**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 3 TO CHAPTER 7, TITLE 59 SO AS TO CREATE THE “GROWING RURAL ECONOMIES WITH ACCESS TO TECHNOLOGY (GREAT) PROGRAM”, TO FACILITATE THE DEPLOYMENT OF BROADBAND TO UNSERVED AREAS OF THE STATE, TO PROVIDE DEFINITIONS, TO ESTABLISH THE GROWING RURAL ECONOMIES WITH ACCESS TO TECHNOLOGY FUND, TO PROVIDE THAT ANY PROPERTY OWNED BY A MUNICIPALITY MAY BE LEASED OR RENTED IN CERTAIN SITUATIONS, TO PROVIDE THAT A MUNICIPALITY‑OWNED UTILITY MAY BE LEASED, TO PROVIDE THAT A MUNICIPALITY IS AUTHORIZED TO SELL OR LEASE ANY PUBLIC ENTERPRISE THAT IT OWNS, TO PROVIDE THAT THE STATE SHALL ALLOW COLLOCATION, INSTALLATION, AND OPERATION OF CERTAIN EQUIPMENT BY A BROADBAND PROVIDER ON ANY EXISTING STRUCTURES, AND TO PROVIDE FOR A MONTHLY 911 SERVICE CHARGE; AND TO DESIGNATE THE EXISTING PROVISIONS OF CHAPTER 7, TITLE 59 AS “ARTICLE 1, GENERAL PROVISIONS”.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 7, Title 59 of the 1976 Code is amended by adding:

“Article 3

Growing Rural Economies with Access to Technology (GREAT) Program

Section 59‑7‑100. There is established the Growing Rural Economies with Access to Technology (GREAT) program to facilitate the deployment of broadband to unserved areas of the State. The purpose of this program is to encourage the deployment of broadband at the highest possible speeds throughout as much of the inhabitable geographic area of the State that is practical and feasible by the year 2030.

Section 59‑7‑110. As used in this article:

(1) ‘Agriculture’ means:

(a) the cultivation of soil for production and harvesting of crops including, but not limited to, fruits, vegetables, sod, flowers, and ornamental plants;

(b) the planting and production of trees and timber;

(c) dairying and the raising, management, care, and training of livestock, including horses, bees, poultry, and other animals for individual and public use, consumption, and marketing;

(d) aquaculture as defined in Section 46‑1‑10(2);

(e) the operation, management, conservation, improvement, and maintenance of a farm and the structures and buildings on the farm, including building and structure repair, replacement, expansion, and construction incident to the farming operation;

(f) when performed on the farm, ‘agriculture’, ‘agricultural’, and ‘farming’ also include the marketing and selling of agricultural products, agritourism, the storage and use of materials for agricultural purposes, packing, treating, processing, sorting, storage, and other activities performed to add value to crops, livestock, and agricultural items produced on a farm, and similar activities incident to the operation of a farm; or

(g) a public or private grain warehouse or warehouse operation where grain is held ten days or longer and includes, but is not limited to, all buildings, elevators, equipment, and warehouses consisting of one or more warehouse sections and considered a single delivery point with the capability to receive, load out, weigh, dry, and store grain.

(2) ‘Broadband service’ means terrestrially deployed Internet access service with transmission speeds of at least ten megabits per second (Mbps) download and at least one megabit per second upload.

(3) ‘Cooperative’ means an electric membership corporation, organized pursuant to Article 1, Chapter 49, Title 33, or a telephone membership corporation, organized pursuant to Article 1, Chapter 46, Title 33.

(4) ‘Director’ means the Director of the Department of Administration.

(5) ‘Eligible economically distressed county’ means a county designated as a Tier IV or Tier III county as defined in Section 12‑6‑3360.

(6) ‘Eligible project’ means a discrete and specific project located in an unserved area of an economically distressed county seeking to provide broadband service to homes, businesses, and community anchor points not currently served. Eligible projects do not include middle mile, backhaul, and other similar projects not directed at broadband service to end users.

(7) ‘Eligible recipient’ means private providers of broadband services, including cooperatively organized entities, or any partnerships formed between cooperatively organized entities, private providers, or any combination thereof, after December 31, 2018.

