

GREEN SHEET REDIGEST

HB 653

2023 Regular Session

Deshotel

UTILITIES: Provides relative to Granting Unserved Municipalities Broadband Opportunities.

DIGEST

Proposed law establishes the "Granting Unserved Municipalities Broadband Opportunities 2.0" (GUMBO 2.0) program.

Proposed law defines certain terms including "broadband service", "eligible grant recipient", "project", "infrastructure", "shapefile", "underserved location", and "unserved location".

Proposed law authorizes the office of broadband development and connectivity (office) to use up to one percent of appropriated funds to administer GUMBO 2.0. Proposed law further authorizes the office to use one percent of funds to hire 3rd party contractors to administer the program. Proposed law prohibits the use of the funds for compensation of any new or existing positions within the office.

Proposed law gives the office the authority and responsibility to promulgate rules at least 90 days prior to a grant round and provides that the rules must be consistent with state law and federal guidelines pertaining to the Infrastructure Investment and Jobs Act and proposed law.

Proposed law exempts the GUMBO 2.0 program from the provisions of present law, the La. Procurement Code and the Public Bid Law.

Proposed law provides that, unless stated otherwise in proposed law, all records related to GUMBO 2.0 are public records, but a broadband service provider's trade secret and proprietary information are not subject to the Public Records Law.

Proposed law requires the office to treat any information submitted with a protest that is not publicly available as confidential.

Proposed law requires grant recipients to provide matching funds. Requires a grant recipient to contribute from its own funds a minimum of 25% of the total estimated cost of the project. Provides that a written waiver to this requirement can be granted by the office.

Proposed law authorizes a local government to contribute in-kind contributions for an eligible project. Provides that such contributions shall not be considered a partnership for providing a covered service in accordance with present law, the Local Government Fair Competition Act.

Proposed law authorizes the office to promulgate rules with regard to the grant process.

Proposed law requires the challenge process start before a future grant round is launched. Provides that the state is required to use the Broadband DATA Maps and the National Telecommunications and Information Administration's (NTIA), Broadband Equity, Access, and Deployment (BEAD) Model Challenge process to conduct the process. Proposed law requires broadband service providers to submit challenges within 30 days of mapping information being released publicly.

Proposed law provides that NTIA is the final arbiter of availability challenges.

Proposed law requires the office to keep confidential challenge details.

Proposed law requires that the office keep a grant round open for a period of at least 30 days but not longer than 60 days.

Proposed law requires the office to identify eligible locations for grant funding using the Broadband DATA Map.

Proposed law requires the office to release eligible locations at least 30 days prior to the start of a grant round.

Proposed law requires application information used for scoring purposes to be made publicly available, subject to confidentiality protections provided in proposed law. Provide such information is required to be posted on the office's website or the division of administration's website for at least seven days prior to the grant award.

Proposed law requires a grant applicant to define its proposed project area. Proposed law requires the office to provide additional points for applications that will serve areas determined to be most in need due to the high cost to serve or economic or other needs of the community.

Proposed law requires the office to promulgate application minimum requirements and scoring rules at least 90 days prior to a grant round.

Proposed law provides the procedure for a party to protest an award and requires such party to do so within 14 days. Requires a party that submits a protest to attest that the information in the protest is accurate and that the protest is submitted in good faith.

Proposed law allows a local governing authority to submit to the office an objection to any provider that seeks to deploy broadband service in the local governing authority's area if the provider has received a letter grade rating of "D" or "F" from the Better Business Bureau.

Proposed law gives the director of the office the authority to settle and resolve a protest.

Proposed law requires the director of the office to provide a written decision, within 14 business days, when a protest cannot be resolved by mutual agreement. Proposed law provides the requirements for the written decision and requires the decision to be provided to a party to the protest immediately. Proposed law provides that the office's decision is final and conclusive with exceptions.

Proposed law allows a party a protest to file an appeal with the commissioner of administration within 14 business days. Proposed law gives the commissioner the authority to review and determine any appeal by a party to the protest.

