

House Bill 336

By: Representatives Parsons of the 44th, Shaw of the 176th, Tankersley of the 160th, Morris of the 156th, Dunahoo of the 30th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Titles 36, 48, and 50 of the Official Code of Georgia Annotated, relating to local
2 government, revenue and taxation, and state government, respectively, so as to provide for
3 broadband deployment incentives; to provide for definitions; to establish certification of
4 certain counties and municipal corporations as broadband ready communities; to provide for
5 duties and responsibilities of the Department of Economic Development; to provide
6 methodology for local governments to apply to the department for certification as a
7 broadband ready community; to provide for the promulgation of rules and regulations and
8 a model ordinance by the department; to create an exemption for certain equipment used in
9 the deployment of broadband technology; to provide for the commissioner of community
10 affairs to make certain annual designations; to provide for the publication of certain
11 information on the website of the Department of Community Affairs; to provide for the
12 Georgia Technology Authority to develop an annual "Broadband Strategy for All of Georgia"
13 report providing guidance for achieving enhanced broadband deployment throughout this
14 state; to provide for a short title; to provide for related matters; to provide for effective dates
15 and applicability; to repeal conflicting laws; and for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 **SECTION 1.**

18 This Act shall be known and may be cited as the "Broadband Strategy for All of Georgia
19 Act."

20 **SECTION 2.**

21 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended
22 by adding a new chapter to read as follows:

23 "CHAPTER 66C

24 36-66C-1.

25 As used in this chapter, the term:

26 (1) 'Broadband network project' means any wired or wireless Internet access deployment
 27 that has the capability of transmitting data at a rate of at least 10 megabytes per second
 28 in the downstream direction and at least 1 megabyte per second in the upstream direction
 29 to end users.

30 (2) 'Broadband service provider' means any provider of wired or wireless
 31 telecommunications services or a public utility that builds or owns a broadband network
 32 project.

33 (3) 'Department' means the Department of Economic Development.

34 (4) 'Political subdivision' means a county, municipal corporation, or consolidated
 35 government.

36 36-66C-2.

37 (a) A political subdivision may apply to the department for certification as a broadband
 38 ready community. The department shall by rules and regulations prescribe the form and
 39 manner for making an application. The department shall prescribe by rules and regulations
 40 a process for public notice and comment on an application for a period of at least 30 days
 41 after the application is received, except that such process shall not apply to an application
 42 by a political subdivision that enacts a model ordinance developed by the department under
 43 Code Section 36-66C-3.

44 (b) The department shall approve an application and certify a political subdivision as a
 45 broadband ready community if the department determines that the political subdivision has
 46 enacted an ordinance that complies with Code Section 36-66C-3. If the process for public
 47 notice and comment applies to an application, the department shall, before approving the
 48 application, consider any public comments made regarding such application.

49 36-66C-3.

50 (a) A political subdivision shall not be certified as a broadband ready community unless
 51 the political subdivision enacts an ordinance for reviewing applications and issuing permits
 52 related to broadband network projects that provides for all of the following:

53 (1) Appointing a single point of contact for all matters related to a broadband network
 54 project;