(8) ‘Household’ means a house, apartment, single room, or other group of rooms, if occupied or intended for occupancy as separate living quarters, and where the occupants do not live with any other persons in the structure, and there is direct access from the outside or through a common hall.

(9) ‘Infrastructure costs’ means costs directly related to the construction of broadband infrastructure for the extension of broadband service for an eligible project, including installation, acquiring or updating easements, equipment, fiber, construction, backhaul infrastructure, and testing costs. The term does not include overhead or administrative costs.

(10) ‘Office’ means the Division of State Information Technology office in the Department of Administration.

(11) ‘Unserved area’ means a designated geographic area that is presently without access to broadband service, as defined in this section, offered by a wireline or fixed wireless provider. Areas where a private provider has been designated to receive funds through other state or federally funded programs designed specifically for broadband deployment must be considered served if the funding is intended to result in construction of broadband in the area within eighteen months.

Section 59‑7‑120. (A) The Growing Rural Economies with Access to Technology Fund (fund) is established as a special revenue fund in the Division of State Information Technology. The director may award grants from the fund to eligible recipients for eligible projects. The funds must be used by the recipient to pay for infrastructure costs associated with an eligible project.

(B) Project areas comprised of census blocks, or portions thereof, within which a broadband provider is receiving state or federal matching funds to deploy technologically neutral scalable broadband service within the next eighteen months are ineligible for the GREAT program. It is essential for the office to know the location of census blocks, or portions thereof, comprising these areas so it can determine project eligibility. A private provider receiving state or federal matching funds to deploy broadband service within the area shall, before July 1, 2019, submit only a listing of the census blocks, or portions thereof, comprising each of its federally funded project areas meeting this requirement and nothing more to the office. In future program years, the cutoff date for submitting this census block data is May fifteenth. The office only shall utilize this data to update maps of census blocks to reflect these census blocks, or portions thereof, as being served. Failure on the part of a provider to submit the listing of census blocks by the cutoff date results in those areas being eligible for inclusion pursuant to this program during the upcoming program year. The office shall use the census block data provided only for mapping of unserved areas. Information provided to the office pursuant to this subsection is not a public record.

(C) Applications for grants must be submitted at times designated by the director and, at a minimum, must include:

(1) an attestation to the office that the proposed project area is eligible;

(2) the identity of the applicant and its qualifications and experience with deployment of broadband;

(3) the total cost and duration of the project;

(4) the amount to be funded by the applicant;

(5) an illustration or description of the area to be served and the number of homes, businesses, community anchor points, agricultural operations, or agricultural processing facilities that have access to broadband as a result of the project;

(6) an assessment of the current level of broadband access in the proposed deployment area and the current level of service provided at the point from which broadband deployment is made;

(7) the proposed construction time line;

(8) a description of the services to be provided, including the proposed upstream and downstream broadband speeds to be delivered and any applicable data caps, provided that any applicant proposing a data cap below one hundred fifty gigabytes of usage each month provides justification to the satisfaction of the office that the proposed cap is in the public interest and consistent with industry standards;

(9) any other information or supplementary documentation requested by the office;

(10) a plan to encourage users to connect that incorporates, at a minimum, community education forums, multimedia advertising, and marketing programs;

(11) for the proposed area to be served, the infrastructure cost for each household for the project;

(12) evidence of support for the project from citizens, local government, businesses, and institutions in the community;

(13) the proposed advertised speed to be marketed to end users; and

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

(D) Applications must be made publicly available by posting on the website of the Division of State Information Technology for a period of at least thirty days before award. During the thirty‑day period, any interested party may submit comments to the director concerning any pending application. A provider of broadband services may submit a protest of any application on the grounds the proposed project covers an area that is not an eligible area pursuant to this section. Protests must be submitted in writing, accompanied by all relevant supporting documentation and must be considered by the office in connection with the review of the application. Protests based upon actual current connection speed in a proposed project area may not be considered. For applications with filed protests, the director shall issue a written decision to the protesting party at least fifteen days before the approval of that application.

(E) The office may consult with the Department of Commerce to determine if a broadband project proposed pursuant to this section will benefit a potential economic development project relevant to the proposed area outlined in the broadband project.

