

2021 Regular Session

HOUSE BILL NO. 648

BY REPRESENTATIVE DESHOTEL

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TELECOMMUNICATIONS: Establishes a grant program to be administered by the office of broadband development and connectivity in the division of administration

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AN ACT

To enact Part VI-C of Chapter 39 of Title 51 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 51:2370.1 through 2370.18, relative to grants for broadband expansion; to provide for the establishment of the grant program; to define terms; to provide requirements for area protection; to provide a procedure for application; to allow for public comment; to allow for protest; to allow for judicial review of a protest decision; to provide for consultation; to provide conditions for the scoring process; to require fund matching; to provide requirements for compliance; to mandate forfeiture of funds for failure to perform; to provide for the receipt and disbursement of federal grant funds; to require reports; to allow for an administration fee; to require the legislative auditor to review the program and make recommendations to the office before implementation; to provide for reimbursement; to provide for minority-owned businesses; to provide for promulgation of rules; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Part VI-C of Chapter 39 of Title 51 of the Louisiana Revised Statutes of 1950, comprised of R.S. 51:2370.1 through 2370.18, is hereby enacted to read as follows:

1 PART VI-C. GRANTING UNSERVED MUNICIPALITIES BROADBAND

2 OPPORTUNITIES

3 §2370.1. Establishment

4 There is hereby created a grant program to be known as the "Granting
 5 Unserved Municipalities Broadband Opportunities" program hereinafter referred to
 6 as the "GUMBO" program.

7 §2370.2. Definitions

8 As used in this Part, the following terms have the meaning ascribed to them:

9 (1) "Agriculture" means the commercial planting, growing, harvesting,
 10 production, storage, processing, marketing, distribution, or export of any agricultural
 11 product, including but not limited to farm products, livestock and livestock products,
 12 poultry and poultry products, milk and dairy products, fruit and other horticultural
 13 products, and seafood and aquacultural products.

14 (2) "Broadband service" means deployed internet access service with
 15 transmission speeds of at least twenty-five megabits per second (Mbps) download
 16 and at least three megabit per second upload.

17 (3) "Cooperative" means a corporation organized under Part I of Chapter 2
 18 of Title 12 of the Louisiana Revised Statutes of 1950 or a corporation who becomes
 19 subject to the those provisions pursuant to R.S. 12:401 et seq.

20 (4) "Director" means the executive director of the office of broadband
 21 development and connectivity within the division of administration.

22 (5) "Economically distressed parish" means an unserved area which is in need
 23 of expansion of business and industry and the creation of jobs, giving consideration
 24 to unemployment, per capita income, and the number of residents receiving public
 25 assistance within that unserved area.

26 (6) "Eligible grant recipient" means a private provider of broadband services,
 27 including cooperatively organized entities, or any partnerships formed between
 28 cooperatively organized entities, private providers, or any combination thereof.

29 (7) "Eligible parishes" means any parish with unserved structures.

1 (8) "Eligible project" means a discrete and specific project located in an
2 unserved area of an eligible parish seeking to provide broadband service to homes,
3 businesses, and community anchor points not currently served. Eligible projects do
4 not include middle mile, backhaul, and other similar projects not directed at
5 broadband service to end users. If a contiguous project area crosses from one
6 eligible parish into one or more eligible adjacent parishes, for the purposes of this
7 Part, the project shall be deemed to be located in the parish where the greatest
8 number of unserved households are proposed to be served.

9 (9) "Household" means any individual or group of individuals who are living
10 together at the same address as one economic unit. A household may include related
11 and unrelated persons. An "economic unit" consists of all adult individuals
12 contributing to and sharing in the income and expenses of a household. An adult is
13 any person eighteen years or older. If an adult has no or minimal income, and lives
14 with someone who provides financial support to him, both people shall be considered
15 part of the same household. Children under the age of eighteen living with their
16 parents or guardians are considered to be part of the same household as their parents
17 or guardians.

18 (10) "Infrastructure" means existing facilities, equipment, materials, and
19 structures that an internet service provider has installed either for its core business
20 or public enterprise purposes. Examples include, but are not limited to, copper wire,
21 coaxial cable, optical cable, loose tube cable, communication huts, conduits, vaults,
22 patch panels, mounting hardware, poles, generators, battery and cabinet, network
23 nodes, network routers, network switches, microwave relay, microwave receivers,
24 site routers, outdoor cabinets, towers, easements, rights-of-way, and buildings or
25 structures owned by the entity that are made available for location or collocation
26 purposes.