- 55 (2) Requiring the political subdivision to determine whether an application is complete
56 and notifying the applicant about such determination in writing within ten days of
57 receiving the application;
- 58 (3) If the political subdivision receives an application that is incomplete, requiring the
59 written notification under paragraph (2) of this subsection to specify in detail the required
60 information that is incomplete;
- 61 (4) If the political subdivision does not make the written notification required under
62 paragraph (2) of this subsection, requiring the political subdivision to consider an
63 application to be complete;
- 64 (5) Allowing an applicant to resubmit an application as often as necessary until the
65 application is complete;
- 66 (6) Within 60 days of receiving an application that is complete, requiring the political
67 subdivision to approve or deny the application and provide the applicant written
68 notification of such approval or denial;
- 69 (7) If the political subdivision denies an application, requiring the political subdivision
70 to include in the written notification under paragraph (6) of this subsection evidence that
71 the denial is not arbitrary and capricious;
- 72 (8) Requiring that an application shall be considered approved and any required permit
73 shall be issued if the political subdivision does not provide the written notification under
74 paragraph (6) of this subsection;
- 75 (9) That any fee imposed by the political subdivision to review an application, issue a
76 permit, or perform any other activity related to a broadband network project shall be
77 reasonable and cost based; and
- 78 (10) Allowing all forms, applications, and documentation related to a broadband network
79 project to be filed and signed by electronic or other means authorized by the department.
- 80 (b) The department may develop a model ordinance that complies with subsection (a) of
81 this Code section for a political subdivision to use to review applications and issue permits
82 related to broadband network projects.
- 83 (c) If the department develops a model ordinance under subsection (b) of this Code section
84 and a political subdivision enacts a different ordinance that complies with subsection (a)
85 of this Code section, the political subdivision shall, when applying for certification under
86 Code Section 36-66C-2, provide the department with a written statement that describes the
87 ordinance and how the ordinance differs from the model ordinance.
- 88 36-66C-4.
- 89 A political subdivision that the department has certified as a broadband ready community
90 under Code Section 36-66C-2 shall not:

- 91 (1) Require an applicant to designate a final contractor to complete a broadband network
 92 project;
- 93 (2) Impose an unreasonable or noncost based fee to review an application or issue a
 94 permit for a broadband network project. Any application fee that exceeds \$100.00 shall
 95 be considered unreasonable;
- 96 (3) Impose a moratorium of any kind on the approval of applications or issuance of
 97 permits for broadband network projects or on construction related to broadband network
 98 projects;
- 99 (4) Discriminate among providers of telecommunications services or public utilities with
 100 respect to any action described in this chapter or otherwise related to a broadband
 101 network project, including granting access to public rights of way, infrastructure and
 102 poles, river and bridge crossings, or any other physical assets owned or controlled by the
 103 political subdivision; or
- 104 (5) As a condition for approving an application or issuing a permit for a broadband
 105 network project or for any other purpose, require the applicant to:
- 106 (A) Provide any service or make available any part of the broadband network project
 107 to the political subdivision; or
- 108 (B) Except for reasonable and cost based fees allowed, make any payment to or on
 109 behalf of the political subdivision.

110 36-66C-5.

111 (a) Upon the request of a broadband service provider, the department may decertify a
 112 political subdivision as a broadband ready community if the political subdivision fails to
 113 comply with or modifies the ordinance required for certification under Code
 114 Section 36-66C-3 or violates Code Section 36-66C-4.

115 (b) Upon a complaint that an application fee under an ordinance required for certification
 116 under Code Section 36-66C-3 is unreasonable, the department shall determine whether or
 117 not such fee is reasonable. In the proceeding for making such determination, the political
 118 subdivision shall have the burden of proving the reasonableness of any function undertaken
 119 by the political subdivision as part of the application process and the reasonableness of the
 120 costs of such functions.

121 36-66C-6.

122 The department shall promulgate any reasonable and necessary rules and regulations to
 123 effectuate the provisions of this chapter."

124 **SECTION 3.**

125 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
 126 amended in Code Section 48-8-3, relating to exemptions from state sales and use taxes, by
 127 deleting "or" at the end of paragraph (97), by replacing the period with "; or" at the end of
 128 paragraph (98), and by adding a new paragraph to read as follows:

129 "(99)(A) Broadband equipment used in the deployment of broadband technology in an
 130 eligible county by a provider of broadband technology regardless of whether the
 131 equipment is purchased by the owner, a contractor, or a subcontractor.

132 (B) As used in this paragraph, the term:

133 (i) 'Broadband equipment' means any device capable of being used for or in
 134 connection with the transmission of broadband service, including, but not limited to,
 135 asynchronous transfer mode switches, multiplexers, digital subscriber line access
 136 multiplexers, routers, servers, fiber optics, and related equipment.