(F) Applications must be scored based upon a system that awards a single point for criteria considered to be the minimum level for the provision of broadband service with additional points awarded to criteria that exceed minimum levels. The office shall score project applications in accordance with the following:

(1) projects involving partnership or affiliation by a private provider with a nonprofit or not‑for‑profit, or a for‑profit subsidiary of either that is required to enable certain partnership activities, or any combination thereof, is given five points in their application score where it is documented to the satisfaction of the office that the partnership or affiliation will facilitate deployment and reduce cost for each housing unit by utilizing the resources, facilities, and infrastructure of the partner or where the nonprofit or not‑for‑profit partner provides only financial support;

(2) the office shall give additional points to projects based upon the estimated number of unserved households within the eligible economically distressed county, as determined by the most recent data published by the Federal Communications Commission or any other information available to the office. Points are given as follows:

(a) projects that will be located in counties with estimated unserved households of seven hundred or less receive one point;

(b) projects that will be located in counties with estimated unserved households of between seven hundred and one thousand ninety‑nine receive two points; and

(c) projects that will be located in counties with estimated unserved households of two thousand and over receive three points;

(3) the office shall give additional points to projects that will provide broadband service to unserved households within the eligible economically distressed county, as determined by the most recent data published by the Federal Communications Commission or any other information available to the office. Points are given as follows:

(a) projects proposing to serve less than one hundred fifty unserved households within the project area receive one point;

(b) projects proposing to serve between one hundred fifty and two hundred forty‑nine unserved households within the project area receive two points; and

(c) projects proposing to serve two hundred fifty or more unserved households within the project area receive three points;

(4) the office shall give additional points to projects that will provide broadband service to unserved businesses located within the eligible economically distressed county, as determined by the most recent data published by the Federal Communications Commission or any other information available to the office. Points are given to projects that serve unserved businesses within the project area as follows:

(a) projects proposing to serve between one and four businesses receive one point;

(b) projects proposing to serve between five and ten businesses receive two points; and

(c) projects proposing to serve either more than ten businesses or an agricultural operation, agricultural processing facility, or a business with thirty‑one or more full‑time employees receive three points;

(5) the office shall give additional points to projects that minimize the infrastructure cost of the proposed project for each household, based upon information available to the office; and

(6) projects that will provide minimum download and minimum upload speeds have the aggregate points given under items (1) through (5) multiplied by a factor at the level indicated in the table below:

Minimum Download:

Minimum Upload Score Multiplier

10:1 Mbps. 0.95

25:3 Mbps. or greater 1.35.

(G) The office shall score applications based upon the metrics provided in subsection (F). In awarding grants based upon the scoring metrics, the office also shall award an additional point to projects where a county has a Community Broadband Planning Playbook that meets the guidelines established by the office.

(H) Applications receiving the highest score receive priority status for the awarding of grants pursuant to this section. Applicants awarded grants pursuant to this section shall enter into an agreement with the office. The agreement must contain all of the elements outlined in subsection (C) and any other provisions the office may require. The agreement must contain a provision governing the time line and minimum requirements and thresholds for disbursement of grant funds measured by the progress of the project. Grant funds must be disbursed only upon verification by the office that the terms of the agreement have been fulfilled according to the progress milestones contained in the agreement. At project completion, the grant recipient shall certify and provide to the office evidence consistent with Federal Communications Commission attestation that the proposed minimum upstream and minimum downstream broadband speeds identified in the application guidelines, and for which a base speed multiplier was awarded pursuant to item (F)(6), are available throughout the project area before any end user connections. A single grant award may not exceed two million dollars. No more than one grant may be awarded each fiscal year for a project in any one eligible economically distressed county.

(I)(1) Grant recipients are required to provide matching funds based upon the application scoring pursuant to this section in the following minimum amounts:

Score Matching Requirement

7.0 points or less 55%

Greater than 7.0, but less than 14.0 points 50%

Greater than 14.0, but less than 21.0 points 45%

21.0 points or greater 35%

(2) Up to fifty percent of matching funds paid by the grant recipient may be comprised of third‑party funding and other grant programs. Universal Service Fund, Connect America Fund, or other grants awarded for broadband expansion through a separate state or federal program may not be used for the required matching funds.