27 (11) "Infrastructure costs" means costs directly related to the construction
28 of broadband infrastructure for the extension of broadband service for an eligible
29 project, including installation, acquiring or updating easements, backhaul

1 infrastructure, and testing costs. The term does not include overhead or
2 administrative costs.

3 (12) "Office" means the office of broadband development and connectivity
4 within the division of administration.

5 (13) "Prospective broadband recipient" means a household, home, business,
6 community anchor point, agricultural operation, or agricultural processing facility
7 that is currently unserved and is identified in an application submitted in accordance
8 with this Part.

9 (14) "Shapefile" means a file format for storing, depicting, and analyzing
10 geospatial data depicting broadband coverage, comprised of several component files,
11 such as a Main file (.shp), an Index file, (.sbx) and a dBASE table (.dbf).

12 (15) "Unserved" means, notwithstanding any other provision of law, any
13 federal funding awarded to or allocated by the state for broadband deployment shall
14 not be used, directly or indirectly, to deploy broadband infrastructure to provide
15 broadband internet service in any area of the state where broadband internet service
16 of at least twenty-five Mbps unload and three Mbps download is available from at
17 least one Internet service provider.

18 (16) "Unserved area" means a designated geographic area that is presently
19 without access to broadband service, as defined in this Section, offered by a wireline
20 or fixed wireless provider. Areas included in an application where a private provider
21 has been designated to receive funds through other state or federally funded
22 programs designed specifically for broadband deployment shall be considered served
23 if such funding is intended to result in the initiation of activity related to construction
24 of broadband infrastructure in such area within twenty-four months of the expiration
25 of the thirty-day period related to such application established pursuant to R.S.
26 57:2370.5(C).

1 §2370.3. Ineligibility due to funds; submission of census block, shape file area, and
2 address data; time limitations

3 A. A private provider receiving Universal Service, Connect America Phase
4 II, Rural Digital Opportunity Fund, or non-federal funds to deploy broadband service
5 may qualify the area for protection by submitting, within sixty days of the close of
6 the application period, a listing of the census blocks, shapefile areas, individual
7 addresses, or portions thereof, comprising the federally-funded project areas meeting
8 this requirement and nothing more to the office.

9 B. In future program years, the deadline for submitting the census blocks,
10 shapefile areas, individual addresses, or portions thereof shall be established by the
11 office, but shall not be less than sixty days prior to the beginning date of the
12 application period. This will enable the office to update maps and advise applicants
13 as to the unserved areas of the state that are eligible for consideration in that program
14 year.

15 C. The office shall only utilize the data to update maps of census blocks,
16 shapefile areas, individual addresses, or portions thereof and to reflect the census
17 blocks, shapefile areas, individual addresses, or portions thereof as being served.

18 D. In no instance shall an applicant be required to provide any data beyond
19 that which it is required to provide to the Federal Communications Commission
20 pursuant to The Broadband Deployment Accuracy and Technological Availability
21 Act pursuant to 47 U.S.C. §641 et seq.

22 E. Failure on the part of a provider to submit the listing of census blocks,
23 shapefile areas, individual addresses, or portions thereof by the deadline shall result
24 in those areas being ineligible for inclusion under the GUMBO program during the
25 upcoming program year. A private provider that has facilities in the area or that
26 intends to deploy broadband service within twenty-four months shall be able to
27 challenge ineligibility.

28 F. The office shall use the provided census blocks, shapefile areas, individual
29 addresses, or portions thereof only for mapping of unserved areas.

1 G. Upon expiration of the twenty-four month reservation period described
2 in Subsection E of this Section, a private provider that has received a reservation of
3 census blocks, shapefile areas, individual addresses, or portions thereof shall submit
4 written documentation by April thirtieth of the year following the program year that
5 the initiation of activity related to broadband infrastructure will or has begun in the
6 census blocks, shapefile areas, individual addresses, or portions thereof, that have
7 been deemed ineligible by the office due to the existence of a federally-funded
8 project area.

9 H. Information provided to the office pursuant to this Section is not a public
10 record, as that term is provided for in R.S. 44:1.

11 §2370.4. Applications; burden of proof; public comment; protest

12 A. Applications for grants will be submitted at times designated by the
13 director and will include, at a minimum, the following information:

14 (1) An attestation to the office that the proposed project area is eligible.

