

1 A bill to be entitled
2 An act relating to broadband infrastructure; amending
3 s. 288.9961, F.S.; revising the duties of the Florida
4 Office of Broadband to include administering the
5 Broadband Pole Replacement Program; creating s.
6 288.9964, F.S.; providing legislative findings;
7 providing definitions; establishing the Broadband Pole
8 Replacement Program within the office; providing
9 responsibilities of the office; providing eligibility
10 requirements for reimbursements under the program;
11 providing that reimbursements are subject to the
12 availability of certain funds; providing that certain
13 denied applicants may reapply in certain
14 circumstances; providing requirements for the program
15 application; requiring the office to provide certain
16 reimbursements within a specified timeframe; requiring
17 an applicant to meet certain conditions; requiring the
18 Secretary of Economic Opportunity to apply for certain
19 federal funding for the program; requiring that the
20 amount of state funds allocated to the program be
21 reduced by the amount of certain federal funds
22 provided to the program; requiring the office to
23 publish and continually update certain information on
24 its public website; requiring an audit of the
25 Broadband Pole Replacement Trust Fund within a

26 | specified timeframe; requiring the office to provide a
 27 | report containing certain information to the Governor
 28 | and Legislature within a specified timeframe;
 29 | prohibiting rulemaking; providing an appropriation;
 30 | providing a contingent effective date.
 31 |

32 | Be It Enacted by the Legislature of the State of Florida:
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34 | Section 1. Paragraph (g) is added to subsection (4) of
 35 | section 288.9961, Florida Statutes, to read:

36 | 288.9961 Promotion of broadband adoption; Florida Office
 37 | of Broadband.—

38 | (4) FLORIDA OFFICE OF BROADBAND.—The Florida Office of
 39 | Broadband is created within the Division of Community
 40 | Development in the department for the purpose of developing,
 41 | marketing, and promoting broadband Internet services in this
 42 | state. The office, in the performance of its duties, shall do
 43 | all of the following:

44 | (g) Administer the Broadband Pole Replacement Program
 45 | established in s. 288.9964.

46 | Section 2. Section 288.9964, Florida Statutes, is created
 47 | to read:

48 | 288.9964 Broadband Pole Replacement Program.—

49 | (1) LEGISLATIVE FINDINGS.—The Legislature finds that a
 50 | broadband pole replacement program administered by the Florida

51 Office of Broadband is necessary to further the state's goal of
52 expanding and accelerating access to broadband service in
53 unserved areas throughout the state.

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

55 (a) "Applicant" means any private business, including a
56 corporation, limited liability company, partnership, nonprofit
57 corporation, or other entity, which provides or will provide
58 qualifying broadband service in the state.

59 (b) "Application" means an application made under this
60 section for reimbursement of eligible pole replacement costs.

61 (c) "Broadband Pole Replacement Trust Fund" means the
62 trust fund established pursuant to s. 288.9965.

63 (d) "Eligible pole replacement" means the removal of an
64 existing utility pole and replacement with a new utility pole in
65 an unserved area in order to accommodate the attachment to such
66 new utility pole of facilities used in whole or in part by a
67 retail provider of qualifying broadband service for the purpose
68 of providing qualifying broadband service access to residences
69 or businesses in an unserved area. The term does not include the
70 removal and replacement of an existing utility pole by the
71 pole's owner, or an affiliated company, unless the removal and
72 replacement is performed as an accommodation to a provider of
73 qualifying broadband service.

74 (e) "Eligible pole replacement costs" means the actual
75 costs to perform an eligible pole replacement which are paid by

76 an applicant, excluding any amount separately reimbursed through
77 another state or federal broadband grant program or by a
78 governmental entity other than the office. The term includes the
79 costs to remove and dispose of the existing utility pole, to
80 purchase and install a replacement utility pole, and to transfer
81 any existing facilities to the replacement utility pole.

82 (f) "Office" means the Florida Office of Broadband.

83 (g) "Pole" means any pole used in whole or in part for
84 wire communications or electric distribution.

85 (h) "Pole owner" means any electric utility as defined in
86 s. 366.02(2), public utility as defined in s. 366.02(1),
87 communications services provider as defined in s. 366.02(5),
88 cable television operator, or local exchange carrier that owns
89 or controls a pole.

