

By the Committee on Commerce and Tourism; and Senator Boyd

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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 defining terms; establishing the Broadband Pole
8 Replacement Program within the office; providing
9 responsibilities of the office; providing eligibility
10 requirements for reimbursement 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 certain period of time;
17 authorizing an applicant to request certain
18 information from a pole owner under certain
19 circumstances; requiring an applicant to meet certain
20 conditions; requiring the Secretary of Economic
21 Opportunity to apply for certain federal funding for
22 the program; requiring that the amount of state funds
23 allocated to the program be reduced by the amount of
24 certain federal funds provided to the program;
25 requiring the office to publish and continually update
26 certain information on its public website; requiring
27 an audit of the Broadband Pole Replacement Trust Fund
28 within a certain period of time; requiring the office
29 to provide a report containing specified information

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30 to the Governor and the Legislature within a specified
31 timeframe; providing that certain provisions do not
32 require or authorize rulemaking; providing an
33 appropriation; providing a contingent effective date.
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35 Be It Enacted by the Legislature of the State of Florida:
36

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

39 288.9961 Promotion of broadband adoption; Florida Office of
40 Broadband.—

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

47 (g) Administer the Broadband Pole Replacement Program
48 established in s. 288.9964.

49 Section 2. Section 288.9964, Florida Statutes, is created
50 to read:

51 288.9964 Broadband Pole Replacement Program.—

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

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

58 (a) "Applicant" means a private business, including a

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59 corporation, a limited liability company, a partnership, a
60 nonprofit corporation, or any other private business entity that
61 provides or will provide qualifying broadband service in this
62 state.

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

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

69 (d) "Broadband Pole Replacement Trust Fund" means the trust
70 fund established pursuant to s. 288.9965.

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

82 (f) "Eligible pole replacement costs" means the actual
83 costs to perform an eligible pole replacement which are paid by
84 an applicant, excluding any amount separately reimbursed through
85 another state or federal broadband grant program or by some
86 other governmental entity. The term includes the costs to remove
87 and dispose of the existing utility pole, to purchase and

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88 install a replacement utility pole, and to transfer any existing
89 facilities to the replacement utility pole.

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

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

93 (i) "Pole owner" means any electric utility as defined in
94 s. 366.02(2), public utility as defined in s. 366.02(1),
95 communications services provider as defined in s. 366.02(5),
96 cable television operator, or local exchange carrier that owns
97 or controls a pole.

98 (j) "Program" means the Broadband Pole Replacement Program
99 established under this section.

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

105 (l) "Reimbursed through another state or federal broadband
106 grant program" means, with respect to eligible pole replacement
107 costs, that an applicant paying such costs has received or is
108 entitled to receive reimbursement for such costs under the terms
109 of another state or federal broadband grant program for the
110 deployment of broadband facilities, whether through a specific
111 reimbursement for such costs or through support payments that
112 equal or exceed the person's actual deployment costs, including
113 eligible pole replacement costs. The term does not include the
114 receipt of a state or federal grant that covers only a portion
115 of the applicant's actual deployment costs, including eligible
116 pole replacement costs, if the applicant pays the eligible pole

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117 replacement costs with its own funds.

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

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

127 2. An applicant is committed under the terms of a federal
128 or state grant to provide qualifying broadband service, provided
129 that the availability of such grant is limited to areas lacking
130 access to fixed, terrestrial, retail wireline broadband Internet
131 service.

132 (3) BROADBAND POLE REPLACEMENT PROGRAM.—

133 (a) The Broadband Pole Replacement Program is established
134 within the Florida Office of Broadband. The office shall
135 administer the program and is responsible for receiving and
136 reviewing applications and distributing reimbursements under the
137 program.

138 (b) Any applicant that pays eligible pole replacement costs
139 is eligible for reimbursement of such costs under the program
140 and may submit an application for reimbursement in accordance
141 with this section.