15 (2) The identity of the applicant and its qualifications and experience with
16 deployment of broadband.

17 (3) The estimated total cost and duration of the project.

18 (4) The amount to be funded by the applicant.

19 (5) An illustration or description of the area to be served, identifying the
20 number of homes, businesses, community anchor points, agricultural operations, or
21 agricultural processing facilities that will have access to broadband as a result of the
22 project, including any available addresses, or other identifying information
23 satisfactory to the office, for the foregoing. In the event that the office is unable to
24 identify the proposed project area with specificity, the Office may require the
25 applicant to submit additional information. If construction of the proposed project
26 would result in the provision of broadband service to areas that are not eligible for
27 funding, those ineligible areas should be identified in the application along with the
28 eligible areas.

1 (6) An assessment of the current level of broadband access in the proposed
2 deployment area.

3 (7) The proposed estimated construction time line.

4 (8) A description of the services to be provided, including the proposed
5 upstream and downstream broadband speeds to be delivered and any applicable data.

6 (9) Any other information or supplementary documentation requested by the
7 office.

8 (10) A plan to encourage users to connect that incorporates, at a minimum,
9 multimedia advertising and marketing programs.

10 (11) For the proposed area to be served, the infrastructure cost per household
11 for the project.

12 (12) Evidence of support for the project from citizens, local government,
13 businesses, and institutions in the community.

14 (13) The proposed advertised speed to be marketed to end users, and the
15 projected cost to the consumer to utilize the service at the projected speed.

16 (14) An explanation of the scalability of the broadband infrastructure to be
17 deployed for higher broadband speeds in the future.

18 B.(1) A provider submitting an application pursuant to this Section shall
19 bear the burden of proof that the proposed area to be served can, in fact, be served
20 using the proposed technology. The burden of proof may be satisfied by the
21 submission of data, maps, and any other information to the office, demonstrating that
22 the area and number of prospective broadband recipients proposed to be served can
23 be provided the minimum upload and download speeds indicated in the application.

24 (2) The office shall treat any information that is not publicly available, as
25 confidential and subject to trade secrets protections of state law upon an applicant's
26 request for confidential treatment, except that the proposed project area shall be
27 publicly disclosed in sufficient detail to enable a challenging provider to identify the
28 area covered by the application.

1 C.(1) Applications shall be made publicly available, subject to the
2 confidentiality protections in Paragraph (2) of Subsection B of this Section, by
3 posting on the website of the office or the website of the Division of Administration
4 for a period of at least sixty days prior to award. During the sixty-day period, any
5 interested party may submit comments to the director concerning any pending
6 application. A provider of broadband services may submit a protest of any
7 application on the grounds the proposed project covers an area that is not an eligible
8 area under this Part. Protests shall be submitted in writing, accompanied by all
9 relevant supporting documentation, and shall be considered by the office in
10 connection with the review of the application. Upon submission of evidence to the
11 office that the proposed project area includes prospective broadband recipients that
12 are served, the office may work with an applicant to amend an application to reduce
13 the number of unserved prospective broadband recipients in the project area to reflect
14 an accurate level of current broadband service. The office may revise application
15 scores in accordance with amended applications. For applications with filed protests,
16 the director shall issue a written decision to the protesting party at least fifteen days
17 prior to the approval of that application. Following a protest that is granted for a
18 portion of the application, the office may release to an applicant the locations or
19 areas declared ineligible. The information released to the applicant is not a public
20 record, as provided for in R.S. 44:1, and shall remain confidential. Any provider
21 submitting a protest shall verify that the information in the protest is accurate and
22 that the protest is submitted in good faith. The office may deny any protest or
23 application that contains inaccurate information.

24 (2) As a means of resolving a protest, the office may utilize speed tests that
25 conform to the methodology employed in the Federal Communications
26 Commission's "Measuring Broadband America" report to determine if the protested
27 area or individual households or businesses currently have access to broadband
28 service as defined in this Part. The office shall publish the speed test methodology
29 it uses to assess speed levels pursuant to this. All decisions regarding the speed test

1 to be utilized and the manner by which the speed tests are applied shall be made by
2 the director or his designee.

3 (3) The office shall treat any information submitted with a protest that is not
4 publicly available as confidential and subject to the trade secrets protections of state
5 law upon a challenging provider's request for confidential treatment.

