidence demonstrating the unserved or underserved
330 nature of the project area.

331 (d) The number of households and businesses which would
332 have access to broadband Internet service as a result of the
333 grant.

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

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

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

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

341 (6) (a) At least 30 days before the first day grant
342 applications may be submitted each fiscal year, the office shall
343 publish on its website the specific criteria and quantitative
344 scoring system it will use to evaluate or rank grant
345 applications. Such criteria and quantitative scoring system must
346 include the criteria set forth in subsection (7).

347 (b) Within 3 business days after the close of the grant
348 application process, the office shall publish on its website,

577-02879-21

20211560c1

349 from each grant application submitted, the proposed unserved or
350 underserved areas to be served and the proposed broadband
351 Internet speeds of the areas to be served.

352 (c) A broadband Internet service provider that provides
353 existing service in or adjacent to a proposed project area may
354 submit to the office, within 45 days after publication of the
355 information under paragraph (b), a written challenge to an
356 application. The challenge must contain information
357 demonstrating that:

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

360 2. The provider has begun construction to provide broadband
361 Internet service to retail customers within the proposed project
362 area within the timeframe proposed by the applicant; or

363 3. The provider commits to providing broadband Internet
364 service to retail customers within the proposed project area
365 within the timeframe proposed by the applicant.

366 (d) Within 3 business days after the submission of a
367 written challenge, the office shall notify the applicant, in
368 writing, of the challenge.

369 (e) The office shall evaluate each challenge submitted
370 under this subsection. If the office determines that the
371 provider currently has deployed, has begun construction to
372 provide, or commits to provide broadband Internet service in the
373 proposed project area, the office may not fund the challenged
374 project.

375 (f) If the office denies funding to an applicant as a
376 result of a broadband Internet service provider's challenge, and
377 the provider does not fulfill its commitment to provide

577-02879-21

20211560c1

378 broadband Internet service in the unserved or underserved area,
379 the office may not consider another challenge from the provider
380 for the next two grant application cycles, unless the office
381 determines that the failure to fulfill the commitment was due to
382 circumstances beyond the provider's control.

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

385 1. Offer broadband Internet service to important community
386 institutions, including, but not limited to, libraries,
387 educational institutions, public safety facilities, and health
388 care facilities;

389 2. Facilitate the use of telemedicine and electronic health
390 records;

391 3. Serve economically distressed areas of this state, as
392 measured by indices of unemployment, poverty, or population loss
393 which are significantly greater than the statewide average;

394 4. Provide for scalability to transmission speeds of at
395 least 100 megabits per second download and 10 megabits per
396 second upload;

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

399 6. Provide evidence of strong support for the project from
400 residents, government, businesses, and institutions in the
401 community;

402 7. Provide access to broadband Internet service to the
403 greatest number of unserved and underserved households and
404 businesses;

405 8. Leverage greater amounts of funding for a project from
406 private sources; or

577-02879-21

20211560c1

407 9. Demonstrate consistency with the strategic plan adopted
408 under s. 364.0135.

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

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

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

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

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

423 (9) For each grant awarded, the office shall enter into an
424 agreement with the applicant. The agreement must specify the
425 total amount of the grant, performance conditions that must be
426 met to obtain the grant, the schedule of payment, and sanctions
427 that would apply for failure to meet performance conditions,
428 including, but not limited to, requiring the return of grant
429 funds.

430 (10) By January 1, 2023, and each year thereafter, the
431 office shall publish on its website and provide to the Governor,
432 the President of the Senate, and the Speaker of the House of
433 Representatives all of the following information:

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

577-02879-21

20211560c1

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

438 2. The grant amounts requested.

439 3. The grant amounts awarded, if any.

440 4. A report on the progress of each grant recipient in
441 acquiring and installing infrastructure that supports the
442 provision of broadband Internet service in the project areas for
443 which that grant was awarded and in securing adoption of such
444 service in each project area.

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

447 Section 3. Section 364.0137, Florida Statutes, is created
448 to read:

449 364.0137 Broadband assistance funds.-

450 (1) For purposes of this section, the term:

451 (a) "Broadband service provider" means a provider of
452 broadband Internet access service in this state.

453 (b) "Federal broadband program" means the Emergency
454 Broadband Benefit Program within the Consolidated Appropriations
455 Act, 2021, Pub. L. No. 116-260 and regulations adopted
456 thereunder.

457 (2) In order to assist participating broadband service
458 providers in identifying potential recipients for broadband
459 assistance funds under the federal broadband program, the
460 Florida Office of Broadband, as created in s. 364.0135, must
461 establish a process to quickly identify potential eligible
462 households to receive such funds.

463 (3) An eligible broadband service provider that
464 participates in and receives funds under the federal broadband

577-02879-21

20211560c1

465 program must provide direct subsidy payments by providing
466 monthly discounts for eligible households as set forth in the
467 federal broadband program. A provider may not disqualify a
468 household because a member of the household has any past or
469 present arrearages with a broadband provider. Such discounts may
470 be no more than the standard rate for an Internet service
471 offering and associated equipment, in an amount equal to that
472 set forth in the federal broadband program.

473 (4) To be eligible for direct subsidy payments, an eligible
474 household must demonstrate low income. Such eligible households
475 include those in which at least one member of the household is
476 eligible for the National School Lunch Program or the School
477 Breakfast Program, as provided in s. 595.402, has experienced a
478 substantial loss of income since February 29, 2020, has received
479 a federal Pell Grant, is eligible for the federal Lifeline
480 program, or meets participation requirements for a service
481 provider's existing low-income or COVID-19 program, subject to
482 any other eligibility requirements required by the Federal
483 Communications Commission.

484 (5) Where possible, the office shall provide potentially
485 eligible households with notice of their potential eligibility
486 to receive financial assistance under the federal broadband
487 program and shall also direct the members of those households to
488 other state or federal resources that may provide assistance
489 with debt relief.

490 Section 4. This act shall take effect July 1, 2021.