

**SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION**

S.F. No. 2622

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DATE
03/21/2019

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Introduction and first reading
Referred to Agriculture, Rural Development, and Housing Policy

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to economic development; broadband; modifying the border-to-border
1.3 broadband development grant program; amending Minnesota Statutes 2018, section
1.4 116J.395, subdivisions 5, 5a, 7, by adding subdivisions.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2018, section 116J.395, is amended by adding a subdivision
1.7 to read:

1.8 Subd. 4a. **Broadband how-to guide.** The director of the Office of Broadband
1.9 Development must develop and make publicly available a comprehensive "Broadband
1.10 How-to Guide" to assist grant applicants and potential grant applicants with broadband best
1.11 practices, funding options for broadband projects, the broadband grant application process,
1.12 how to effectively communicate with constituents regarding broadband, and any other
1.13 information necessary to successfully undertake broadband projects and deployment activities
1.14 in Minnesota. The guide must be made available to the public on the Office of Broadband
1.15 Development's website and the guide's availability must be communicated to the public and
1.16 interested stakeholders via a press release or other means of communication.

1.17 Sec. 2. Minnesota Statutes 2018, section 116J.395, subdivision 5, is amended to read:

1.18 Subd. 5. **Application contents.** An applicant for a grant under this section shall provide
1.19 the following information on the application:

1.20 (1) the location of the project;

1.21 (2) the kind and amount of broadband infrastructure to be purchased for the project;

- 2.1 (3) evidence regarding the unserved or underserved nature of the community in which
 2.2 the project is to be located;
- 2.3 (4) the number of households passed that will have access to broadband service as a
 2.4 result of the project, or whose broadband service will be upgraded as a result of the project;
- 2.5 (5) significant community institutions that will benefit from the proposed project;
- 2.6 (6) evidence of community support for the project;
- 2.7 (7) the total cost of the project;
- 2.8 (8) sources of funding or in-kind contributions for the project that will supplement any
 2.9 grant award;
- 2.10 (9) evidence that no later than ~~six weeks~~ 30 days before submission of the application
 2.11 the applicant ~~contacted, in writing,~~ held meetings with individual broadband service providers
 2.12 or held an open meeting for all entities providing broadband service in the proposed project
 2.13 area to ask for each broadband service provider's plan to upgrade broadband service in the
 2.14 project area to speeds that meet or exceed the state's broadband speed goals in section
 2.15 237.012, subdivision 1, within the time frame specified in the proposed grant activities;
- 2.16 (10) the attendance list of broadband service providers ~~written responses to the inquiry~~
 2.17 ~~made~~ providers from the meetings held under clause (9); and
- 2.18 (11) any additional information requested by the commissioner.

2.19 Sec. 3. Minnesota Statutes 2018, section 116J.395, subdivision 5a, is amended to read:

2.20 Subd. 5a. **Challenge process.** (a) Within three days of the close of the grant application
 2.21 process, the office shall publish on its website the proposed geographic broadband service
 2.22 area and the proposed broadband service speeds for each application submitted.

2.23 (b) An existing broadband service provider in or proximate to the proposed project area
 2.24 may, within 30 days of publication of the information under paragraph (a), submit in writing
 2.25 to the commissioner a challenge to an application. A challenge must contain information
 2.26 demonstrating that:

- 2.27 (1) the provider (i) currently provides broadband service, or (ii) has begun construction
 2.28 or undertaken permitting or other significant steps toward construction to provide broadband
 2.29 service₂ to the proposed project area at speeds equal to or greater than the state speed goal
 2.30 contained in section 237.012, subdivision ~~1~~ 2; ~~or~~ and

3.1 (2) the provider commits to complete construction of broadband infrastructure and
3.2 provide broadband service in the proposed project area at speeds equal to or greater than
3.3 the state speed goal contained in section 237.012, subdivision 4, no later than 18 months
3.4 after the date grant awards are made under this section for the grant cycle under which the
3.5 application was submitted. A provider awarded a grant under this section that has not
3.6 completed construction of the broadband infrastructure in the proposed project area within
3.7 18 months following the date the grant was awarded is prohibited from making an application
3.8 for a grant award for the two grant cycles following the 18-month period.

3.9 (c) The commissioner must evaluate the information submitted in a provider's challenge
3.10 under this section, and is prohibited from funding a project if the commissioner determines
3.11 that the provider's commitment to provide broadband service that meets the requirements
3.12 of paragraph (b) in the proposed project area is credible.

3.13 (d) If the commissioner denies funding to an applicant as a result of a broadband service
3.14 provider's challenge made under this section, and the broadband service provider does not
3.15 fulfill the provider's commitment to provide broadband service in the project area, the
3.16 commissioner is prohibited from denying funding to an applicant as a result of a challenge
3.17 by the same broadband service provider for the following two grant cycles, unless the
3.18 commissioner determines that the broadband service provider's failure to fulfill the provider's
3.19 commitment was the result of factors beyond the broadband service provider's control.

3.20 Sec. 4. Minnesota Statutes 2018, section 116J.395, subdivision 7, is amended to read:

3.21 Subd. 7. **Limitation.** (a) No grant awarded under this section may fund more than 50
3.22 percent of the total cost of a project unless the application area is within a designated tribal
3.23 area or the 128 qualified census tracts designated as a qualified opportunity zone by the
3.24 United States Treasury on May 18, 2018.

3.25 (b) Grants awarded to a single project under this section must not exceed \$5,000,000.

3.26 Sec. 5. Minnesota Statutes 2018, section 116J.395, is amended by adding a subdivision
3.27 to read:

3.28 Subd. 7a. **Performance bond.** The commissioner must require a performance bond for
3.29 a grant awarded to a broadband service provider that is under investigation at the time the
3.30 grant application is submitted or has been part of an investigation within the previous three
3.31 years by the Minnesota Public Utilities Commission for broadband service quality issues.
3.32 The commissioner may set the amount of the performance bond, except that the bond must
3.33 be at least five percent of the grant award amount.

- 4.1 **EFFECTIVE DATE.** This section is effective the day following final enactment and
- 4.2 applies to applications for projects made on or after June 30, 2019.