



Substitute House Bill No. 6442

Public Act No. 21-159

AN ACT CONCERNING EQUITABLE ACCESS TO BROADBAND.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective July 1, 2021*) As used in this section and sections 2 to 8, inclusive, of this act:

(1) "Broadband Internet access service" means a mass-market retail service by wire that provides the capability to transmit data to and receive data from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up Internet access service;

(2) "Broadband Internet access service provider" means any person or entity that provides broadband Internet access service through facilities occupying public highways or streets authorized by the Public Utilities Regulatory Authority, including through a certificate of public convenience and necessity, a certificate of video franchise authority, a certificate of cable franchise authority, or as a certified telecommunications provider;

(3) "Digital equity" means a condition in which all individuals and communities have the information technology capacity needed for participation in society, democracy and the economy of the state;

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(4) "Digital literacy" means the ability to use information and communication technologies to find, evaluate, create and communicate information, requiring both cognitive and technical skills;

(5) "Distressed municipality" has the same meaning as provided in section 32-9p of the general statutes;

(6) "Shapefile" means a digital storage format containing geospatial or location-based data and attribute information (A) regarding the availability of broadband Internet access service, and (B) that can be viewed, edited, and mapped in geographic information system software; and

(7) "Unserved area" means an area, not larger than a United States census block, as determined in accordance with the most recent United States census, identified on the broadband map developed pursuant to section 2 of this act, where broadband Internet access service with download speeds of at least twenty-five megabits per second and upload speeds of at least three megabits per second is not available from at least one broadband Internet access service provider.

Sec. 2. (NEW) (*Effective July 1, 2021*) (a) The Office of Policy and Management shall, in accordance with sections 4d-90 and 4-67p of the general statutes and in consultation with other state agencies deemed appropriate by the Secretary of the Office of Policy and Management, develop and maintain an up-to-date broadband map, with accompanying data, showing the availability and adoption of broadband Internet access service, including broadband Internet download and upload speeds, in the state. The Office of Policy and Management may rely on credible and relevant data, as determined by the Secretary of the Office of Policy and Management, provided by broadband Internet access service providers, state agencies, political subdivisions of the state and other third parties, including, but not limited to, broadband Internet access service consumers, in the

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development and maintenance of said map. The Secretary of the Office of Policy and Management may employ outside consultants in the development and maintenance of said map.

(b) On or before December 1, 2022, and each year thereafter, the Secretary of the Office of Policy and Management shall publish said up-to-date broadband map on the Office of Policy and Management's Internet web site.

(c) (1) Each broadband Internet access service provider shall provide the Office of Policy and Management, in a form and manner prescribed by the Secretary of the Office of Policy and Management, with information required to develop and maintain an up-to-date broadband map showing the availability of broadband Internet access service and subscription data by broadband Internet speed offered by such provider.

(A) Such information may be submitted in the form of a labeled shapefile that shall include (i) for each address or structure in the state at which service is available from the broadband Internet access service provider, the maximum advertised downstream bandwidth, maximum advertised upstream bandwidth and transmission technology, and (ii) for each area served by the broadband Internet access service provider, provided such area is not larger than a census block group, for each combination of advertised downstream and upstream bandwidth of the service as sold and transmission technology, the total number of connections and total number of consumer connections.

(B) In prescribing the form and manner of the information submitted pursuant to this subsection, the Secretary of the Office of Policy and Management shall make reasonable efforts to conform with the Broadband Deployment Accuracy and Technological Availability Act, 47 USC 641 et seq., as amended from time to time, the Federal Communications Commission rules adopted thereunder and the

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Federal Communications Commission's Form 477 filing process.

(2) Any information provided by a broadband Internet access service provider pursuant to this subsection shall be deemed a trade secret and exempt from public disclosure pursuant to section 1-210 of the general statutes. Pursuant to a data sharing agreement, the Office of Policy and Management may provide such information to the Department of Energy and Environmental Protection, the Office of State Broadband and the Commission for Educational Technology for the purposes of administering the grant program and preparing the reports required under section 3 of this act, and shall not disclose such information to any nongovernmental individual or entity, other than an outside consultant employed pursuant to subsection (a) of this section or section 3 of this act, except: (A) In an aggregated form necessary to develop and maintain the map and data pursuant to subsection (a) of this section, or (B) with the permission of the broadband Internet access service provider. Any contract or data-sharing agreement entered into by the Office of Policy and Management with other governmental entities or outside consultants shall include a confidentiality agreement concerning the trade secret information obtained pursuant to this subsection.

