

SENATE BILL No. 224

February 17, 2005, Introduced by Senators VAN WOERKOM, GILBERT, BIRKHOLZ, GOSCHKA, ALLEN, STAMAS, BROWN, JELINEK and BARCIA and referred to the Committee on Agriculture, Forestry and Tourism.

A bill to amend 2002 PA 49, entitled
"Michigan broadband development authority act,"
by amending section 7 (MCL 484.3207), as amended by 2003 PA 265.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7. (1) The powers of the authority shall include all
2 those necessary to carry out and effectuate the purposes of this
3 act, including, but not limited to, all of the following:

4 (a) To borrow money and issue bonds and notes to fund
5 operations of the authority, to finance or refinance part or all of
6 the development costs of the broadband infrastructure, to refinance
7 existing debt for technology that constitutes a part of or is
8 related to the broadband infrastructure, and to secure bonds and
9 notes by mortgage, assignment, or pledge of any of its revenues and

1 assets.

2 (b) To invest any money of the authority at the authority's
3 discretion, in any obligations determined proper by the authority,
4 and name and use depositories for its money.

5 (c) To enter into joint venture and partnership arrangements
6 subject to subsections (2) and (3) with persons that will acquire,
7 construct, develop, maintain, and operate all or portions of the
8 broadband infrastructure.

9 (d) To be designated the state program manager for federal
10 telecommunications assistance, to represent this state in
11 negotiations with the federal government regarding
12 telecommunications assistance, and to receive and distribute
13 federal funding, including loans, grants, and other forms of
14 funding and assistance on this state's behalf.

15 (e) To receive and distribute state or local funding including
16 grants, loans, general appropriations, or an appropriation made for
17 the purposes under subsection (4).

18 (f) To make loans and to enter into any joint venture and
19 partnership arrangements subject to subsections (2) and (3) with
20 broadband developers and broadband operators that will acquire,
21 construct, maintain, and operate all or portions of the broadband
22 infrastructure.

23 (g) To provide operating assistance to make broadband services
24 more affordable to broadband developers, broadband operators, and
25 broadband customers, in conjunction with broadband infrastructure
26 financed by the authority.

27 (h) To impose and collect charges, fees, or rentals for the

1 services furnished by those portions of the broadband
2 infrastructure financed by the authority under this act.

3 (i) To set construction, operation, and financing standards
4 for the broadband infrastructure in connection with authority
5 financing and to provide for inspections to determine compliance
6 with those standards.

7 (j) To acquire from any person interests in real or personal
8 property necessary for the operation of the authority.

9 (k) To procure insurance against any loss in connection with
10 the broadband infrastructure and any other property, assets, or
11 activities of the authority.

12 (l) To sue and be sued, to have a seal, and to make, execute,
13 and deliver contracts, conveyances, and other instruments necessary
14 to the exercise of the authority's powers.

15 (m) To enforce financial, operational, warranty, security,
16 lease, and guaranty terms and conditions established under
17 financings by the authority. The authority may under this
18 subsection acquire, construct, develop, lease, create, and maintain
19 all or portions of the broadband infrastructure and acquire from
20 any person interests in real and personal property.

21 (n) To make and amend bylaws.

22 (o) To indemnify and procure insurance indemnifying any
23 members of the board of the authority from personal liability by
24 reason of their service as a board member.

25 (p) To investigate, evaluate, and assess the current broadband
26 infrastructure and the future broadband infrastructure needs of
27 this state and to encourage and participate in aggregation

1 strategies for the broadband services of all public entities and
2 nonprofit corporations in this state to maximize the
3 interconnectivity and efficiencies of the broadband infrastructure.

4 (2) Notwithstanding any other provision of this act, the
5 authority shall not make loans to, or enter into any joint venture
6 and partnership arrangements or participation with, any
7 governmental entity or nonprofit organization except in connection
8 with the financing or refinancing of development costs for that
9 allocable portion of the broadband infrastructure used or to be
10 used exclusively by governmental entities or nonprofit
11 organizations, including, but not limited to, universities,
12 colleges, hospitals, school districts, public safety agencies,
13 judicial organizations, libraries, cities, townships, and counties.
14 No allocable portion of the broadband infrastructure financed by a
15 loan to a governmental entity or a nonprofit organization shall be
16 used to serve residential, business, or other commercial customers.

17 (3) Notwithstanding any other provision of this act, except in
18 connection with financing or refinancing under subsection (2) or
19 enforcement procedures authorized under subsection (1)(m), the
20 authority shall acquire real or personal property constituting
21 portions of the broadband infrastructure only in connection with
22 the participation of persons other than governmental entities or
23 nonprofit organizations through joint ventures and partnership
24 arrangements, or other co-ownership arrangements and only if the
25 participation is necessary to assure availability of financing or
26 refinancing derived from the issuance by the authority of bonds or
27 notes, the interest on which is exempt from taxation under the

1 United States internal revenue code, and the financing derived from
2 the tax-exempt bonds or notes is allocated only to those
3 development costs relating to that portion of the broadband
4 infrastructure that is to be used by governmental bodies or
5 nonprofit organizations.

6 (4) The authority shall establish a seed capital loan program
7 to make capital loans to persons planning to apply to the authority
8 for financing of broadband infrastructure. Priority for the seed
9 capital loan program shall be given for developments targeted to
10 underserved areas. ~~During the initial 2 years of operations, the~~
11 **THE** authority shall **ANNUALLY** designate a minimum of ~~\$500,000.00~~
12 **\$1,000,000.00** to be targeted to rural underserved areas and a
13 minimum of \$500,000.00 targeted to urban underserved areas.

14 Community economic development programs and small providers shall
15 be given a preference to receive loans under this subsection. The
16 terms and conditions for the seed capital loans shall be
17 established by the authority. As used in this act, "underserved
18 areas" means geographical areas of this state identified by the
19 authority as having the greatest need for broadband development. In
20 identifying underserved areas, the authority shall consider the
21 area's economic conditions, including, but not limited to, family
22 income, affordability of access, lack of options available, low
23 percentage of residents subscribing, and any other criteria
24 considered important by the authority in determining whether an
25 area is underserved.

26 (5) As part of an application for financing under this act,
27 the broadband developer and broadband operator shall file with the

1 authority a participation plan for small and minority owned
2 businesses and a communitywide outreach plan to educate the public
3 of the availability of broadband services. The authority shall not
4 approve an application unless a plan is submitted under this
5 subsection.

6 (6) Priority shall be given to the application of any
7 broadband developer who applies to develop broadband capability
8 within a recovery zone as that term is defined in section 8d of the
9 Michigan renaissance zone act, 1996 PA 376, MCL 125.2688d.