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576-03265-22

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Transportation, Tourism, and
Economic Development)

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; requiring the
6 office to submit an annual report to the Governor and
7 the Legislature by a specified date; creating s.
8 288.9964, F.S.; providing legislative findings;
9 defining terms; establishing the Broadband Pole
10 Replacement Program within the office; providing
11 responsibilities of the office; providing eligibility
12 requirements for reimbursement under the program;
13 providing that reimbursements are subject to the
14 availability of certain funds; providing that certain
15 denied applicants may reapply in certain
16 circumstances; providing requirements for the program
17 application; requiring the office to provide certain
18 reimbursements within a certain period of time;
19 authorizing an applicant to request certain
20 information from a pole owner under certain
21 circumstances; requiring an applicant to meet certain
22 conditions; requiring the office to publish and
23 continually update certain information on its public
24 website; authorizing rulemaking; providing an
25 effective date.
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27 Be It Enacted by the Legislature of the State of Florida:

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

32 288.9961 Promotion of broadband adoption; Florida Office of
33 Broadband.—

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

40 (g) Administer the Broadband Pole Replacement Program
41 established in s. 288.9964.

42 (6) REPORT.—Annually by January 31, the office shall
43 provide a report to the Governor, the President of the Senate,
44 and the Speaker of the House of Representatives which provides
45 information on activities of the office to meet the requirements
46 of this section, including any applications made and use of
47 federal funds for broadband Internet service infrastructure,
48 deployment, or access. The report shall also include, if funds
49 have been appropriated to the programs, updates and information
50 on administration and applications processed under the Broadband
51 Opportunity Program established in s. 288.9962 and the Broadband
52 Pole Replacement Program established in s. 288.9964, including
53 identifying and examining the deployment of broadband
54 infrastructure and technology facilitated by reimbursements
55 provided under the Broadband Pole Replacement Program.



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56 Section 2. Section 288.9964, Florida Statutes, is created
57 to read:

58 288.9964 Broadband Pole Replacement Program.—

59 (1) LEGISLATIVE FINDINGS.—The Legislature finds that a
60 broadband pole replacement program administered by the Florida
61 Office of Broadband is necessary to further the state's goal of
62 expanding and accelerating access to broadband service in
63 unserved areas throughout this state.

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

65 (a) "Applicant" means a private business, including a
66 corporation, a limited liability company, a partnership, a
67 nonprofit corporation, or any other private business entity that
68 provides or will provide qualifying broadband service in this
69 state.

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

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

76 (d) "Eligible pole replacement" means the removal of an
77 existing utility pole and its replacement with a new utility
78 pole in an unserved area in order to accommodate the attachment
79 to such new utility pole of facilities used in whole or in part
80 by a retail provider of qualifying broadband service for the
81 purpose of providing qualifying broadband service access to
82 residences or businesses in that unserved area. The term does
83 not include the removal and replacement of an existing utility
84 pole by the pole owner or an affiliated company unless the



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85 removal or replacement is performed as an accommodation to a
86 provider of qualifying broadband service.

87 (e) "Eligible pole replacement costs" means the actual
88 costs to perform an eligible pole replacement which are paid by
89 an applicant, excluding any amount separately reimbursed through
90 another state or federal broadband grant program or by some
91 other governmental entity. The term includes the costs to remove
92 and dispose of the existing utility pole, to purchase and
93 install a replacement utility pole, and to transfer any existing
94 facilities to the replacement utility pole.

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

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

98 (h) "Pole owner" means any electric utility as defined in
99 s. 366.02(2), public utility as defined in s. 366.02(1),
100 communications services provider as defined in s. 366.02(5),
101 cable television operator, or local exchange carrier that owns
102 or controls a pole.

103 (i) "Program" means the Broadband Pole Replacement Program
104 established under this section.

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

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



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114 of another state or federal broadband grant program for the
115 deployment of broadband facilities, whether through a specific
116 reimbursement for such costs or through support payments that
117 equal or exceed the person's actual deployment costs, including
118 eligible pole replacement costs. The term does not include the
119 receipt of a state or federal grant that covers only a portion
120 of the applicant's actual deployment costs, including eligible
121 pole replacement costs, if the applicant pays the eligible pole
122 replacement costs with its own funds.