6 §2370.5. Judicial review

7 A. The director or his designee shall have authority, prior to the
8 commencement of an action in court concerning a protest arising under this Part, to
9 settle and resolve the protest of an aggrieved person concerning a grant application.
10 This authority shall be exercised in accordance with regulations.

11 B. If the protest is not resolved by mutual agreement, the director or his
12 designee shall, within fourteen days, issue a decision in writing. The decision shall:

13 (1) State the reasons for the action taken.

14 (2) Inform the protestant of its right to administrative and judicial review as
15 provided in this Part.

16 C. A copy of the decision required by Subsection B of this Section shall be
17 mailed or otherwise furnished immediately to the protestant and any other party
18 intervening.

19 D. A decision required by Subsection B of this Section shall be final and
20 conclusive unless one of the following applies:

21 (1) The decision is fraudulent.

22 (2) The person adversely affected by the decision has timely appealed to the
23 commissioner of administration in accordance with Subsection E of this Section.

24 E. The aggrieved person shall file an appeal with the commissioner of
25 administration within seven days of receipt of a decision issued pursuant to
26 Subsection B of this Section. The commissioner of administration shall have the
27 authority to review and determine any appeal by an aggrieved person from a
28 determination by the director or his designee.

1 F. On any appeal filed pursuant to Subsection E of this Section, the
2 commissioner shall decide within fourteen days whether the decision concerning a
3 grant application was in accordance with this state's constitution, statutes, and
4 regulations, and the terms and conditions of the application. Any prior
5 determinations by the director or his designee shall not be final or conclusive.

6 G. A copy of the decision issued pursuant to Subsection F of this Section
7 shall be mailed or otherwise furnished immediately to the protestant and any other
8 party intervening.

9 H. A decision issued pursuant to Subsection F of this Section shall be final
10 and conclusive unless one of the following applies:

11 (1) The decision is fraudulent.

12 (2) The person adversely affected by the decision has appealed to the court
13 as provided for in Subsection E of this Section.

14 I. The aggrieved person shall file an appeal in the Nineteenth Judicial
15 District Court within seven days of receipt of a decision issued pursuant to
16 Subsection C of this Section. The Nineteenth Judicial District Court shall have
17 exclusive venue over an action between the state and an applicant, prospective or
18 actual, to determine whether an award of a grant is in accordance with this state's
19 constitution, statutes, and regulations. Such actions shall extend to all kinds of
20 actions, whether for monetary damages or for declaratory, injunctive, or other
21 equitable relief.

22 J. Any party aggrieved by a final judgment or interlocutory order or ruling
23 of the Nineteenth Judicial District Court may appeal or seek review thereof, as the
24 case may be, to the Louisiana Court of Appeal, First Circuit or the Supreme Court
25 of Louisiana, as otherwise permitted in civil cases by law and the constitution of this
26 state.

27 §2370.6. Consultation

28 A. The office may consult with the Louisiana Department of Economic
29 Development to determine if a broadband project proposed under this Part will

1 benefit a potential economic development project relevant to the proposed area
2 outlined in the broadband project.

3 B. Pursuant to R.S. 51:2370.14, the office shall consult with the legislative
4 auditor prior to implementation of the GUMBO program.

5 §2370.7. Scoring

6 A. Applications shall be scored based upon a system that awards a single
7 point for criteria considered to be the minimum level for the provision of broadband
8 service with additional points awarded to criteria that exceed minimum levels. The
9 office shall develop a scoring system in accordance with the following:

10 (1) The office shall give additional points based upon the experience,
11 technical ability, and financial wherewithal of the applicant in successfully deploying
12 and providing broadband service, as well as the proposed amount of matching funds
13 committed by the applicant relative to the minimum required amount of twenty
14 percent. For the purposes of scoring under this Section, a parish that provides a
15 portion of the match required by this Part, or that has entered into an agreement with
16 the applicant to make available its infrastructure that has been installed for the
17 parish's enterprise, nonconsumer broadband purposes, or any other property,
18 buildings, or structures owned by the parish, for a proposed project under this Part
19 shall be considered a partnership. A parish may provide a portion of the match
20 required, pursuant to this Part. Projects involving partnerships shall be given
21 additional points in their application score.

22 (2) The office shall give additional points to projects based upon the
23 estimated number of unserved households within the eligible economically distressed
24 parish, as determined by the most recent data published by the Federal
25 Communications Commission or any other information available to the office.