(J) The office shall require that grant recipients offer the proposed advertised minimum download and minimum upload speeds identified in the project application for the duration of the five‑year service agreement. At least annually, a grant recipient shall provide to the office evidence consistent with Federal Communications Commission attestation that the grant recipient is making available the proposed advertised speed, or a faster speed, as contained in the grant agreement. For the duration of the agreement, grant recipients shall disclose any changes to data caps for the project area that differ from the data caps listed in the grant application to the office.

(K) A grant recipient shall forfeit the amount of the grant received if it fails to perform, in material respect, the obligations established in the agreement. Grant recipients that fail to provide the minimum advertised connection speed for which a reduction in matching funds was applied shall forfeit that amount. A grant recipient that forfeits amounts disbursed pursuant to this section is liable for the amount disbursed plus interest, computed from the date of the disbursement. The number of subscribers that subscribe to broadband services offered by the provider in the project area may not be a measure of performance pursuant to the agreement for the purposes of this subsection.

(L) The Department of Administration is the designated agency for receipt and disbursement of federal grant funds intended for the State for broadband expansion and shall seek available federal grant funds for that purpose. All federal grant funds received for the purpose of broadband expansion must be disbursed in accordance with this section.

(M) Grant recipients shall submit to the office an annual report for each funded project for the duration of the agreement. The report must include a summary of the items contained in the grant agreement and level of attainment for each and also must include:

(1) the number of households, businesses, agricultural operations, and community anchor points that have broadband access as a result of the project;

(2) the percentage of end users in the project area who have access to broadband service and actually subscribe to the broadband service; and

(3) the average monthly subscription cost for broadband service in the project area.

(N) The Division of State Information Technology shall submit an annual report to the General Assembly before September first. The report must contain the following:

(1) the number of grant projects applied for and the number of grant agreements entered into;

(2) a timeline for each grant agreement and the number of households, businesses, agricultural operations, and community anchor points expected to benefit from each agreement;

(3) the amount of matching funds required for each agreement and the total amount of investment;

(4) a summary of areas receiving grants that are now being provided broadband service and the advertised broadband speeds for those areas;

(5) any breaches of agreements, grant fund forfeitures, or subsequent reductions or refunds of matching funds; and

(6) any recommendations for the grant program, including better sources and methods for improving outcomes and accountability.

Section 59‑7‑130. (A)(1) Any property owned by a municipality may be leased or rented for such terms and upon such conditions as the council may determine, but not for longer than ten years, except as otherwise provided in subsection (B)(2), and only if the council determines that the property will not be needed by the municipality for the term of the lease. In determining the term of a proposed lease, periods that may be added to the original term by options to renew or extend must be included.

(2) Property may be rented or leased only pursuant to a resolution of the council authorizing the execution of the lease or rental agreement adopted at a regular council meeting upon thirty days’ public notice. Notice must be given by publication describing the property to be leased or rented, stating the annual rental or lease payments, and announcing the council’s intent to authorize the lease or rental at its next regular meeting.

(B)(1) Public notice as required by subsection (A)(2) is not needed for resolutions authorizing leases or rentals for terms of one year or less, and the council may delegate to an administrative officer of the municipality authority to lease or rent municipality property for terms of one year or less.

(2) Leases for terms of more than ten years must be treated as a sale of property and may be executed by following any of the procedures authorized for sale of real property.

(C) Notwithstanding subsection (B)(2), the council may approve a lease without treating that lease as a sale of property for any of the following reasons:

(1) for the siting and operation of a renewable energy facility for a term up to twenty‑five years;

(2) for the siting and operation of a tower for communication purposes for a term up to twenty‑five years; or

(3) for the operation and use of components of a wired or wireless network, for a term up to twenty‑five years; provided, however, that the lease is entered into with a private broadband provider or a cooperative in connection with a grant agreement and is for a discrete and specific project located in an unserved area of an economically distressed county seeking to provide broadband service to homes, businesses, and community anchor points not currently served.

(D) Notwithstanding subsection (A), any lease by a municipality of any duration for components of a wired or wireless network is entered into on a competitively neutral and nondiscriminatory basis and made available to similarly situated providers on comparable terms and conditions and may not be used to subsidize the provision of competitive service.