(d) Each state agency and political subdivision of the state shall provide all information requested by the Office of Policy and Management for the purpose of developing and maintaining an up-to-date broadband map.

Sec. 3. (NEW) (*Effective July 1, 2021*) (a) On or before January 1, 2022, the Commissioner of Energy and Environmental Protection shall establish and administer a grant program, subject to the availability of federal funding, to support the deployment of broadband Internet access service. The commissioner shall establish criteria consistent with any requirement of federal law for the grants, including, but not limited to, (1) application requirements, (2) applicant eligibility, (3) addressing

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unserved areas in distressed municipalities, (4) broadband Internet access service speed, and (5) an applicant's commitment to pay at least twenty per cent of the costs for any project entered into pursuant to this section with such applicant's own funding, provided such funding does not derive from government grants, loans or subsidies to said applicant. In awarding such grants, the commissioner may give priority to applicants based on the percentage of said applicant's commitment to cost sharing. The commissioner may deny applications from broadband Internet access service providers that do not provide information to the Office of Policy and Management pursuant to subsection (c) of section 2 of this act or to the Department of Energy and Environmental Protection pursuant to subsection (b) of section 4 of this act. The commissioner may employ outside consultants in developing and implementing said grant program.

(b) On or before January 1, 2023, and every year thereafter for a period of five years after receiving a grant pursuant to this section, the recipient of such grant shall submit a report to the Commissioner of Energy and Environmental Protection concerning the status of such recipient's broadband Internet access service deployment and other information deemed relevant by the commissioner.

(c) On or before December 1, 2022, and every two years thereafter, the Department of Energy and Environmental Protection, in consultation with the Office of Policy and Management, the Office of State Broadband, the Commission for Educational Technology and other state agencies deemed appropriate by the Commissioner of Energy and Environmental Protection, shall report to the Governor concerning (1) the grants awarded pursuant to this section, (2) the status and progress made toward a state-wide goal of attaining universal access to (A) broadband Internet download speeds of one gigabit per second; and (B) broadband Internet upload speeds of one hundred megabits per second, and (3) broadband Internet access service adoption rates, the price and

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nonprice barriers to broadband adoption and digital equity. Such report shall include recommendations to overcome any such barriers, including, but not limited to, addressing issues of digital literacy and affordability.

Sec. 4. (NEW) (*Effective July 1, 2021*) (a) The Department of Energy and Environmental Protection shall maintain, on the department's Internet web site, a public listing of federal funding opportunities to facilitate the deployment of broadband Internet access service in the state.

(b) Not later than ninety days after each such opportunity is listed, each broadband Internet access service provider shall notify the Department of Energy and Environmental Protection, in a form and manner prescribed by the department, to the extent permissible under applicable federal law, rules or guidelines, whether such provider applied or intends to apply for such opportunity.

(1) If such provider applied or intends to apply for such opportunity, such provider shall notify the Department of Energy and Environmental Protection, in a form and manner prescribed by the department, of the municipalities where broadband deployment would be facilitated. Each broadband Internet access service provider that applies for such funding shall, to the extent permissible under federal law, rules or guidelines, provide the department with a copy of the application. Any application provided by such provider pursuant to this subparagraph shall be deemed a trade secret and exempt from public disclosure pursuant to section 1-210 of the general statutes.

(2) If such provider did not apply or does not intend to apply for such opportunity, such provider shall notify the Department of Energy and Environmental Protection, in a form and manner prescribed by the department, of the reasons for such determination to the extent permissible under applicable federal law, rules or guidelines.