26 (3) The office shall give additional points to projects that will provide
27 broadband service based upon the percentage of the total unserved households within
28 the eligible economically distressed parish that the project will serve. The number
29 of unserved households shall be determined using the most recent data published by

1 the Federal Communications Commission or any other information available to the
2 office.

3 (4) The office shall give additional points to projects that will provide
4 broadband service to unserved businesses located within the eligible economically
5 distressed parish, as determined by the most recent data published by the Federal
6 Communications Commission or any other information available to the office.

7 (5) The office shall award additional points based upon the applicant's ability
8 to leverage its own or nearby or adjacent broadband service infrastructure in the
9 proposed project area, and shall consider the ultimate price to the consumer in
10 awarding points.

11 (6) The office shall not consider the format of mapping data provided by a
12 broadband provider evaluating a grant proposal.

13 §2370.8. Fund matching

14 A. Grant recipients are required to provide matching funds in accordance
15 with rules promulgated by the office. A grant recipient shall contribute from its own
16 funds a minimum of twenty percent of the total estimated cost of the project.

17 B. A municipality shall contribute from its own funds a minimum of ten
18 percent of the total estimated cost of the project in cash or in kind.

19 §2370.9. Compliance during the agreement

20 The office shall require that grant recipients offer the proposed advertised
21 minimum download and minimum upload speeds of twenty-five Mbit/s downstream
22 and three Mbit/s upstream and the projected connection speed and cost to consumers,
23 identified in the project application, for the duration of the five year service
24 agreement. In calculating cost, the recipient may adjust annually, consistent with the
25 annual percentage increase in the Consumer Price Index in the preceding year. At
26 least annually, a grant recipient shall provide to the office evidence consistent with
27 Federal Communications Commission attestation that the grant recipient is making
28 available the proposed advertised speed, or a faster speed, as contained in the grant

1 agreement. For the duration of the agreement, grant recipients shall disclose any
2 changes to data caps.

3 §2370.10. Failure to perform

4 A. A grant recipient shall forfeit the amount of the grant received if it fails
5 to perform, in material respect, the obligations established in the agreement. Grant
6 recipients that fail to provide the minimum advertised connection speed and cost at
7 the advertised consumer cost for which a reduction in matching funds was applied
8 shall forfeit that amount. A grant recipient that forfeits amounts disbursed under this
9 Part is liable for up to the amount disbursed plus interest. The number of subscribers
10 that subscribe to broadband services offered by the provider in the project area shall
11 not be a measure of performance under the agreement for the purposes of this
12 Subsection.

13 B. A grant recipient shall not be required to forfeit the amount of the grant
14 received if it fails to perform due to a natural disaster, an act of God, force majeure,
15 a catastrophe, pandemic, or such other occurrence over which the grant recipient has
16 no control.

17 §2370.11. Receipt and disbursement of federal grant funds

18 The office shall be the designated agency for receipt and disbursement of
19 state and federal funds intended for the state for broadband expansion or allocated
20 by the state for broadband expansion and shall seek available federal grant funds for
21 that purpose. All federal grant funds received for the purpose of broadband
22 expansion shall be disbursed in accordance with this Part.

23 §2370.12. Reporting requirements

24 A. Grant recipients shall submit to the office an annual report for each
25 funded project for the duration of the agreement. The report shall include a summary
26 of the items contained in the grant agreement and shall also include all of the
27 following:

28 (1) The number of residential and commercial locations that have broadband
29 access as a result of the project.

1 (2) The percentage of end users in the project area who have access to
2 broadband service and the percentage of those with access who actually subscribe
3 to the broadband service.

4 (3) The average monthly subscription rate for residential and commercial
5 broadband service in the project area.

6 B. The office shall submit an annual report to the House Committee on
7 Commerce, Senate Committee on Commerce, Consumer Protection, and
8 International Affairs, and the Joint Legislative Committee on Technology and
9 Cybersecurity on or before September thirtieth. The report shall contain all of the
10 following:

11 (1) The number of grant projects applied for and the number of grant
12 agreements entered into.

13 (2) A time line for each grant agreement and the number of households,
14 businesses, agriculture operations, and community anchor points expected to benefit
15 from each agreement.

16 (3) The amount of matching funds required for each agreement and the total
17 amount of investment.

18 (4) A summary of areas receiving grants that are now being provided
19 broadband service and the advertised broadband speeds and corresponding costs for
20 those areas.