90 (i) "Program" means the Broadband Pole Replacement Program
91 established under this section.

92 (j) "Qualifying broadband service" means a fixed,
93 terrestrial, retail wireline broadband Internet service capable
94 of delivering Internet access at speeds of at least 100 megabits
95 per second both downstream and upstream with latency at a level
96 sufficient to allow real-time, interactive applications.

97 (k) "Reimbursed through another state or federal broadband
98 grant program" means, with respect to eligible pole replacement
99 costs, that an applicant paying such costs has received or is
100 entitled to receive reimbursement for such costs under the terms

101 of another state or federal broadband grant program for the
102 deployment of broadband facilities, whether through a specific
103 reimbursement for such costs or through support payments that
104 equal or exceed the applicant's actual deployment costs,
105 including eligible pole replacement costs. The term does not
106 include the receipt of a state or federal grant that covers only
107 a portion of the applicant's actual deployment costs, including
108 eligible pole replacement costs, if the applicant pays the
109 eligible pole replacement costs with its own funds.

110 (1) "Unserved area" means a location in which:

111 1. Fixed, terrestrial, retail wireline broadband Internet
112 service is unavailable according to the latest available
113 broadband deployment data from the Federal Communications
114 Commission, provided that no person other than the applicant has
115 committed to providing qualifying broadband service in such
116 area; or

117 2. An applicant is committed under the terms of a federal
118 or state grant to provide qualifying broadband service, provided
119 that the availability of such grant is limited to areas lacking
120 access to fixed, terrestrial, retail wireline broadband Internet
121 service.

122
123 As used in this paragraph, "broadband Internet service" means a
124 service that offers a connection to the Internet with a capacity
125 for transmission at a consistent speed of at least 25 megabits

126 per second downstream and 3 megabits per second upstream.

127 (3) BROADBAND POLE REPLACEMENT PROGRAM.—

128 (a) The Broadband Pole Replacement Program is established
129 within the office. The office shall administer the program and
130 is responsible for receiving and reviewing applications and
131 distributing reimbursements under the program.

132 (b) Any applicant that pays eligible pole replacement
133 costs is eligible for reimbursement of such costs under the
134 program and may submit an application for reimbursement in
135 accordance with this section.

136 (c) Reimbursements provided under the program are subject
137 to the availability of funds in the Broadband Pole Replacement
138 Trust Fund. The office shall accept applications for
139 reimbursement until all funds in the Broadband Pole Replacement
140 Trust Fund are exhausted.

141 (d) An application pending when all funds in the Broadband
142 Pole Replacement Trust Fund are exhausted is deemed denied;
143 however, the applicant may reapply if sufficient funds are later
144 made available in the trust fund.

145 (e) Within 60 days after the first deposit of funds into
146 the Broadband Pole Replacement Trust Fund, the office shall
147 publish an application form for reimbursement of eligible pole
148 replacement costs under the program. The application must
149 require the following:

150 1. Information sufficient to establish the number and

151 costs of eligible pole replacements that qualify for
152 reimbursement under the program.

153 2. Documentation sufficient to establish that the claimed
154 eligible pole replacements have been completed.

155 3. The total reimbursement amount requested and any state
156 or federal grant funding or accounting information required to
157 justify the amount requested.

158 4. A notarized statement from an officer or agent of the
159 applicant certifying that the contents of the application are
160 true and accurate and that such applicant will comply with the
161 requirements of this section as a condition of receiving a
162 reimbursement under the program.

163 5. Receipts verifying the amount of eligible pole
164 replacement costs paid by the applicant.

165 (f) Within 60 days after receipt of a complete application
166 that establishes an applicant's eligible pole replacement costs,
167 the office shall reimburse the applicant in an amount equal to:

168 1. Up to 50 percent of the total amount paid by such
169 applicant for eligible pole replacement costs or \$5,000,
170 whichever is less; and

171 2. Up to 100 percent of the documented actual and
172 reasonable administrative expenses paid by such applicant in
173 preparing and submitting the application, including any
174 reimbursement of administrative expenses required by a pole
175 owner pursuant to paragraph (g). However, the amount reimbursed

176 under this subparagraph may not exceed 5 percent of the amount
177 of eligible pole replacement costs verified by receipts
178 submitted with the application.

