

The House Committee on Energy, Utilities and Telecommunications offers the following substitute to HB 336:

A BILL TO BE ENTITLED
AN ACT

1 To amend Titles 36 and 38 of the Official Code of Georgia Annotated, relating to local
2 government and military, emergency management, and veterans affairs, respectively, so as
3 to provide for broadband deployment incentives and planning; to provide for definitions; to
4 establish certification of certain counties and municipal corporations as broadband ready
5 communities; to provide for duties and responsibilities of the Department of Economic
6 Development; to provide methodology for local governments to apply to the department for
7 certification as a broadband ready community; to provide for the promulgation of rules and
8 regulations and a model ordinance by the department; to provide for the Georgia Emergency
9 Management and Homeland Security Agency to develop an annual "Broadband Strategy for
10 All of Georgia" report providing guidance for achieving enhanced broadband deployment
11 throughout this state; to provide for a short title; to provide for related matters; to repeal
12 conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

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

17 **SECTION 2.**

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

20 "CHAPTER 66C

21 36-66C-1.

22 As used in this chapter, the term:

23 (1) 'Broadband network project' means any wired or wireless Internet access deployment
 24 that has the capability of transmitting data at a rate of at least 10 megabits per second in
 25 the downstream direction and at least 1 megabit per second in the upstream direction to
 26 end users.

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

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

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

33 36-66C-2.

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

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

46 36-66C-3.

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

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

52 (2) Requiring the political subdivision to determine whether an application is complete
 53 and notifying the applicant about such determination in writing within ten days of
 54 receiving the application;

55 (3) If the political subdivision receives an application that is incomplete, requiring the
 56 written notification under paragraph (2) of this subsection to specify in detail the required
 57 information that is incomplete;

58 (4) If the political subdivision does not make the written notification required under
59 paragraph (2) of this subsection, requiring the political subdivision to consider an
60 application to be complete;

61 (5) Allowing an applicant to resubmit an application as often as necessary until the
62 application is complete;

63 (6) Within 60 days of receiving an application that is complete, requiring the political
64 subdivision to approve or deny the application and provide the applicant written
65 notification of such approval or denial;

66 (7) If the political subdivision denies an application, requiring the political subdivision
67 to include in the written notification under paragraph (6) of this subsection evidence that
68 the denial is not arbitrary and capricious;

69 (8) Requiring that an application shall be considered approved and any required permit
70 shall be issued if the political subdivision does not provide the written notification under
71 paragraph (6) of this subsection;

72 (9) That any fee imposed by the political subdivision to review an application, issue a
73 permit, or perform any other activity related to a broadband network project shall be
74 reasonable and cost based; and

75 (10) Allowing all forms, applications, and documentation related to a broadband network
76 project to be filed and signed by electronic or other means authorized by the department.

77 (b) The department may develop a model ordinance that complies with subsection (a) of
78 this Code section for a political subdivision to use to review applications and issue permits
79 related to broadband network projects.

80 (c) If the department develops a model ordinance under subsection (b) of this Code section
81 and a political subdivision enacts a different ordinance that complies with subsection (a)
82 of this Code section, the political subdivision shall, when applying for certification under
83 Code Section 36-66C-2, provide the department with a written statement that describes the
84 ordinance and how the ordinance differs from the model ordinance.

85 36-66C-4.

86 A political subdivision that the department has certified as a broadband ready community
87 under Code Section 36-66C-2 shall not:

88 (1) Require an applicant to designate a final contractor to complete a broadband network
89 project;

90 (2) Impose an unreasonable or noncost based fee to review an application or issue a
91 permit for a broadband network project. Any application fee that exceeds \$100.00 shall
92 be considered unreasonable;

93 (3) Impose a moratorium of any kind on the approval of applications or issuance of
 94 permits for broadband network projects or on construction related to broadband network
 95 projects;

96 (4) Discriminate among providers of telecommunications services or public utilities with
 97 respect to any action described in this chapter or otherwise related to a broadband
 98 network project, including granting access to public rights of way, infrastructure and
 99 poles, river and bridge crossings, or any other physical assets owned or controlled by the
 100 political subdivision; or

101 (5) As a condition for approving an application or issuing a permit for a broadband
 102 network project or for any other purpose, require the applicant to:

103 (A) Provide any service or make available any part of the broadband network project
 104 to the political subdivision; or

105 (B) Except for reasonable and cost based fees allowed, make any payment to or on
 106 behalf of the political subdivision.

107 36-66C-5.

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

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

118 36-66C-6.

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

121 **SECTION 3.**

122 Title 38 of the Official Code of Georgia Annotated, relating to military, emergency
 123 management, and veterans affairs, is amended in Chapter 3, relating to emergency
 124 management, by adding a new article to read as follows:

"ARTICLE 12

38-3-180.

(a) As used in this Code section, the term 'agency' means the Georgia Emergency Management and Homeland Security Agency established by Code Section 38-3-20.

(b) The agency shall develop an annual report to be entitled, 'Broadband Strategy for All of Georgia,' that provides guidance for achieving enhanced broadband deployment throughout the state such that access to broadband speeds of at least 25 megabits per second in the downstream direction and at least 3 megabits per second in the upstream direction to end users is readily available to 99.5 percent of all households and 99.8 percent of all businesses in this state by 2024. Such annual report shall include:

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

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

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

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

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

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

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

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

(9) An analysis of options based on current data regarding the most effectual approaches to further facilitate the deployment and utilization of enhanced broadband throughout this state.

(c) The report created pursuant to subsection (b) of this Code section shall be submitted to the Governor and the General Assembly on or before November 1 of each year and made available to the public on the same date by posting a copy of the report on the

161 website of the agency. The agency shall not be required to distribute copies of the annual
162 report to members of the General Assembly, but shall notify the members of the
163 availability of the report in the manner in which it deems to be the most effective and
164 efficient."

165 **SECTION 4.**

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