Proposed law allows a party to the protest to file an appeal, within seven business days of receipt of a decision from the commissioner, with the 19th Judicial District Court. Proposed law also gives a party to the protest the right to appeal to the 1st Circuit Court of Appeal or the La. Supreme Court.

Proposed law requires the office to conduct an implementation meeting with a grant recipient within 30 days of execution of a grant agreement.

Proposed law requires a grant recipient to submit to the office an annual report for each funded project during an agreement period. Proposed law provides requirements for the report. Proposed law further requires an entity receiving federal funds for broadband infrastructure development to submit to the office a quarterly report for each project during an agreement period and the necessary information for the report.

Proposed law requires the office to submit annually, on or before Sept. 30th, a report to the House and Senate commerce committees and the Joint Legislative Committee on Technology and Cybersecurity. Proposed law provides the necessary elements for the report.

Proposed law requires eligible grant recipients to submit a quarterly report for each funded project located in the state and provides the required elements for the report. Proposed law provides that if a grant recipient does not submit quarterly reports for two consecutive quarters, the office may consider locations within the awarded area unserved.

Proposed law provides that the division of administration shall be the designated agency for receipt and disbursement of state and federal funds for broadband expansion.

Proposed law provides that reimbursements shall be made at certain points of a project. Proposed law provides that the final 15% of a grant shall not be paid without an approved completion report.

Proposed law provides that a grant recipient forfeits the amount of a grant if the recipient fails to perform, in material respect, its obligations. Proposed law provides that grant agreements shall last, at a minimum, for the duration of broadband project construction and five years after construction completion.

Proposed law provides that a grant recipient is not required to forfeit the amount of a grant if the recipient fails to perform due to circumstances beyond its control.

Proposed law provides that a grant recipient could be required to reimburse the state the actual cost to finish a project if the recipient fails to complete the project in a material respect.

Present law, the Public Records Law, provides that unless there is an exception, records are subject to public review and examination.

Present law provides exceptions to the Public Records Law.

Proposed law creates an exception to the Public Records Law for the limitations contained in proposed law, R.S. 51:2370.25 and 2370.27, for information identified as confidential, trade secret, or proprietary.

Proposed law authorizes the La. State Law Institute to make certain technical changes to the law regarding GUMBO 1.0 to conform with proposed law.

(Adds R.S. 51:2370.21-2370.33; Amends R.S. 44:4.1(B)(35))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on House and Governmental Affairs to the engrossed bill:

1. Add a citation of proposed law to the list of exceptions to the Public Records Law for the proposed law limitation for a broadband service provider's trade secret and proprietary information.

The House Floor Amendments to the reengrossed bill:

1. Make technical changes.
2. Revise certain definitions, deletes certain terms, and defines new terms for the purposes of proposed law.
3. Revise the broadband availability challenge process.
4. Require rules relative to GUMBO 2.0 be promulgated that are consistent with the requirements promulgated by the assistant secretary for Communications and Information of the U.S. Dept. of Commerce.
5. Relative to the application process, allow a governing authority to object to a grant application if the broadband service provider has received a letter grade of "D" or "F" from the Better Business Bureau.

6. Prohibit the office of broadband from requiring a grantee to deploy broadband service to any subsequently identified broadband-serviceable locations in the grantee's funded project area.
7. Increase from seven days to 14 business days the time period within which the director of the office to issue a decision in the event of a protest of a grant award.
8. Increase from 10 days to 14 days the time period within which a party to the protest can file an appeal with the commissioner of administration.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Commerce, Consumer Protection, and International Affairs to the re-reengrossed bill

1. Makes technical changes.
2. Removes definition of "high-cost area".
3. Changes the term "eligible project" to "project".
4. Removes the 90 day period to conduct the challenges process.
5. Provides that any additional funding or timelines to deploy subsequently identified broadband serviceable locations shall be determined in a supplemental grant agreement.
6. Requires an entity that receives federal funds for broadband infrastructure and development to submit a quarterly report for each project during an agreement period.
7. Provides that a grantee shall submit monthly reports for each funded period and the reports shall include minimum criteria.