

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 197

Short Title: Broadband Changes/DIT.-AB (Public)

Sponsors: Representative Johnson.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: State Government, if favorable, Energy and Public Utilities, if favorable, Rules, Calendar, and Operations of the House

February 27, 2023

A BILL TO BE ENTITLED

AN ACT TO MAKE VARIOUS CHANGES TO THE STATUTES REGARDING
BROADBAND DEPLOYMENT WITH THE DEPARTMENT OF INFORMATION
TECHNOLOGY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-1373 reads as rewritten:

"§ 143B-1373. **Growing Rural Economies with Access to Technology (GREAT) program.**

...

(d) Applications for grants will be submitted at times designated by the Secretary and will include, at a minimum, the following information:

...

(15) A listing of areas in the State that are being provided broadband service by the broadband service provider applying for funds.

...

(e) Applications shall be made publicly available by posting on the Web site of the Department of Information Technology for a period of at least 20 days prior to award. During the 20-day period, any interested party may submit comments to the Secretary concerning any pending application. A broadband service provider currently providing broadband service in a project area proposed in an application may submit a protest of any application on the grounds the proposed project covers an area that is a protected area under subsection (c) of this section, or that the proposed project area contains ten percent (10%) or more of total households with access to broadband service as defined in this section. Protests shall be submitted in writing, accompanied by all credible and relevant supporting documentation, including specific addresses, and detailed mapping demonstrating that the protesting broadband provider has installed infrastructure sufficient to provide broadband service to the specific addresses provided in the protest, along with an attestation that broadband service is available in the public right-of-way at the specific addresses indicated. In addition, the protest shall include a listing of areas in the State that are being provided broadband service by the broadband service provider submitting the protest. The protest shall be considered by the Office in connection with the review of the application. Upon submission of evidence satisfactory to the Office that the proposed project area includes a protected area or prospective broadband recipients that are presently served, as measured using a methodology satisfactory to the Office, the Office may work with an applicant to amend an application to reduce the number of unserved prospective broadband recipients in the project area to reflect an accurate level of current broadband service. The Office



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1 may revise application scores in accordance with amended applications; however, the Office may
2 reject any amended application resulting in a lower application score to the extent that the lower
3 score would have impacted the ranking of the application in the initial scoring process. For
4 applications with filed protests, the Secretary shall issue a written decision to the protesting party
5 at least 15 days prior to the approval of that application. Following a protest that is granted for a
6 portion of the application, the Office may release to an applicant the locations or areas declared
7 ineligible. The information released to the applicant is not a public record, as that term is defined
8 under G.S. 132-1, and shall remain confidential. Any provider submitting a protest shall verify
9 that the information in the protest is accurate and that the protest is submitted in good faith. The
10 Office may deny any protest or application that is incomplete or contains inaccurate information.

11 As a means of resolving a protest, the Office may utilize speed tests to determine if the
12 protested area or individual households or businesses currently have access to broadband service
13 as defined in this section. The Department shall publish the speed test methodology it uses to
14 assess speed levels pursuant to this section. All decisions regarding the speed test to be utilized
15 and the manner by which the speed tests are applied shall be made by the Secretary or the
16 Secretary's designee.

17 ...

18 (m) The Office of Broadband Infrastructure in the Department of Information Technology
19 (Office) shall be the designated agency for receipt and disbursement of federal grant funds
20 intended for the State for broadband expansion and shall seek available federal grant funds for
21 that purpose. ~~All federal~~ Federal grant funds received for the purpose of broadband expansion
22 shall be disbursed in accordance with this ~~section~~ section, G.S. 143B-1373.1, or as otherwise
23 directed by an act of the General Assembly. The Office shall serve as the designated agency for
24 the receipt of all State, federal, and private grants, gifts, or matching funds for broadband
25 mapping, as provided by G.S. 143B-1370(a)(5)h. ~~Funds received under this subsection shall~~
26 ~~remain unexpended until appropriated by an act of the General Assembly.~~ For the purposes of
27 this subsection, the term "broadband expansion" means a program designed to expand broadband
28 infrastructure or broadband utilization.

29"

30 **SECTION 2.** Section 38.5 of S.L. 2021-180, as amended by Section 10.1 of S.L.
31 2021-189 and Section 16.1(b) of S.L. 2022-6, reads as rewritten:

32 **"SECTION 38.5.** The Department of Information Technology shall use the funds
33 appropriated in this act for Stopgap Solutions–Federal Broadband Funds to provide grants to
34 internet service providers, local government entities, and nonprofits for the provision and
35 installation of infrastructure, as that term is defined in G.S. 143B-1373(a), that will expand the
36 provision of broadband service to unserved and underserved ~~households~~ households, businesses,
37 State facilities, and community anchor institutions in this State. The Department shall ensure that
38 grant funds are awarded and utilized in compliance with applicable federal guidelines. No more
39 than five percent (5%) of the funds described in this section may be granted for broadband
40 projects located in any single county."

41 **SECTION 3.** Section 38.4(b) of S.L. 2021-180, as amended by Section 6(a) of S.L.
42 2022-69, reads as rewritten:

43 **"SECTION 38.4.(b)** The Department of Information Technology shall incorporate the intent
44 of the General Assembly as described in subsection (a) of this section in any proposal or
45 application for funding under the federal Infrastructure Investment and Jobs Act (P.L. 117-58)
46 for grants in the Broadband Equity, Access, and Deployment Program (B.E.A.D.) and the
47 Enabling Middle Mile Broadband Infrastructure Program. Of the initial federal B.E.A.D. funds
48 received under the federal Infrastructure Investment and Jobs Act (P.L. 117-58) for broadband
49 programs, the Department of Information Technology may utilize (i) up to three percent (3%) of
50 initial B.E.A.D. grant funds for planning ~~purposes and purposes,~~ (ii) up to two percent (2%) of
51 initial B.E.A.D. grant funds for administrative purposes, and (iii) any Digital Equity planning

1 and grant funds received by the Department of Information Technology, and these funds are
2 hereby appropriated for those purposes. All other funds received under the federal Infrastructure
3 Investment and Jobs Act shall remain unexpended until appropriated by an act of the General
4 Assembly."

5 **SECTION 4.** This act is effective when it becomes law.