

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: CS/CS/SB 1802

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development); Commerce and Tourism Committee; and Senator Boyd

SUBJECT: Broadband Pole Replacement Trust Fund

DATE: March 2, 2022

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harmsen</u>	<u>McKay</u>	<u>CM</u>	<u>Fav/CS</u>
2.	<u>Hrdlicka</u>	<u>Hrdlicka</u>	<u>ATD</u>	<u>Recommend: Fav/CS</u>
3.	<u>Hrdlicka</u>	<u>Sadberry</u>	<u>AP</u>	<u>Fav/CS</u>

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 1802 creates the Broadband Pole Replacement Trust Fund within the Department of Economic Opportunity to provide reimbursements to qualified applicants from the Broadband Pole Replacement Program, created by linked bill, SB 1800, and for use by the Office of Broadband to administer the program.

The bill is linked to SB 1800, which creates the Broadband Pole Replacement Program within the department's Office of Broadband.

This bill takes effect on the same date that SB 1800 takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law. SB 1800 takes effect upon becoming a law. SB 1800 takes effect July 1, 2022.

**II. Present Situation:**

Article III, s. 19(f), of the Florida Constitution requires that state trust funds may only be created by the Legislature if passed by a three-fifths vote of the membership of each house of the Legislature in a separate bill for the sole purpose of creating a trust fund. Each trust fund must be created by general law that specifies at a minimum all of the following:

- The name of the trust fund;

- The agency or branch of state government responsible for administering the trust fund;
- The requirements or purposes the trust fund is established to meet;
- The sources of moneys to be credited to the trust fund or specific sources of receipts to be deposited in the trust fund.<sup>1</sup>

State trust funds terminate no more than four years after the effective date of the act authorizing the initial creation of the trust fund.<sup>2</sup> The Legislature is required to review all state trust funds at least once every four years.<sup>3</sup> If the Legislature does not re-create a trust fund, it will be abolished four years after its initial creation pursuant to the Florida Constitution.<sup>4</sup>

### **U.S. Department of the Treasury Coronavirus Capital Projects Fund**

The American Rescue Plan Act allocated \$10 billion to eligible governments to carry out capital projects to meet critical needs, with an emphasis on broadband infrastructure.<sup>5</sup> Florida's share is \$366 million, and, in December 2021, the state submitted its intent to use the funds to expand broadband Internet infrastructure in Florida, among other capital uses.<sup>6</sup>

Presumptively eligible projects under the program include the construction and deployment of broadband infrastructure that is designed to deliver service that reliably meets or exceeds symmetrical speeds of 100 Mbps, or if impracticable, speeds of 100 Mbps downstream and 20 Mbps upstream; projects for digital connectivity that facilitate broadband access; and construction or improvement of certain community facilities.<sup>7</sup> Projects may also be eligible on a case-by-case review, such as investments in capital assets, such as buildings, towers, digital devices and equipment, fiber-optic lines, and broadband networks.<sup>8</sup> Each capital project must:

- Invest in capital assets designed to directly enable work, education, and health monitoring;
- Be designed to address a critical need that resulted from or was made apparent or exacerbated by the COVID-19 public health emergency; and
- Be designed to address a critical need of the community to be served by it.

The deadline to submit a grant plan to the U.S. Department of the Treasury is September 24, 2022.

### **SB 1800**

CS/SB 1800 creates the Broadband Pole Replacement Program, to be administered by the Office of Broadband (Office) within the Department of Economic Opportunity (department). The

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<sup>1</sup> Section 215.3207, F.S.

<sup>2</sup> FLA. CONST. art III, s. 19.

<sup>3</sup> Section 215.3208, F.S.

<sup>4</sup> FLA. CONST. art III, s. 19.

<sup>5</sup> U.S. Dep't. of Treasury, *Capital Projects Fund*, <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/capital-projects-fund> (last visited Feb. 14, 2022).

<sup>6</sup> See Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development, Committee Meeting of January 12, 2022, meeting packet and video at <https://www.flsenate.gov/Committees/Show/ATD/> (last visited Feb. 17, 2022).

<sup>7</sup> U.S. Dep't. of Treasury, *Guidance for the Coronavirus Capital Projects Fund for States, Territories, and Freely Associated States*, at 3, <https://home.treasury.gov/system/files/136/Capital-Projects-Fund-Guidance-States-Territories-and-Freely-Associated-States.pdf> (last visited Feb. 17, 2022).

<sup>8</sup> *Id.* at 7.

program will reimburse eligible broadband Internet service providers for their costs incurred for the removal and replacement of existing utility poles in areas of Florida that are unserved by broadband Internet service.

Reimbursements under the program are limited to 50 percent of the broadband Internet service provider's eligible pole replacement cost or \$5,000, whichever is less, in addition to the provider's administrative costs related to the preparation and submission of the application for reimbursement.

The bill directs the Secretary of the department to apply for \$100 million in federal funding from the Coronavirus Capital Projects Fund and directs any such funds received to be placed into the Broadband Pole Replacement Trust Fund. The bill does not appropriate funds for the program.

### III. Effect of Proposed Changes:

**Section 1** creates s. 288.9965, F.S., the Broadband Pole Replacement Trust Fund within the Department of Economic Opportunity to provide reimbursements to qualified applicants from the Broadband Pole Replacement Program, created by linked bill, SB 1800, and for use by the Office of Broadband to administer the program.

The trust fund consists of funds appropriated by the Legislature; funds transferred by the department; interest earnings; and grants, gifts, and other contributions made directly to the trust fund. Funds appropriated from federal grant funds must be used consistent with federal law and with any federal grant agreement between the Department of Economic Opportunity and the federal agency for use of the funds.

The bill further provides that any balance that is in the trust fund at the end of any fiscal year shall be carried forward in the trust fund for the purposes of continued administration of the Broadband Pole Replacement Program.

Pursuant to the requirements of the Florida Constitution, the trust fund will terminate 4 years after its effective date, but must first be reviewed as provided in s. 215.3206(1) and (2), F.S.

**Section 2** directs the Division of Law Revision to replace the phrase "4 years after the effective date of this act" with the date that the trust fund will terminate.

**Section 3** states that the act takes effect on the same date that SB 1800, relating to the Broadband Pole Replacement Program, takes effect if such legislation is adopted in the same legislative session or an extension thereof and becomes a law. SB 1800 takes effect July 1, 2022.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

Article III, s. 19(f), of the Florida Constitution requires that every trust fund be created by a three-fifths vote of the membership of each house of the Legislature in a separate bill for the sole purpose of creating a trust fund. State trust funds terminate no more than 4 years after the initial creation, unless they are re-created. The Broadband Pole Replacement Trust Fund terminates 4 years after the date it becomes effective.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 288.9965 of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS/CS by Appropriations on February 28, 2022:**

The committee substitute removes the reference to the deposit of federal Capital Project Fund funds. The CS also clarifies that funds appropriated from federal grant funds must be used consistent with federal law and with any federal grant agreement between the Department of Economic Opportunity and the federal agency for use of the funds.

**CS by Commerce and Tourism on January 24, 2022:**

Inserts the bill number assigned to linked bill, CS/SB 1800, which creates the Broadband Pole Replacement Trust Fund, in the contingent effective date.

- B. **Amendments:**

None.