

HOUSE BILL NO. 5032

June 16, 2021, Introduced by Reps. Hood, Rogers, Sneller, Sowerby, Brixie, Hope, Rabhi, Brabec, Cavanagh, Aiyash, Weiss, Hammoud, Scott and Young and referred to the Committee on Communications and Technology.

A bill to amend 2020 PA 224, entitled
"Broadband expansion act of Michigan,"
by amending sections 2, 4, and 7 (MCL 484.3252, 484.3254, and
484.3257).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:
2 (a) "Applicant" means an internet service provider,
3 **governmental entity, educational institution, or public-private**
4 **partnership** that submits an application for a grant after

1 collaborating with the community in the unserved area.

2 (b) "Broadband service" means a retail service, not including
3 a satellite service, capable of delivering high-speed internet
4 access at speeds of at least ~~25~~**100** megabits per second downstream
5 and ~~3~~**10** megabits per second upstream.

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

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

10 (i) Currently provides broadband service of at least ~~25~~**100**
11 megabits per second download and ~~3~~**10** megabits per second upload in
12 the specific geographic area of the proposed project of the
13 applicant.

14 (ii) Is able to provide broadband service of at least ~~25~~**100**
15 megabits per second download and ~~3~~**10** megabits per second upload in
16 a specific geographic area of the proposed project of the applicant
17 to a customer that requests that service not later than 30 days
18 after the customer requests installation of that service and
19 without an extraordinary commitment of resources or construction
20 charges or fees exceeding an ordinary service activation fee. The
21 30-day time period is extended to 60 days if permits are needed
22 before the broadband service is activated.

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

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

26 (ii) An entity holding a franchise under the uniform video
27 services local franchise act, 2006 PA 480, MCL 484.3301 to
28 484.3315.

29 (iii) An entity currently providing broadband service in this

1 state.

2 **(iv) A political subdivision of this state.**

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

7 (g) "Trade secrets" means trade secret as that term is defined
8 in section 2 of the uniform trade secrets act, 1998 PA 448, MCL
9 445.1902.

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

11 (i) A census block lacking access to broadband service from at
12 least ~~1-3~~ internet service ~~provider~~**providers**.

13 (ii) An area lacking access to broadband service from at least
14 ~~1-3~~ internet service ~~provider~~**providers** according to the most
15 accurate and granular data on the broadband map created by the
16 Federal Communications Commission.

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

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

23 (2) The department ~~shall not, directly or indirectly, may~~
24 award grant money to a governmental entity or educational
25 institution or an affiliate **or a public-private partnership**, to
26 own, purchase, construct, operate, or maintain a communications
27 network, or to provide service to any residential or commercial
28 premises.

29 (3) The department shall not, as a condition of an award of

1 grant money, impose an open network architecture requirement, rate
2 regulation, or other term or condition of service that differs from
3 the applicant's terms or conditions of service in its other service
4 areas.

5 (4) An applicant shall not receive a grant for the same
6 project or geographic area for which the applicant has obtained
7 federal, state, or local government funding awarded specifically to
8 support the expansion of broadband networks. The department shall
9 not award more than \$5,000,000.00 to any 1 project or to any 1
10 applicant. The department shall award initial grant money within
11 270 days after the money is made available under this program.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (4) Within 30 days after the award recommendations have been
28 made, the department shall publish on its website the grant
29 applications, redacted according to section 14 of the freedom of

1 information act, 1976 PA 442, MCL 15.244, the proposed geographic
2 broadband service area, and the proposed broadband service speeds
3 for each application that receives an award recommendation.

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

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

18 (a) The proposed project includes an area where at least ~~1~~
19 ~~provider has~~ **3 providers have** deployed broadband service.

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

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

28 (i) A specific geographical area where an internet service
29 provider has been selected to receive, provisionally or otherwise,

1 funding by the Federal Communications Commission or the United
2 States Department of Agriculture specifically for the expansion of
3 broadband services. This subparagraph does not apply to an area
4 once either of the following has occurred:

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

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

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