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Sec. 5. (NEW) (*Effective July 1, 2021*) (a) On or before January 1, 2022, the Public Utilities Regulatory Authority shall initiate an uncontested proceeding to develop a process for the construction of facilities in the public highways, streets or other public rights-of-way to ensure timely and nondiscriminatory procedures that accomplish conduit excavations for telecommunications service providers and broadband Internet access service providers. Upon application by the broadband Internet access service providers for the construction of underground facilities that will contain conduit for telecommunications service providers or broadband Internet access service providers, the Public Utilities Regulatory Authority shall condition any approval of such application on the following:

(1) The size of such conduit shall be consistent with industry best practices and sufficient to accommodate potential demand;

(2) Any handholes and manholes for fiber optic cable access and pulling with respect to each such practice shall be placed at intervals consistent with industry best practices;

(3) Such conduit shall be installed with a pull tape and capabilities of supporting additional fiber optic cable;

(4) The applicant shall notify telecommunications service providers and broadband Internet access service providers of the proposed excavation to reduce the potential for future street excavations in the same location;

(5) Any requesting telecommunications service provider or broadband Internet access service provider shall be able to access such conduit on a competitively neutral and nondiscriminatory basis and for a charge not to exceed a cost-based rate;

(6) The applicant shall report to the authority upon completion of any approved construction verifying that it has complied with the

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provisions of this subsection; and

(7) Any other condition deemed prudent and reasonable by the authority.

(b) For excavations in the state highway rights-of-way, the applicant shall comply with the Department of Transportation's encroachment permit process, including the payment of any applicable fees. Any application for construction in the public highways, streets or other public rights-of-way shall require the applicant to install a conduit for the benefit of the Department of Transportation, as required by section 16-233 of the general statutes.

(c) The Commissioner of Transportation is authorized to lease space, or enter into any other contract or agreement to permit access to such space, in any conduit installed by the Department of Transportation in the public highways, streets or other public rights-of-way on such terms and conditions, and for any purpose, deemed to be in the public interest by said commissioner.

(d) Nothing in this section shall be construed to limit the use of conduit by the Department of Transportation on public highways, streets or other public rights-of-way as otherwise permitted by law.

(e) All telecommunications service providers and broadband Internet access service providers that are authorized by the authority to install facilities in, under or over the public highways, streets or other public rights-of-way shall obey, observe and comply with this section and each applicable order made by the authority with respect to underground conduit. Failure to comply with this section or applicable orders of the authority may result in a civil penalty levied by the authority in accordance with section 16-41 of the general statutes. Any such fines shall not be recoverable costs in any rate proceeding conducted by the authority.

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Sec. 6. (NEW) (*Effective July 1, 2021*) Each broadband Internet access service provider shall have the same right of access to an occupied building, as defined in section 16-247l of the general statutes, as afforded to certified telecommunications service providers under section 16-247l of the general statutes.

Sec. 7. (NEW) (*Effective July 1, 2021*) The State Building Inspector and the Codes and Standards Committee shall, in accordance with section 29-252b of the general statutes, revise the State Building Code to include provisions requiring buildings that qualify as a new construction or a major alteration of a commercial or multifamily building to include a minimum infrastructure requirement to support broadband Internet access service. The State Building Inspector and the Codes and Standards Committee shall define such minimum infrastructure requirements in such revisions.

Sec. 8. Section 16-49 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2021*):

(a) As used in this section:

(1) "Company" means (A) any public service company other than a telephone company, that had more than one hundred thousand dollars of gross revenues in the state in the calendar year preceding the assessment year under this section, except any such company not providing service to retail customers in the state, (B) any telephone company that had more than one hundred thousand dollars of gross revenues in the state from telecommunications services in the calendar year preceding the assessment year under this section, except any such company not providing service to retail customers in the state, (C) any certified telecommunications provider that had more than one hundred thousand dollars of gross revenues in the state from telecommunications services in the calendar year preceding the assessment year under this section, except any such certified

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telecommunications provider not providing service to retail customers in the state, (D) any electric supplier that had more than one hundred thousand dollars of gross revenues in the state in the calendar year preceding the assessment year under this section, except any such supplier not providing electric generation services to retail customers in the state, or (E) any certified competitive video service provider issued a certificate of video franchise authority by the Public Utilities Regulatory Authority in accordance with section 16-331e that had more than one hundred thousand dollars of gross revenues in the state in the calendar year preceding the assessment year under this section, except any such certified competitive video service provider not providing service to retail customers in the state;

(2) "Telecommunications services" means (A) in the case of telecommunications services provided by a telephone company, any service provided pursuant to a tariff approved by the authority other than wholesale services and resold access and interconnections services, and (B) in the case of telecommunications services provided by a certified telecommunications provider other than a telephone company, any service provided pursuant to a tariff approved by the authority and pursuant to a certificate of public convenience and necessity; and

(3) "Fiscal year" means the period beginning July first and ending June thirtieth.