Section 59‑7‑140. A municipality‑owned utility or public service enterprise, or part thereof, may be leased.

Section 59‑7‑150. (A) A municipality is authorized to sell or lease as lessor any public enterprise that it may own upon any terms and conditions that the council may consider best. However, except as to transfers to another governmental entity or as provided in subsection (B), a municipality‑owned public enterprise may not be sold, leased to another, or discontinued unless the proposal to sell, lease, or discontinue is first submitted to a vote of the people and approved by a majority of those who vote thereon. Voter approval may not be required for the sale, lease, or discontinuance of airports, off street parking systems and facilities, or solid waste collection and disposal systems.

(B) For the sale, lease, or discontinuance of water treatment systems, water distribution systems, or wastewater collection and treatment systems, a municipality may submit to its voters the question of whether the sale, lease, or discontinuance should be undertaken. The referendum is to be conducted pursuant to the applicable special elections laws.

Section 59‑7‑160. (A) As used in this Section:

(1) ‘Applicable codes’ mean the South Carolina State Building Code and any other uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization together with amendments to those codes enacted to address imminent threats of destruction of property or injury to persons.

(2) ‘Broadband’ means Internet access service with transmission speeds that are equal to or greater than the requirements for basic broadband tier one service as defined by the Federal Communications Commission for broadband data gathering and reporting, regardless of the technology or medium used to provide the service.

(3) ‘Collocation’ means the placement or installation of wireless or broadband facilities on existing structures, including electrical transmission towers, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless or broadband facilities in compliance with applicable codes.

(4) ‘Equipment’ means antennas, transmitters, receivers, cables, wires, transformers, power supplies, and electric and communication lines necessary for the provision of television broadcast signals, radio wave signals, wireless data or wireless telecommunication services, or broadband to a discrete geographic area, and all other apparatuses and appurtenances, including shelters, cabinets, buildings, platforms, and ice bridges used to house or otherwise protect equipment.

(5) ‘Provider’ means any person that is engaged in the transmission, reception, or dissemination of television broadcast signals, radio wave signals, or electromagnetic radio signals used in the provision of wireless communications service, or the provisioning of wireless infrastructure. The term also includes any person engaged in the provision of broadband.

(B) The State shall allow the collocation, installation, and operation of equipment by a broadband provider on any existing structure owned by the State and shall lease real property, or grant an easement or license with an interest in real property, for the purposes of construction and placement of broadband infrastructure on state land. A disposition entered into pursuant to this subsection is voidable by the Governor for specific reasons or causes that must be cited.

(C) New towers constructed on state land must be designed for collocation. This requirement may not apply to towers constructed on state land by the State or any of its agencies or by a public entity. The State shall sublease, for collocation purposes, space on any tower or ground area leased by the State, if allowed under the terms of the lease. The State also shall adopt standard terms and conditions for applications to lease, easements, or other conveyances of an interest in real property for communication purposes and the deployment of broadband.

Section 59‑7‑170. (A) A monthly 911 service charge is imposed on each active communications service connection that provides access to the 911 system through a voice communications service. The service charge for service other than prepaid wireless telecommunications service is seventy cents or a lower amount set by the 911 Advisory Committee. The service charge is payable by the subscriber to the provider of the voice communications service. The provider may list the service charge separately from other charges on the bill. Partial payments made by a subscriber are applied first to the amount the subscriber owes the provider for the voice communications service. If a subscriber is capable of making more than one simultaneous outbound 911 call through its communications service connections, then the total number of 911 service charges billed to the subscriber is:

(1) for CMRS providers, an amount equal to the number of CMRS connections; and

(2) for all other communications service providers, an amount equal to the total number of simultaneous outbound 911 calls the subscriber can make using the South Carolina telephone numbers or trunks billed to their account.

(B) For any services for which a bill is rendered before January 1, 2020, no subscriber or communications service provider is liable to any person or entity for billing or remitting a different number of 911 service charges.”

SECTION 2. The existing provisions of Chapter 7, Title 59 are designated “Article 1, General Provisions”.

SECTION 3. This act takes effect upon approval by the Governor.

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