142 (c) Reimbursements provided under the program are subject
143 to the availability of funds in the Broadband Pole Replacement
144 Trust Fund. The office shall accept applications for
145 reimbursement until all funds in the Broadband Pole Replacement

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146 Trust Fund are exhausted.

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

151 (e) Within 60 days after the first deposit of funds into
152 the Broadband Pole Replacement Trust Fund, the office shall
153 publish an application form for reimbursement of eligible pole
154 replacement costs under the program. The application must
155 require the following:

156 1. Information sufficient to establish the number and cost
157 of eligible pole replacements that qualify for reimbursement
158 under the program.

159 2. Documentation sufficient to establish that the claimed
160 eligible pole replacements have been completed.

161 3. The total reimbursement amount requested and any state
162 or federal grant funding or accounting information required to
163 justify the amount requested.

164 4. A notarized statement from an officer or agent of the
165 applicant certifying that the contents of the application are
166 true and accurate and that such applicant will comply with the
167 requirements of this section as a condition of receiving
168 reimbursement under the program.

169 5. Receipts verifying the amount of eligible pole
170 replacement costs paid by the applicant.

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

174 1. Up to 50 percent of the total amount paid or \$5,000,

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175 whichever is less, by such applicant for eligible pole
176 replacement costs; and

177 2. Up to 100 percent of the documented actual and
178 reasonable administrative expenses paid by such applicant in
179 preparing and submitting the application, including any
180 administrative expenses charged by a pole owner pursuant to
181 paragraph (g). The amount reimbursed under this subparagraph may
182 not exceed 5 percent of eligible pole replacement costs set
183 forth in the application.

184 (g) If such information is not otherwise reasonably
185 available, an applicant may request that a pole owner performing
186 an eligible pole replacement provide the number and costs of the
187 pole replacements and receipts verifying the amount of eligible
188 pole replacement costs paid by the applicant. A pole owner
189 providing such information and documentation may require
190 reimbursement from the applicant of its administrative expenses,
191 which may not exceed 5 percent of the eligible pole replacement
192 costs.

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

195 1. Certify its compliance with the requirements of this
196 section; and

197 2. Agree to refund with interest at the applicable Federal
198 Funds rate as specified by s. 670.506 any reimbursements or
199 portions thereof received under the program to the Broadband
200 Pole Replacement Trust Fund or the General Revenue Fund, at the
201 direction of the office, if the office finds, upon substantial
202 evidence and after providing such applicant with notice and an
203 opportunity to respond, that such applicant materially violated

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204 a requirement of this section with respect to such
205 reimbursements or portions thereof.

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

215 (4) PROGRAM FUNDING.—

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

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

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

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

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233 (b) Statistics on the value, number, and status of
234 reimbursements provided under the program, including the names
235 of pole owners and retail providers of qualifying broadband
236 service which received reimbursements under the program.

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

239 (6) AUDIT.—Within 1 year after the initial deposit of funds
240 into the Broadband Pole Replacement Trust Fund, the Auditor
241 General shall audit the fund and its administration for
242 compliance with the requirements of this section and s.
243 288.9965.

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

251 (8) RULEMAKING.—Rulemaking by the department, the office,
252 or any other agency is not required to administer and is not
253 authorized by this section.

254 Section 3. For the 2022-2023 fiscal year, the sum of \$400
255 million in nonrecurring funds is appropriated from the General
256 Revenue Fund, from payments received by the state pursuant to
257 the Federal Coronavirus State Fiscal Recovery Fund established
258 in 42 U.S.C. s. 802, to the Florida Office of Broadband within
259 the Department of Economic Opportunity for the purpose of
260 administering the Broadband Opportunity Program established in
261 s. 288.9962, Florida Statutes.

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262 Section 4. This act shall take effect upon becoming a law,
263 if SB 1802 or similar legislation is adopted in the same
264 legislative session or an extension thereof and becomes a law.