

HOUSE SUMMARY OF SENATE AMENDMENTS**HB 1080****2022 Regular Session****Deshotel**

UTILITIES: Provides relative to broadband

Synopsis of Senate Amendments

1. Provides procedure to privately fund broadband deployment services.
2. Requires providers that will privately fund services to construct and deploy broadband service within 20 months to at least 80% of the designated locations.
3. Requires providers that will privately fund services to furnish a performance bond in an amount equal to the cost of construction and deployment.
4. Makes a provider that privately funds services ineligible for any state-administered federal grant program designated for broadband development services if he fails to perform as required under proposed law.
5. Allows a local governing authority to object to a provider that will privately fund services with a "D" or "F" letter grade by the Better Business Bureau.
6. Allows the office of broadband to grant extensions to the 20-month deployment time period.
7. Increases from 7 days to 10 days the time period within which an aggrieved party may file an appeal with the commissioner of administration.
8. Allows a location in the state in which the provider receiving the award has proposed to provide broadband internet access service through a technology other than a wireline technology to be eligible for a GUMBO grant.
9. Allows the protest of awards and eligibility and provides guidelines and procedures for initiating such protests.
10. Under certain circumstances, allows the office to assess a fine for an applicant or protestor that incorrectly designates a location as served or unserved.
11. Requires a grant recipient to reimburse the state if the recipient fails to complete a project.
12. Makes technical changes.

Digest of Bill as Finally Passed by Senate

Present law defines certain terms as they relate to broadband service.

Proposed law makes changes to the definitions of "broadband service" and "unserved".

Present law requires an applicant to provide a description of the broadband service to be provided by including the proposed upstream and downstream speeds to be delivered. Pursuant to present law an area that has access to internet with a connection speed of 25/3 megabits per second (Mbps) is not considered an unserved area eligible for a grant.

Proposed law retains the requirement that an applicant provide a description of the area and proposed connection speed, but raises the minimum allowable connection speed that

constitutes an unserved area from 25/3 Mbps to 100/20 Mbps.

Proposed law requires the office of broadband and connectivity (office) to collect information to be used to create a statewide broadband map to be utilized by the office in administering the GUMBO program.

Proposed law provides that a provider with plans to privately fund broadband development within 20 months may qualify the area for protection by submitting to the office specific information within 60 days of the close of the application period. A provider seeking to privately fund broadband deployment is required to construct and provide deployable broadband service within the 20-month period to at least 80% of the designated location.

Proposed law authorizes the office to grant extensions to the 20-month period.

Present law authorizes a provider receiving funds from Universal Service, Connect America Phase II, Rural Digital Opportunity Fund or other nonfederal to qualify an area for protection.

Proposed law changes present law by authorizing the provider to receive other public funds, instead of nonfederal funds, and specifies the use of wireline technology. Further authorizes any location or area in the state, subject to a Rural Digital Opportunity Fund award, to be eligible for the GUMBO grant program.

Proposed law requires any provider seeking to privately fund broadband deployment to furnish a bond, in the amount equal to construction and deployment, to guarantee the faithful performance of work.

Proposed law provides that if a provider fails to perform and the performance bond is due, the provider shall be ineligible for any state-administered federal grant program designated for broadband development services.

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

Proposed law requires an entity to submit to the office certain broadband deployment information. The information is required to contain the same information and be provided in the same format as the information that was submitted to the Federal Communications Commission (FCC). The entity is not required to provide any data beyond the information that is required to be provided to the FCC.

Proposed law authorizes the office to contract with a private entity or third-party consultant to develop and maintain the state broadband map and requires such contract to include a confidentiality agreement prohibiting the disclosure of any broadband data provided in accordance with proposed law. Proposed law creates an exception to Public Records Law.

Proposed law provides that certain provisions of proposed law will terminate under either of the following conditions, whichever occurs first:

- (1) A determination by the office that the statewide parish-by-parish broadband map is no longer necessary.
- (2) At midnight on Dec. 31, 2026.

Proposed law authorizes the office to promulgate any necessary rules in accordance with the Administrative Procedure Act.

Present law provides a procedure for protest by the provider and requires the provider to attest that all information is correct. Proposed law retains present law, and specifies that a protest can only be brought to challenge the determination of an area as unserved. Proposed

law further modifies the protest process by making changes relative to various time limits.

Present law allows for judicial review of a decision made by the office relative to an award. Proposed law provides that if a court finds in a final and definitive judgment that an applicant or protestor has incorrectly designated a location as served or unserved, the office may assess a fine up to \$1,000 for each instance that it is identified in the GUMBO award process and disputed in litigation.

Present law requires grant recipients to offer proposed advertised minimum download and minimum upload speeds. Present law requires grant recipients that have offered broadband services to at least 1,000 consumers for at least 5 consecutive years to offer broadband service at prices consistent with offers to consumers in other areas of the state. Present law requires a grant recipient to provide to the office, annually, evidence consistent with FCC attestation that the grant recipient is making available the proposed advertised speed, or a faster speed, as contained in the grant agreement.

Proposed law authorizes the office to require grant recipients to submit a report for each funded project for the duration of the grant agreement.

Present law allows the office to use up to 1% of the appropriate funds to administer the program.

Proposed law raises the cap on the administrative fee from 1% to 2% and specifies that the additional 1% is not to be used for in-office personnel positions.

Present law provides that present law shall be public records with 2 exceptions:

- (1) A provider's trade secret and proprietary information, including coverage data, maps, and shapefiles.
- (2) Information regarding unserved coverage areas not yet awarded or announced.

Proposed law repeals the exception for information regarding unserved coverage areas not yet awarded or announced.

Present law (R.S. 51:2370.4(C)(2)) provides that, to resolve protests, the office may utilize speed tests that conform to the methodology employed in the FCC's "Measuring Broadband America" report to determine if a protested area, households, or businesses have access to broadband service as defined in present law. Requires the director or his designee to make the decision regarding the speed test to be utilized.

Proposed law repeals present law.

(Amends R.S. 44:4.1(B)(35) and R.S. 51:2370.2(intro. para.), (2), and (16), 2370.3, 2370.4(A)(intro. para.) and (12), (B), and (C)(1), 2370.5(A), (B)(intro. para.), (D), (E), (H), (I), and (J), 2370.9, 2370.13, and 2370.16; Adds R.S. 51:2370.10(D); Repeals R.S. 51:2310.4(C)(2))