STATE OF MICHIGAN
100TH LEGISLATURE
REGULAR SESSION OF 2020

Introduced by Rep. Hoitenga

ENROLLED HOUSE BILL No. 4288

AN ACT to prescribe the powers and duties of certain state governmental officers and entities; to create a statewide broadband service grant program; and to establish a process for the application and awarding of grant money.

The People of the State of Michigan enact:

Sec. 1. This act shall be known and may be cited as the "broadband expansion act of Michigan".

Sec. 2. As used in this act:

(a) "Applicant" means an internet service provider that submits an application for a grant after collaborating with the community in the unserved area.

(b) "Broadband service" means a retail service, not including a satellite service, capable of delivering high-speed internet access at speeds of at least 25 megabits per second downstream and 3 megabits per second upstream.

(c) "Department" means the department of technology, management, and budget.

(d) "Deployed" means that a provider meets either of the following:

(*i*) Currently provides broadband service of at least 25 megabits per second download and 3 megabits per second upload in the specific geographic area of the proposed project of the applicant.

(*ii*) Is able to provide broadband service of at least 25 megabits per second download and 3 megabits per second upload in a specific geographic area of the proposed project of the applicant to a customer that requests that service not later than 30 days after the customer requests installation of that service and without an extraordinary commitment of resources or construction charges or fees exceeding an ordinary service activation fee. The 30-day time period is extended to 60 days if permits are needed before the broadband service is activated.

(e) "Internet service provider" means any of the following:

(*i*) An entity holding a license under the Michigan telecommunications act, 1991 PA 179, MCL 484.2101 to 484.2603.

(*ii*) An entity holding a franchise under the uniform video services local franchise act, 2006 PA 480, MCL 484.3301 to 484.3315.

(*iii*) An entity currently providing broadband service in this state.

(f) "Person" includes an individual, community organization, cooperative association, corporation, federally recognized Indian tribe, limited liability company, nonprofit corporation, partnership, or political subdivision of this state.

(g) "Trade secrets" means trade secret as that term is defined in section 2 of the uniform trade secrets act, 1998 PA 448, MCL 445.1902.

(h) "Unserved area" means any of the following:

(*i*) A census block lacking access to broadband service from at least 1 internet service provider.

(*ii*) An area lacking access to broadband service from at least 1 internet service provider according to the most accurate and granular data on the broadband map created by the Federal Communications Commission.

(*iii*) An area delineated by the department by the process established in section 8.

Sec. 3. Within 60 days after receiving an appropriation or federal funding to implement this act, the department shall establish and implement a statewide broadband service grant program called the broadband expansion act of Michigan grant program. Money for the program must be provided by appropriation or by federal funding as provided by law and managed by the department.

Sec. 4. (1) The department shall only use money from the grant program to award grants to applicants for projects that exclusively extend broadband service into unserved areas in this state and for the department's costs to administer the program.

(2) The department shall not, directly or indirectly, award grant money to a governmental entity or educational institution or an affiliate, to own, purchase, construct, operate, or maintain a communications network, or to provide service to any residential or commercial premises.

(3) The department shall not, as a condition of an award of grant money, impose an open network architecture requirement, rate regulation, or other term or condition of service that differs from the applicant's terms or conditions of service in its other service areas.

(4) An applicant shall not receive a grant for the same project or geographic area for which the applicant has obtained federal, state, or local government funding awarded specifically to support the expansion of broadband networks. The department shall not award more than $5,000,000.00 to any 1 project or to any 1 applicant. The department shall award initial grant money within 270 days after the money is made available under this program.

Sec. 5. (1) An award of funds must be issued by a competitive grant process. The grant process must be technology neutral, and result in awards to applicants proposing projects based on objective and efficient procedures. The criteria for determining the award of funds must include the following:

(a) The applicant's experience and financial wherewithal.

(b) The readiness to build, operate, and maintain the project.

(c) The long-term viability of the project.

(d) The scalability of the network.

(e) The applicant's ability to leverage broadband for community and economic development.

(f) The applicant's ability to provide discounted broadband service throughout the unserved area to low-income households.

(2) Priority must be given to projects that demonstrate collaboration to achieve community investment and economic development goals of the area impacted, and that are able to demonstrate that they have the managerial, financial, and technical ability to build, operate, and manage a broadband network.

Sec. 6. Within 30 days after receiving an appropriation or federal funding to implement this act, the department shall establish and publish on the department's website the criteria for competitively scoring applications. Within 60 days after the department publishes the criteria, applicants shall submit their applications for funding of their proposed project.

Sec. 7. (1) An applicant for a grant under this act shall provide the following information on the application:

(a) The location of the project in the unserved area described by either the specific street addresses to be served or a shapefile as that term is defined in 47 USC 641.