137 (ii) 'Broadband service' means Internet access capable of transmitting data at a rate
 138 of at least 10 megabytes per second in the downstream direction and at least 1
 139 megabyte per second in the upstream direction.

140 (iii) 'Broadband technology' means high-speed Internet access transmissions,
 141 including, but not limited to, digital subscriber lines, cable modems, fiber, wireless,
 142 broadband over power lines, and satellites.

143 (iv) 'Eligible county' means any county that has been designated by the commissioner
 144 of community affairs in the previous calendar year:

145 (I) As a tier 1 or tier 2 county in accordance with Code Section 48-7-40; or

146 (II) As a county in which at least 10 percent of the population does not have access
 147 to fixed broadband service.

148 (C) Prior to July 1 of each year, the commissioner of community affairs shall make the
 149 annual designations described in division (iv) of subparagraph (B) of this paragraph and
 150 publish on the website of the Department of Community Affairs a listing of eligible
 151 counties.

152 (D) Any person making a sale of broadband equipment shall collect the tax imposed
 153 on the sale by this article unless the purchaser furnishes a certificate issued by the
 154 commissioner certifying that the purchaser is entitled to purchase the broadband
 155 equipment without paying the tax."

156 **SECTION 4.**

157 Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended
 158 by adding a new Code section to read as follows:

159 "50-25-17.

160 (a) The authority shall develop an annual report to be entitled, 'Broadband Strategy for All
161 of Georgia,' that provides guidance for achieving enhanced broadband deployment
162 throughout the state such that access to broadband speeds of at least 10 megabytes per
163 second in the downstream direction and at least 1 megabyte per second in the upstream
164 direction is readily available to 99.5 percent of all households and 99.8 percent of all
165 businesses in this state by 2024. Such annual report shall include:

166 (1) An assessment of the current status of broadband deployment and utilization
167 throughout this state;

168 (2) An analysis of funding currently available from the federal government and any other
169 sources to either the state or private entities that provide broadband service in this state.
170 Such analysis shall include guidelines and requirements established by any federal
171 agencies or other entities overseeing such funding sources on how such funds must be
172 spent;

173 (3) Any changes to or new rulings under Federal Communications Commission rules and
174 regulations, including, but not limited to, rules and regulations relating to state regulation
175 of broadband;

176 (4) The role that this state and any of its agencies, departments, authorities, boards, and
177 commissions play in broadband deployment and accessibility throughout this state;

178 (5) A list of private companies providing broadband services in this state;

179 (6) An analysis of how current technology trends and advancements will enhance the
180 deployment of broadband throughout this state;

181 (7) An assessment of the advantages of broadband deployment for individuals and
182 businesses to rural Georgia, including, but not limited to, education, telemedicine, and
183 economic development;

184 (8) An assessment of unique challenges for deployment of broadband in sparsely
185 populated areas of this state and suggested solutions to meet such challenges; and

186 (9) Recommendations as to actions to be initiated either by legislation or administrative
187 action by state agencies, departments, authorities, boards, and commissions to further
188 facilitate the deployment and utilization of enhanced broadband throughout this state.

189 (b) The report created pursuant to subsection (a) of this Code section shall be submitted
190 to the Governor and the General Assembly on or before November 1 of each year and
191 made available to the public on the same date by posting a copy of the report on the
192 website of the authority. The authority shall not be required to distribute copies of the
193 annual report to members of the General Assembly, but shall notify the members of the
194 availability of the report in the manner in which it deems to be the most effective and
195 efficient."

196

SECTION 5.

197 (a) Except as provided in subsection (b) of this section, this Act shall become effective on
198 July 1, 2017.

199 (b) Section 3 of this Act shall become effective upon its approval by the Governor or upon
200 its becoming law without such approval and shall apply to transactions which occur on or
201 after that date.

202

SECTION 6.

203 All laws and parts of laws in conflict with this Act are repealed.