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

124 1. At the time of a request by a retail provider of
125 qualifying broadband service to attach facilities to a pole in
126 such location, fixed, terrestrial, retail wireline broadband
127 Internet service is unavailable, according to the latest
128 available broadband deployment data from the Federal
129 Communications Commission, provided that no person other than
130 the applicant has committed to providing qualifying broadband
131 service in such area; or

132 2. An applicant is committed under the terms of a federal
133 or state grant to provide qualifying broadband service, provided
134 that the availability of such grant is limited to areas lacking
135 access to fixed, terrestrial, retail wireline broadband Internet
136 service.

137 (3) BROADBAND POLE REPLACEMENT PROGRAM.—

138 (a) The Broadband Pole Replacement Program is established
139 within the Florida Office of Broadband. The office shall
140 administer the program and is responsible for receiving and
141 reviewing applications and distributing reimbursements under the
142 program.



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

147 (c) Reimbursements provided under the program are subject
148 to the availability of funds. The office shall accept
149 applications for reimbursement until all funds appropriated to
150 the program are exhausted. Reimbursements shall be made on a
151 first-come, first-served basis. The office shall publish on its
152 website information regarding the availability of funds and the
153 date when applications may begin to be submitted.

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

157 (e) By September 1, 2022, the office shall publish an
158 application form for reimbursement of eligible pole replacement
159 costs under the program. The application must require the
160 following:

161 1. Information sufficient to establish the number and cost
162 of eligible pole replacements that qualify for reimbursement
163 under the program.

164 2. Documentation sufficient to establish that the claimed
165 eligible pole replacements have been completed.

166 3. The total reimbursement amount requested and any state
167 or federal grant funding or accounting information required to
168 justify the amount requested.

169 4. A notarized statement from an officer or agent of the
170 applicant certifying that the contents of the application are
171 true and accurate and that such applicant will comply with the



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172 requirements of this section as a condition of receiving
173 reimbursement under the program.

174 5. Receipts verifying the amount of eligible pole
175 replacement costs paid by the applicant.

176 6. Documentation sufficient to establish the actual and
177 reasonable administrative expenses paid by such applicant in
178 preparing and submitting the application.

179 7. Any other information or documentation required by the
180 department to comply with the requirements or conditions, as
181 applicable, of any federal funding used to pay reimbursements
182 under the program.

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

188 (g) Reimbursements made under this program from funds
189 appropriated from any federal funding received by this state
190 must also be made in compliance with any requirements or
191 conditions for use of such federal funds.

192 (h) If the information required for application is not
193 otherwise reasonably available to an applicant, an applicant may
194 request that a pole owner performing an eligible pole
195 replacement provide the number and costs of the pole
196 replacements and receipts verifying the amount of eligible pole
197 replacement costs paid by the applicant.

198 (i) As a condition of receiving reimbursement under the
199 program, an applicant must:

200 1. Certify its compliance with the requirements of this



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201 section and with any federal conditions or requirements for use
202 of federal funds as applicable; and

203 2. Agree to refund with interest at the applicable Federal
204 Funds rate as specified by s. 670.506 any reimbursements or
205 portions thereof received under the program to the department,
206 at the direction of the office, if the office finds, upon
207 substantial evidence and after providing such applicant with
208 notice and an opportunity to respond, that such applicant
209 materially violated a requirement of this section with respect
210 to such reimbursements or portions thereof. Any funds received
211 by the office under this subparagraph shall be deposited into
212 the fund from which the appropriation was made.

213 (j) If applicable, an applicant that is a pole owner that
214 calculates its pole rental and other fees on the basis of a
215 formula required or approved by federal or state law or
216 regulation which includes consideration of the pole owner's
217 expenses must, as a condition of receiving reimbursement under
218 the program, exclude from such expenses any eligible pole
219 replacement costs that were reimbursed by the program, paid for
220 by a retail provider of qualifying broadband service, or funded
221 by another state or federal grant.

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

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

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



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

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

235 Section 3. This act shall take effect July 1, 2022.