

1 AN ACT relating to broadband.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 224A.1121 is amended to read as follows:

- 4 (1) The purpose of the broadband deployment fund set forth in KRS 224A.112 shall be  
5 to assist governmental agencies and private sector entities to construct infrastructure  
6 for the deployment of broadband service to underserved or unserved areas of the  
7 Commonwealth. The authority shall manage the fund and may accept and receive  
8 appropriations from the General Assembly or other funds or gifts from both public  
9 and private sources, including but not limited to local governments and federal  
10 agencies.
- 11 (2) The authority shall establish a grant program that allocates funds from the  
12 broadband deployment fund in accordance with this section. Grant funds may be  
13 used by government or private sector entities for broadband deployment projects.
- 14 (3) The grant program shall be developed to give highest funding priority to those  
15 projects which most effectively provide broadband service to the greatest number of  
16 underserved and unserved Kentucky citizens and at the lowest cost. Funding shall  
17 not be used to duplicate broadband service to citizens, households, and businesses  
18 in a broadband deployment project area where fixed, terrestrial broadband service  
19 meets or exceeds twenty-five (25) megabits per second downstream and three (3)  
20 megabits per second upstream.
- 21 (4) The authority shall develop funding criteria and prioritization schedules for  
22 broadband deployment projects in a technology-neutral manner in accordance with  
23 this section.
- 24 (5) The authority shall establish guidelines and standards for applying for and  
25 approving grants from the broadband deployment fund. An eligible applicant shall  
26 submit an application to the authority. An application for a grant shall contain any  
27 information the authority requires, including but not limited to:

- 1 (a) A geographic description of the broadband deployment project area, including  
2 whether the area is partially served;
- 3 (b) A description of the broadband deployment project, including facilities,  
4 equipment, total cost, timeframe for completion, and network capabilities,  
5 including minimum speed thresholds;
- 6 (c) Documentation of the applicant's technical, financial, and managerial  
7 resources and experience to build, operate, and manage broadband serving  
8 citizens, households, and businesses in Kentucky;
- 9 (d) Documentation of the economic and commercial feasibility of the proposed  
10 broadband deployment project;
- 11 (e) The number of citizens, households, or businesses that would have new access  
12 to broadband as a result of the grant;
- 13 (f) The amount of matching funds the eligible applicant will contribute and a  
14 certification that no portion of the matching funds is derived from any state or  
15 federal grant received for the purpose of funding broadband infrastructure  
16 within the project area; and
- 17 (g) A certification that none of the funds provided by the program for the project  
18 in the application will be used to extend or deploy facilities to any currently  
19 served citizens, households, or businesses.
- 20 (6) The authority shall make the applications available to the public within five (5)  
21 business days of the deadline for submission of applications, provided the  
22 information contained within an application is not exempt from disclosure under the  
23 provisions of the Open Records Act, KRS 61.870 to 61.884. The description of the  
24 geographic scope of the broadband deployment project area shall not be exempt  
25 under the Open Records Act, KRS 61.870 to 61.884, and shall be made available to  
26 the public within five (5) days after submission of the application.
- 27 (7) As part of the grant application process, pursuant to subsection (3) of this section,

1 the authority shall include an opportunity for a broadband service provider to  
2 challenge the application. As part of the dispute process, the authority may consider  
3 any relevant geospatial data available from a broadband service provider or grant  
4 applicant. Geospatial data may include but is not limited to shapefiles detailing  
5 broadband coverage, the most current Federal Communications Commission Form  
6 477 fixed broadband deployment data reporting, or other documentation of  
7 broadband deployment infrastructure in the project area to show that a challenged  
8 project area is underserved or unserved. A challenging provider may provide the  
9 authority with proof, including but not limited to:

10 (a) The broadband deployment project area is currently served or is under  
11 construction for provision of broadband service within twelve (12) months of  
12 the challenge; or

13 (b) The applicant has received funds from another state or federally funded grant  
14 program designed to encourage broadband deployment in the area.

15 (8) Upon a determination that an application meets the funding criteria, but the  
16 proposed **broadband deployment** project area is found to be partially served, the  
17 authority may amend the application and grant partial funding based on the partial  
18 service provided in order to ensure that grant funds are used to only provide  
19 broadband service to citizens, households, or businesses deemed underserved or  
20 unserved.

21 (9) No funds shall be used to support any broadband deployment project involving the  
22 upgrade of an existing facility or for non-capital expenses, non-broadband services,  
23 marketing, or advertising. The broadband deployment project area shall be  
24 described by census block including the specific addresses to be serviced or by  
25 shapefile geospatial data.

26 (10) Grant applicants shall pay a minimum of fifty percent (50%) of the project cost  
27 which shall not include any matching funds received from federal or state

1 government grants for broadband deployment in the project area.

2 (11) Moneys in this fund shall not be used by or transferred to the Kentucky  
3 Communications Network Authority.

4 (12) To carry out the purposes of this section, the authority shall promulgate  
5 administration regulations in accordance with KRS Chapter 13A. Within one  
6 hundred eighty (180) days of July 15, 2020, the authority shall promulgate  
7 regulations to implement the provisions of this section and KRS 224A.011,  
8 224A.110, and 224A.112 and govern the submission, review, and approval of  
9 applications and the administration of broadband deployment projects. The  
10 authority shall not promulgate any regulations that place obligations on the  
11 applicants that are more restrictive than applicable federal or state law. Except as  
12 otherwise provided in this section, all of the authority's records relating to the  
13 broadband deployment fund shall be deemed confidential unless disclosure is  
14 required under the provisions of the Open Records Act, KRS 61.870 to 61.884.