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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/22/2022	.	
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Appropriations Subcommittee on Transportation, Tourism, and Economic Development (Boyd) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (g) is added to subsection (4) of section 288.9961, Florida Statutes, and subsection (6) is added to that section, to read:

288.9961 Promotion of broadband adoption; Florida Office of Broadband.—



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10 (4) FLORIDA OFFICE OF BROADBAND.—The Florida Office of
11 Broadband is created within the Division of Community
12 Development in the department for the purpose of developing,
13 marketing, and promoting broadband Internet services in this
14 state. The office, in the performance of its duties, shall do
15 all of the following:

16 (g) Administer the Broadband Pole Replacement Program
17 established in s. 288.9964.

18 (6) REPORT.—Annually by January 31, the office shall
19 provide a report to the Governor, the President of the Senate,
20 and the Speaker of the House of Representatives which provides
21 information on activities of the office to meet the requirements
22 of this section, including any applications made and use of
23 federal funds for broadband Internet service infrastructure,
24 deployment, or access. The report shall also include, if funds
25 have been appropriated to the programs, updates and information
26 on administration and applications processed under the Broadband
27 Opportunity Program established in s. 288.9962 and the Broadband
28 Pole Replacement Program established in s. 288.9964, including
29 identifying and examining the deployment of broadband
30 infrastructure and technology facilitated by reimbursements
31 provided under the Broadband Pole Replacement Program.

32 Section 2. Section 288.9964, Florida Statutes, is created
33 to read:

34 288.9964 Broadband Pole Replacement Program.—

35 (1) LEGISLATIVE FINDINGS.—The Legislature finds that a
36 broadband pole replacement program administered by the Florida
37 Office of Broadband is necessary to further the state's goal of
38 expanding and accelerating access to broadband service in



39 unserved areas throughout this state.

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

41 (a) "Applicant" means a private business, including a
42 corporation, a limited liability company, a partnership, a
43 nonprofit corporation, or any other private business entity that
44 provides or will provide qualifying broadband service in this
45 state.

46 (b) "Application" means an application made under this
47 section for an eligible pole replacement reimbursement.

48 (c) "Broadband Internet service" means a service that
49 offers a connection to the Internet with a capacity for
50 transmission at a consistent speed of at least 25 megabits per
51 second downstream and 3 megabits per second upstream.

52 (e) "Eligible pole replacement" means the removal of an
53 existing utility pole and its replacement with a new utility
54 pole in an unserved area in order to accommodate the attachment
55 to such new utility pole of facilities used in whole or in part
56 by a retail provider of qualifying broadband service for the
57 purpose of providing qualifying broadband service access to
58 residences or businesses in that unserved area. The term does
59 not include the removal and replacement of an existing utility
60 pole by the pole owner or an affiliated company unless the
61 removal or replacement is performed as an accommodation to a
62 provider of qualifying broadband service.

63 (f) "Eligible pole replacement costs" means the actual
64 costs to perform an eligible pole replacement which are paid by
65 an applicant, excluding any amount separately reimbursed through
66 another state or federal broadband grant program or by some
67 other governmental entity. The term includes the costs to remove



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68 and dispose of the existing utility pole, to purchase and
69 install a replacement utility pole, and to transfer any existing
70 facilities to the replacement utility pole.

71 (g) "Office" means the Florida Office of Broadband.

72 (h) "Pole" means any pole used in whole or in part for wire
73 communications or electric distribution.

74 (i) "Pole owner" means any electric utility as defined in
75 s. 366.02(2), public utility as defined in s. 366.02(1),
76 communications services provider as defined in s. 366.02(5),
77 cable television operator, or local exchange carrier that owns
78 or controls a pole.

79 (j) "Program" means the Broadband Pole Replacement Program
80 established under this section.

81 (k) "Qualifying broadband service" means a fixed,
82 terrestrial, retail wireline broadband Internet service capable
83 of delivering Internet access at speeds of at least 100 megabits
84 per second both downstream and upstream with latency at a level
85 sufficient to allow real-time, interactive applications.

86 (l) "Reimbursed through another state or federal broadband
87 grant program" means, with respect to eligible pole replacement
88 costs, that an applicant paying such costs has received or is
89 entitled to receive reimbursement for such costs under the terms
90 of another state or federal broadband grant program for the
91 deployment of broadband facilities, whether through a specific
92 reimbursement for such costs or through support payments that
93 equal or exceed the person's actual deployment costs, including
94 eligible pole replacement costs. The term does not include the
95 receipt of a state or federal grant that covers only a portion
96 of the applicant's actual deployment costs, including eligible



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97 pole replacement costs, if the applicant pays the eligible pole
98 replacement costs with its own funds.

99 (m) "Unserved area" means a location in which:

100 1. At the time of a request by a retail provider of
101 qualifying broadband service to attach facilities to a pole in
102 such location, fixed, terrestrial, retail wireline broadband
103 Internet service is unavailable, according to the latest
104 available broadband deployment data from the Federal
105 Communications Commission, provided that no person other than
106 the applicant has committed to providing qualifying broadband
107 service in such area; or

108 2. An applicant is committed under the terms of a federal
109 or state grant to provide qualifying broadband service, provided
110 that the availability of such grant is limited to areas lacking
111 access to fixed, terrestrial, retail wireline broadband Internet
112 service.

113 (3) BROADBAND POLE REPLACEMENT PROGRAM.—

114 (a) The Broadband Pole Replacement Program is established
115 within the Florida Office of Broadband. The office shall
116 administer the program and is responsible for receiving and
117 reviewing applications and distributing reimbursements under the
118 program.