(b) The kind and amount of broadband infrastructure to be purchased for the project.

(c) Evidence regarding the unserved nature of the community in which the project is to be located.

(d) The number of households that will have access to broadband service as a result of the project, or whose internet access service will be upgraded to broadband service as a result of the project.

(e) The significant community institutions that will benefit from the proposed project.

(f) Evidence of community support for the project with a narrative on the impact that the investment will have on community and economic development efforts in the area.

(g) The total cost of the project and a detailed budget and schedule for the project.

(h) All sources of funding or in-kind contributions for the project in addition to any grant award.

(i) The internet service provider's experience and financial wherewithal.

(2) The applicant's trade secrets, financial information, and proprietary information submitted under this act as part of an application are exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(3) After scoring and considering all grant applications, the department shall make grant award recommendations. The department shall give priority in making grant award recommendations to applications that demonstrate 1 or more of the following:

(a) Collaboration to achieve community investment and economic development goals of an impacted area.

(b) The applicant has the managerial, financial, and technical ability to build, operate, and manage a broadband network.

(c) The likelihood that the unserved area will not be served without state grant funding.

(d) The project will serve a larger unserved area or a greater number of locations within an unserved area than other proposed applications.

(e) The ability of the applicant to commit to providing at least 50% of the cost to deploy the project set forth in the application.

(4) Within 30 days after the award recommendations have been made, the department shall publish on its website the grant applications, redacted according to section 14 of the freedom of information act, 1976 PA 442, MCL 15.244, the proposed geographic broadband service area, and the proposed broadband service speeds for each application that receives an award recommendation.

(5) Before granting an award to an applicant, the department shall establish a period of at least 60 days after the date the award recommendations are published on the department's website, during which time the department shall accept comments or objections concerning each application. The department shall consider all comments or objections received, and investigate them as needed, in deciding whether an applicant is eligible for a grant. If an objection submitted by a provider contains information that requires an investigation and the objection is found to be inaccurate, the provider shall reimburse the department for the cost of verifying the information.

(6) The department shall not award a grant to an applicant if verifiable information is made available that shows any of the following:

(a) The proposed project includes an area where at least 1 provider has deployed broadband service.

(b) The department receives a sworn statement from an officer of an internet service provider that the proposed project includes an area where construction of a network to provide broadband service is underway, and the construction is scheduled to be completed within 1 year after the date of the application.

(c) The department receives a sworn statement from an officer of an internet service provider that the proposed project includes either of the following:

(*i*) A specific geographical area where an internet service provider has been selected to receive, provisionally or otherwise, funding by the Federal Communications Commission or the United States Department of Agriculture specifically for the expansion of broadband services. This subparagraph does not apply to an area once either of the following has occurred:

(A) The internet service provider does not complete the requirements for obtaining the funding described in this subparagraph.

(B) The time period for the internet service provider to meet its obligation described in this subparagraph has expired and the area remains unserved.

(*ii*) An area where the construction of a network to provide broadband service is to be completed no later than 2 years after the date of an application.

Sec. 8. (1) As part of an application under this act, an applicant may request that the department specifically delineate an area within a census block as being an unserved area. To tentatively establish an unserved area within a census block, an applicant must attest to all of the following:

(a) The delineated area within the census block is unserved and does not have access to broadband service.

(b) To the best of the applicant's knowledge, no other internet service provider has plans to provide broadband service within the delineated area within 3 years after the date of the application.

(c) The delineated area is not within a census block that has been selected to receive, provisionally or otherwise, funding to support the expansion of broadband networks from the Federal Communications Commission or the United States Department of Agriculture.

(2) If a delineated area within a census block is tentatively determined by the department to be an unserved area, the recommended grant award for the application is still subject to a challenge by internet service providers under section 7(5) and (6).

Sec. 9. At the time a grant is awarded to an applicant, the department shall immediately provide notice on its website of each application receiving a grant, including the name of the entity, the amount of money being received, the broadband speed, and the unserved area for which the applicant is receiving the grant.

Sec. 10. The department shall require an applicant awarded a grant to submit a semiannual report from the time the applicant receives the grant to 3 years after completion of the project. The semiannual reports must be made available on the department's website with any proprietary information redacted. The reports must be in a format specified by the department and give an accounting by the applicant of the use of the money received and the progress toward fulfilling the objectives for which the money were granted, including all of the following:

(a) The number and location of residences and businesses that will have access to the broadband service.

(b) The speed of broadband service.

(c) The average price of broadband service.

(d) The broadband service adoption rates.

Sec. 11. A person that files a false statement under this act is ineligible to receive a grant under this act the next time grants are issued after filing that false statement.

This act is ordered to take immediate effect.

Clerk of the House of Representatives

Secretary of the Senate

Approved_____

_____
Governor