21 (5) Any breaches of agreements, grant fund forfeitures, or subsequent
22 reductions or refunds of matching funds.

23 (6) Any recommendations for the GUMBO program, including better
24 sources and methods for improving outcomes and accountability.

25 §2370.13. Administration fee

26 The office may use up to one percent of the appropriated funds to administer
27 the GUMBO program.

1 §2370.14. Legislative auditor

2 A. Prior to the implementation of the GUMBO program, the office shall
3 consult with the legislative auditor to develop a detailed plan which provides the
4 following:

- 5 (1) The application process.
- 6 (2) The information provided for in the application.
- 7 (3) The scoring process to be implemented.
- 8 (4) The standard that will be applied in selecting grant recipients.
- 9 (5) The procedure for awarding and administering a grant.
- 10 (6) The procedure for monitoring compliance.
- 11 (7) The procedure for non compliance.
- 12 (8) The procedure for terminating a grant.
- 13 (9) Any procedures necessary for enforcement.
- 14 (10) Any other information the auditor deems necessary.

15 B. Only after the auditor has reviewed the plan developed pursuant to
16 Subsection A of this Section and made recommendations, shall the office determine
17 the plan that shall be used and initiate the administration of the GUMBO program.

18 §2370.15. Rules

19 A. The office shall promulgate rules necessary to carry out the provisions of
20 this Part in accordance with the provisions of the Administrative Procedure Act.

21 B. In awarding grants or administering the program, the office shall not
22 include consideration of any new or additional regulatory obligations beyond those
23 required under applicable law, including but not limited to open access network
24 requirements or any rate, service, or other obligations beyond the speed requirements
25 set forth in R.S. 51:2370.2(2). The award of grants or the administration of the
26 program shall not impose requirements or consider factors that would constrain an
27 awardee from offering or providing broadband service in the same manner as such
28 service is offered without funding support by the provider in other areas of the state.

1 §2370.16. Prohibitions on municipalities

2 No municipality shall operate as an internet service provider or participate
3 in any revenue sharing under the provisions of this Part.

4 §2370.17. Reimbursement for grantees

5 Initial funding of ten percent shall be distributed to a grantee once the grantee
6 has demonstrated that ten percent of the project has been completed. Thereafter,
7 payments shall be distributed as follows: thirty-five percent completion, sixty percent
8 completion, eighty-five percent completion, and the final fifteen percent payment
9 will not be paid without an approved completion report. Invoice for final payment
10 shall be submitted within ninety days of completion date. All invoices are subject
11 to audit for three years from the completion date.

12 §2370.18. Minority-owned business

13 A. There shall be a set aside of the funds under this Part for awarding to
14 minority-owned eligible grant recipient businesses an amount not less than twenty-
15 five percent of the value of the total fund.

16 B. The office shall give additional points to projects that engage in minority-
17 owned businesses for the procurement of goods and services including construction
18 for the project; if the minority-owned businesses are majority owned and operated
19 by Louisiana residents.

20 Section 2. This Act shall become effective upon signature by the governor or, if not
21 signed by the governor, upon expiration of the time for bills to become law without signature
22 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
23 vetoed by the governor and subsequently approved by the legislature, this Act shall become
24 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 648 Engrossed

2021 Regular Session

Deshotel

Abstract: Creates a grant program to allow municipalities to expand broadband.

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

Proposed law provides that the office of broadband development and connectivity within the division of administration (office) shall administer the GUMBO program.

Proposed law defines "agriculture", "broadband service", "cooperative", "director", "economically distressed parish", "eligible parishes", "eligible project", "eligible grant recipient", "household", "infrastructure", "infrastructure costs", "office", "prospective broadband recipient", "shapefile", and "unserved".

Proposed law allows a private provider receiving certain types of funds to deploy broadband access to qualify the area for protection by submitting a report of census blocks, shapefile areas, addresses, and portions thereof comprising the funded area. The report is to be submitted within 60 days of the close of the application period.

Proposed law allows the office to set a different deadline for submission of the report in future program years.

Proposed law limits the office on how it uses the information submitted pursuant to proposed law and limits the information that the office can require an applicant to submit.

Proposed law provides that a provider who fails to submit the report before the deadline shall be ineligible for participation in the GUMBO program, but allows for the provider to contest the exclusion in certain situations.

Proposed law provides a listing of 14 items, required to be addressed in the application, and delegates the office with the responsibility of creating the application.