119 (b) Any applicant that pays eligible pole replacement costs
120 after July 1, 2022, is eligible for reimbursement of such costs
121 under the program and may submit an application for
122 reimbursement in accordance with this section.

123 (c) Reimbursements provided under the program are subject
124 to the availability of funds. The office shall accept
125 applications for reimbursement until all funds appropriated to



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126 the program are exhausted. Reimbursements shall be made on a
127 first come, first served basis. The office shall publish on its
128 website information regarding the availability of funds and the
129 date when applications may begin to be submitted.

130 (d) An application pending when all funds are exhausted is
131 deemed denied; however, the applicant may reapply if sufficient
132 funds are later made available.

133 (e) By September 1, 2022, the office shall publish an
134 application form for reimbursement of eligible pole replacement
135 costs under the program. The application must require the
136 following:

137 1. Information sufficient to establish the number and cost
138 of eligible pole replacements that qualify for reimbursement
139 under the program.

140 2. Documentation sufficient to establish that the claimed
141 eligible pole replacements have been completed.

142 3. The total reimbursement amount requested and any state
143 or federal grant funding or accounting information required to
144 justify the amount requested.

145 4. A notarized statement from an officer or agent of the
146 applicant certifying that the contents of the application are
147 true and accurate and that such applicant will comply with the
148 requirements of this section as a condition of receiving
149 reimbursement under the program.

150 5. Receipts verifying the amount of eligible pole
151 replacement costs paid by the applicant.

152 6. Documentation sufficient to established the actual and
153 reasonable administrative expenses paid by such applicant in
154 preparing and submitting the application.



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155 7. Any other information or documentation required by the
156 department to comply with the requirements or conditions, as
157 applicable, of any federal funding used to pay reimbursements
158 under the program.

159 (f) Within 60 days after receipt of a complete application
160 that establishes an applicant's eligible pole replacement costs,
161 the office shall reimburse the applicant in an amount equal to
162 up to 50 percent of the total amount paid or \$5,000, whichever
163 is less, by such applicant for eligible pole replacement costs.

164 (g) Reimbursements made under this program from funds
165 appropriated from any federal funding received by this state
166 must also be made in compliance with any requirements or
167 conditions for use of such federal funds.

168 (h) If the information required for application is not
169 otherwise reasonably available to an applicant, an applicant may
170 request that a pole owner performing an eligible pole
171 replacement provide the number and costs of the pole
172 replacements and receipts verifying the amount of eligible pole
173 replacement costs paid by the applicant.

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

176 1. Certify its compliance with the requirements of this
177 section and with any federal conditions or requirements for use
178 of federal funds as applicable; and

179 2. Agree to refund with interest at the applicable Federal
180 Funds rate as specified by s. 670.506 any reimbursements or
181 portions thereof received under the program to the department,
182 at the direction of the office, if the office finds, upon
183 substantial evidence and after providing such applicant with



184 notice and an opportunity to respond, that such applicant
185 materially violated a requirement of this section with respect
186 to such reimbursements or portions thereof. Any funds received
187 by the office under this subparagraph shall be deposited into
188 the fund from which the appropriation was made.

189 (i) If applicable, an applicant that is a pole owner that
190 calculates its pole rental and other fees on the basis of a
191 formula required or approved by federal or state law or
192 regulation which includes consideration of the pole owner's
193 expenses, must, as a condition of receiving reimbursement under
194 the program, exclude from such expenses any eligible pole
195 replacement costs that were reimbursed by the program, paid for
196 by a retail provider of qualifying broadband service, or funded
197 by another state or federal grant.

198 (4) TRANSPARENCY.—The office shall publish and continually
199 update the following information on its website:

200 (a) Statistics on the number of applications received,
201 processed, and denied under the program.

202 (b) Statistics on the value, number, and status of
203 reimbursements provided under the program, including the names
204 of pole owners and retail providers of qualifying broadband
205 service which received reimbursements under the program.

206 (c) The amount of funds remaining from any appropriation.

207 (5) RULEMAKING.—The department is authorized to adopt rules
208 to establish the application and the conditions or requirements
209 that must be met in order to use and receive any federal funding
210 appropriated to the program.

211 Section 3. This act shall take effect July 1, 2022.
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213 ===== T I T L E A M E N D M E N T =====

214 And the title is amended as follows:

215 Delete everything before the enacting clause

216 and insert:

217 A bill to be entitled

218 An act relating to broadband infrastructure; amending
219 s. 288.9961, F.S.; revising the duties of the Florida
220 Office of Broadband to include administering the
221 Broadband Pole Replacement Program; requiring the
222 office to submit an annual report to the Governor and
223 the Legislature; creating s. 288.9964, F.S.; providing
224 legislative findings; defining terms; establishing the
225 Broadband Pole Replacement Program within the office;
226 providing responsibilities of the office; providing
227 eligibility requirements for reimbursement under the
228 program; providing that reimbursements are subject to
229 the availability of certain funds; providing that
230 certain denied applicants may reapply in certain
231 circumstances; providing requirements for the program
232 application; requiring the office to provide certain
233 reimbursements within a certain period of time;
234 authorizing an applicant to request certain
235 information from a pole owner under certain
236 circumstances; requiring an applicant to meet certain
237 conditions; requiring the office to publish and
238 continually update certain information on its public
239 website; authorizing rulemaking; providing an
240 effective date.