(b) On or before July 15, 1999, and on or before May first, annually thereafter, each company shall report its intrastate gross revenues of the preceding calendar year to the Public Utilities Regulatory Authority, which amount shall be subject to audit by the authority. For each fiscal year, each company shall pay the authority the company's share of all expenses of the department's Bureau of Energy and Technology, the Office of Consumer Counsel, the Office of Policy and Management's expenses related to the duties under sections 2 and 3 of this act and the operations of the Public Utilities Regulatory Authority for such fiscal

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year. On or before September first, annually, the authority shall give to each company a statement which shall include: (1) The amount appropriated to the department's Bureau of Energy and Technology, the Office of Consumer Counsel, the Office of Policy and Management's expenses related to the duties under sections 2 and 3 of this act and the operations of the Public Utilities Regulatory Authority for the fiscal year beginning July first of the same year; (2) the total gross revenues of all companies; and (3) the proposed assessment against the company for the fiscal year beginning on July first of the same year, adjusted to reflect the estimated payment required under subdivision (1) of subsection (c) of this section. Such proposed assessment shall be calculated by multiplying the company's percentage share of the total gross revenues as specified in subdivision (2) of this subsection by the total revenue appropriated to the department's Bureau of Energy and Technology, the Office of Consumer Counsel, the Office of Policy and Management's expenses related to the duties under sections 2 and 3 of this act and the operations of the Public Utility Regulatory Authority, as specified in subdivision (1) of this subsection.

(c) Each company shall pay the authority: (1) On or before June thirtieth, annually, an estimated payment for the expenses of the following year equal to twenty-five per cent of its assessment for the fiscal year ending on such June thirtieth, (2) on or before September thirtieth, annually, twenty-five per cent of its proposed assessment, adjusted to reflect any credit or amount due under the recalculated assessment for the preceding fiscal year, as determined by the authority under subsection (d) of this section, provided if the company files an objection in accordance with subsection (e) of this section, it may withhold the amount stated in its objection, and (3) on or before the following December thirty-first and March thirty-first, annually, the remaining fifty per cent of its proposed assessment in two equal installments.

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(d) Immediately following the close of each fiscal year, the authority shall recalculate the proposed assessment of each company, based on the expenses, as determined by the Comptroller, of the department's Bureau of Energy and Technology, the Office of Consumer Counsel, the Office of Policy and Management's expenses related to the duties under sections 2 and 3 of this act and the operations of the Public Utilities Regulatory Authority for such fiscal year. On or before September first, annually, the authority shall give to each company a statement showing the difference between its recalculated assessment and the amount previously paid by the company.

(e) Any company may object to a proposed or recalculated assessment by filing with the authority, not later than September fifteenth of the year of said assessment, a petition stating the amount of the proposed or recalculated assessment to which it objects and the grounds upon which it claims such assessment is excessive, erroneous, unlawful or invalid. After a company has filed a petition, the authority shall hold a hearing. After reviewing the company's petition and testimony, if any, the authority shall issue an order in accordance with its findings. The company shall pay the authority the amount indicated in the order not later than thirty days after the date of the order.

(f) The authority shall remit all payments received under this section to the State Treasurer for deposit in the Consumer Counsel and Public Utility Control Fund established under section 16-48a. Such funds shall be accounted for as expenses recovered from public service companies and certified telecommunications providers. All payments made under this section shall be in addition to any taxes payable to the state under chapters 211, 212, 212a and 219.

(g) Any assessment unpaid on the due date or any portion of an assessment withheld after the due date under subsection (c) of this section shall be subject to interest at the rate of one and one-fourth per cent per month or fraction thereof, or fifty dollars, whichever is greater.

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(h) Any company that fails to report in accordance with this section shall be subject to civil penalties in accordance with section 16-41.