Proposed law provides that the burden of proof is on the applicant and describes sufficient evidence.

Proposed law requires the office to keep and treat non-public information as confidential.

Proposed law requires applications to be made public, and allows a 30-day period for interested parties to submit public comment and protest where applicable. Proposed law provides the procedure to be followed in case of a protest, including the burden of proof and the evidentiary requirements.

Proposed law allows for amendments to an application and provides a procedure for amending.

Proposed law allows the office to deny an application or protest that contains inaccurate information.

Proposed law allows the office to utilize speed tests to settle protests and provides the necessary requirements for implementation.

Proposed law provides a procedure for judicial review including the steps necessary for a mutual agreement, a settlement by the director, a report from the director, an appeal with the commissioner of administration, an appeal to the 19th Judicial District Court, a review from the 1st Circuit Court of Appeal, and a review by the Louisiana Supreme Court, and civil proceedings.

Proposed law allows the office to consult with the La. Dept. of Economic Development regarding the GUMBO program.

Proposed law requires the office to consult with the legislative auditor.

Proposed law requires the office to create a procedure for point scoring of applications and determining which applicants receive grants, and additionally provides that the office shall award points based upon experience, technical ability, financial wherewithal, fund matching, access to infrastructure, the estimated number of unserved households that will be affected, the percentage of unserved homes in the parish to be served, the number of unserved businesses to be affected, and the estimated price to the consumer.

Proposed law requires fund matching and provides details for how the funds can be acquired.

Proposed law requires grant recipients to offer the speed and cost, as indicated in the application, for five years.

Proposed law requires an applicant to provide evidence of compliance annually.

Proposed law requires an applicant to notify the office of any change in data caps.

Proposed law provides that a grant recipient who fails to perform is required to forfeit all matching funds and pay interest. The number of subscribers is not to be considered in a determination of failure to perform.

Proposed law makes an exception for certain occurrences.

Proposed law designates the office as the agency for receipt and distribution of state and federal grant funds.

Proposed law requires grant recipients to provide an annual report to the office and provides the information to be included in the report.

Proposed law requires the office to submit a report to various House and Senate committees and provides the information to be included in the report.

Proposed law allows the office an administrative fee of 1% of the federal funds.

Proposed law requires the legislative auditor to review the plan submitted by the office and make recommendations before the office can begin administering the GUMBO program.

Proposed law outlines the information the office is to include in the plan.

Proposed law requires the office to promulgate rules to carry out proposed law.

Proposed law prohibits the office from considering any new or additional regulations in awarding grants or administering the program.

Proposed law prohibits a municipality from operating as an internet service provider or participating in revenue sharing.

Proposed law provides for reimbursement for grantees.

Proposed law provides for at least 25% of the funds to be provided to minority-owned grantees.

Proposed law requires the office to award additional points to projects that engage in certain minority-owned business activities.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 51:2370.1-2370.18)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Commerce to the original bill:

1. Revise the definition of "household".
2. Specify that for the purposes of the definition of "infrastructure" an entity refers to an internet service provider.
3. Remove the definition and other references to "partnership".
4. Add definitions for "shapefile" and "economically distressed parishes".
5. Remove provision relative to the GUMBO fund.
6. Add language to require submission of shapefile areas in addition to census blocks and addresses.
7. Provide that for purposes of the application, the cost and construction time line disclosures are to be the estimated cost and construction time line.
8. Remove a requirement that the applicant provide justification that the proposed data caps are in the public interest and consistent with industry standards.
9. Remove the requirement that the submitted plan incorporate community education forums.
10. Remove the condition that certain information be considered satisfactory.
11. Place confidentiality requirements on the office.
12. Change the period the application shall be public from thirty days to sixty days.
13. Change the speed tests conditions.
14. Provide a procedure for judicial review.
15. Make changes to the scoring systems.
16. Require fund matching from municipalities.
17. Add requirements of disclosure and compliance with projected connection speed and cost.
18. Add an exemption for forfeiture of funds for certain occurrences.

19. Add a requirement that the report indicate both residential and commercial locations that have gained broadband access from the GUMBO program.
20. Prohibit the office from making certain considerations in awarding grants.
21. Prohibit any municipality from being an internet service provider or participating in profit sharing.
22. Move provisions relative to reimbursement for grantees.
23. Add provisions relative to minority-owned business.
24. Change the requirements of the legislative auditor's involvement with the GUMBO program.
25. Make technical changes.