

RÉSUMÉ DIGEST

ACT 288 (HB 1080)

2022 Regular Session

Deshotel

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

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

Prior law required 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 prior 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.

New 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.

New 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.

New 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.

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

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

New law changes prior 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.

New 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.

New 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.

New 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.

New 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.

New law provides that any broadband availability data provided shall be used solely for the purpose of identifying served, underserved, and unserved areas.

New law authorizes an entity that submits broadband data to the office as required may review the draft of the state broadband map and submit corrective data to the office before the map is published or used for any state-administered grant program.

New 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 new law. New law creates an exception to Public Records Law.

New law provides that certain provisions of new 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.

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

Existing law provides a procedure for protest by the provider and requires the provider to attest that all information is correct. New law retains existing law, and specifies that a protest can only be brought to challenge the determination of an area as unserved. New law further modifies the protest process by making changes relative to various time limits.

Existing law allows for judicial review of a decision made by the office relative to an award. New 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.

Existing law requires grant recipients to offer proposed advertised minimum download and minimum upload speeds. Existing 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. Existing 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.

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

Existing law provides that a grant recipient is not required to forfeit the amount of a grant it receives if it fails to perform due to a natural disaster, an act of God, force majeure, a catastrophe, or other occurrence over which the grant recipient has no control.

New law retains existing law and adds that a grant recipient is not required to forfeit for the failure to obtain access to private or public property or any government permits under reasonable terms.

New law provides that if a grant recipient fails to complete a project in a material respect, it may be required, under certain circumstances, to reimburse the state the actual cost to finish the project.

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

New 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.

Prior law provided that prior law shall be public records with 3 exceptions:

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

New law repeals the exceptions for information regarding unserved coverage areas not yet awarded or announced and applications pending evaluation.

Prior law (R.S. 51:2370.4(C)(2)) provided 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 prior law. Required the director or his designee to make the decision regarding the speed test to be utilized.

New law repeals prior law.

Effective August 1, 2022.

(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, 2370.10(B), 2370.13, and 2370.16; Adds R.S. 51:2370.10(D); Repeals R.S. 51:2310.4(C)(2))