179 (g) An applicant may request that a pole owner performing
180 an eligible pole replacement provide information sufficient to
181 establish the number and costs of eligible pole replacements and
182 receipts verifying the amount of eligible pole replacement costs
183 paid by the applicant if such information is not otherwise
184 reasonably available. A pole owner providing such information
185 and receipts may require the applicant to reimburse the pole
186 owner's administrative expenses, which may not exceed 5 percent
187 of the amount of eligible pole replacement costs.

188 (h) As a condition of receiving a reimbursement under the
189 program, an applicant must:

190 1. Certify its compliance with the requirements of this
191 section; and

192 2. Agree to refund with interest at the applicable Federal
193 Funds rate as specified in s. 670.506 any reimbursements or
194 portions thereof received under the program to the Broadband
195 Pole Replacement Trust Fund or the General Revenue Fund, at the
196 direction of the office, if the office, after providing the
197 applicant with notice and an opportunity to respond, finds that
198 substantial evidence exists to support that such applicant
199 materially violated a requirement of this section with respect
200 to such reimbursements or portions thereof.

201 (i) As applicable, if an applicant that is a pole owner
202 calculates its pole rental and other fees on the basis of a
203 formula required or approved by federal or state law or
204 regulation that includes consideration of the pole owner's
205 expenses, the applicant, as a condition of receiving
206 reimbursement under the program, must exclude from such expenses
207 any eligible pole replacement costs that were reimbursed by the
208 program, paid for by a retail provider of qualifying broadband
209 service, or funded by another state or federal grant.

210 (4) PROGRAM FUNDING.—

211 (a) The Secretary of Economic Opportunity shall apply for
212 \$100 million in federal funding, including funds available from
213 the Coronavirus Capital Projects Fund pursuant to the
214 authorization set forth in s. 9901 of the American Rescue Plan
215 Act of 2021 and codified at s. 604, Title VI of the Social
216 Security Act, 42 U.S.C. s. 801, et seq., for the program. Any
217 such funds received must be deposited into the Broadband Pole
218 Replacement Trust Fund.

219 (b) The amount of state funds allocated to the program
220 must be reduced by the amount of federal funds provided to the
221 program from the Coronavirus Capital Projects Fund.

222 (5) TRANSPARENCY.—Within 60 days after the initial deposit
223 of funds into the Broadband Pole Replacement Trust Fund, the
224 office shall publish, and thereafter continually update, the
225 following information on its public website:

226 (a) Statistics on the number of applications received,
227 processed, and rejected under the program.

228 (b) Statistics on the value, number, and status of
229 reimbursements provided under the program, including the names
230 of pole owners and retail providers of qualifying broadband
231 service that received reimbursements under the program.

232 (c) The amount of funds remaining in the Broadband Pole
233 Replacement Trust Fund.

234 (6) AUDIT.—Within 1 year after the initial deposit of
235 funds into the Broadband Pole Replacement Trust Fund, the
236 Auditor General shall audit the fund and its administration for
237 compliance with the requirements of this section and s.
238 288.9965.

239 (7) REPORT.—Within 1 year after all funds in the Broadband
240 Pole Replacement Trust Fund are exhausted, the office shall
241 provide a report to the Governor, the President of the Senate,
242 and the Speaker of the House of Representatives which identifies
243 and examines the deployment of broadband infrastructure and
244 technology facilitated by reimbursements provided under the
245 program.

246 (8) RULEMAKING PROHIBITED.—Notwithstanding any provision
247 of law to the contrary, the department, the office, and other
248 agencies may not adopt rules to administer this section.

249 Section 3. For the 2022-2023 fiscal year, the sum of \$400
250 million in nonrecurring funds is appropriated from the General

HB 1543

2022

251 Revenue Fund from payments received by the state pursuant to the
252 Coronavirus State Fiscal Recovery Fund established in 42 U.S.C.
253 s. 802 to the Florida Office of Broadband within the Department
254 of Economic Opportunity for the purpose of administering the
255 Broadband Opportunity Program established in s. 288.9962,
256 Florida Statutes.

257 Section 4. This act shall take effect upon becoming a law,
258 if HB 1545 or similar legislation is adopted in the same
259 legislative session or an extension thereof and becomes a law.