

As Introduced

133rd General Assembly

Regular Session

2019-2020

H. B. No. 190

Representative Smith, R.

**Cosponsors: Representatives Keller, Koehler, Lang, Carfagna, McClain, O'Brien,
Strahorn**

A BILL

To amend section 184.10 and to enact sections 1
122.97, 122.971, 122.972, 122.973, 122.974, 2
122.975, 122.976, 122.977, 122.978, 122.979, 3
122.9710, 122.9711, 122.9712, 122.9713, 4
122.9714, and 5511.11 of the Revised Code to 5
create the Ohio Broadband Development Grant 6
Program, to encourage the Department of 7
Transportation to work with telecommunications 8
providers to lay fiber optic cable, and to make 9
an appropriation. 10

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 184.10 be amended and sections 11
122.97, 122.971, 122.972, 122.973, 122.974, 122.975, 122.976, 12
122.977, 122.978, 122.979, 122.9710, 122.9711, 122.9712, 13
122.9713, 122.9714, and 5511.11 of the Revised Code be enacted 14
to read as follows: 15

Sec. 122.97. As used in sections 122.97 to 122.9714 of the 16
Revised Code: 17

(A) "Broadband service" means advanced telecommunications capability that meets the benchmarks of the federal communications commission's latest annual broadband progress report, as issued pursuant to section 706 of the Telecommunications Act of 1996, Pub. L. 104-104, 110 Stat. 56.

(B) "Broadband service provider" means an entity that provides broadband service.

(C) "Internet service" means internet access service that serves end users primarily at fixed endpoints using stationary equipment, including fixed wireless services and fixed satellite services, but does not meet the benchmarks of the federal communications commission's latest annual broadband progress report, as issued pursuant to section 706 of the Telecommunications Act of 1996, Pub. L. 104-104, 110 Stat. 56.

(D) "Internet service provider" means an entity that provides internet service.

(E) "Last-mile infrastructure" means broadband infrastructure that connects a broadband service provider's network to the end user customer's on-premise telecommunications equipment.

(F) "Middle-mile infrastructure" means broadband infrastructure that connects a broadband service provider's core network infrastructure to last-mile infrastructure.

(G) "Political subdivision" has the same meaning as in section 122.9511 of the Revised Code.

(H) "Project area" means an unserved area located within the state proposed to be served by broadband service through a grant issued under section 122.975 of the Revised Code.

(I) "Unserved area" means an area that does not have broadband service according to the latest state broadband map. 46
47

Sec. 122.971. The director of development services shall establish the Ohio broadband development grant program to provide funds to extend broadband service to unserved areas of the state. 48
49
50
51

Sec. 122.972. Recipients of a grant under the Ohio broadband development grant program shall use the funds for the construction of infrastructure to provide broadband service to unserved areas. Construction shall include the acquisition and installation of new middle-mile or last-mile infrastructure. Construction may also include any of the following: obtaining construction permits, construction of facilities, purchasing equipment, and installation and testing of the broadband service. 52
53
54
55
56
57
58
59
60

Sec. 122.973. The following may apply for a grant under the Ohio broadband development grant program: 61
62

(A) Private businesses; 63

(B) Political subdivisions; 64

(C) Nonprofit entities; 65

(D) Cooperatives. 66

Sec. 122.974. To apply for a grant under the Ohio broadband development grant program, an eligible applicant, as described in section 122.973 of the Revised Code, shall submit an application to the director of development services on a form prescribed by the director. The application shall include all of the following information: 67
68
69
70
71
72

(A) The location of the project area; 73

<u>(B) The kind and amount of broadband infrastructure to be installed for the project, including proposed speeds;</u>	74 75
<u>(C) Evidence that the project area is an unserved area;</u>	76
<u>(D) The number of households that will have access to broadband service as a result of the project;</u>	77 78
<u>(E) Significant community institutions that will benefit from the project;</u>	79 80
<u>(F) The total cost of the project;</u>	81
<u>(G) Sources of funding or in-kind contributions for the project that will supplement any grant award;</u>	82 83
<u>(H) The amount of grant money being sought;</u>	84
<u>(I) If the applicant is a political subdivision, evidence that not later than six weeks before submission of the application, the applicant contacted, in writing, all internet service providers providing internet service in the proposed project area, as depicted by the latest state broadband map, to ask for each internet service provider's plan to provide, within twenty-four months of the date that contact is made, broadband service in the project area to minimum upload and minimum download speeds that meet or exceed the benchmark upload and download speeds specified in the latest annual broadband progress report issued by the federal communications commission referenced in division (A) of section 122.97 of the Revised Code;</u>	85 86 87 88 89 90 91 92 93 94 95 96 97
<u>(J) Evidence of any responses by internet service providers to the inquiries described in division (I) of this section;</u>	98 99 100
<u>(K) Evidence demonstrating that the eligible applicant has</u>	101

the financial, technical, and managerial resources necessary to 102
complete the project and to provide ongoing maintenance and 103
upgrades to the broadband infrastructure; 104

(L) A business plan demonstrating that the broadband 105
service to be provided will be sustainable after the grant award 106
is exhausted; 107

(M) Any additional information requested by the director. 108

Sec. 122.975. (A) The director of development services 109
shall evaluate applications and award grants under the Ohio 110
broadband development grant program. The director shall 111
prioritize issuance of grant awards to applicants in the 112
following order: 113

(1) Applications for project areas that have internet 114
service at speeds not greater than 3 megabits per second for 115
downloads and 768 kilobits per second for uploads as depicted by 116
the latest state broadband map; 117

(2) Applications for project areas that have internet 118
service at speeds of 3 megabits per second or greater for 119
downloads and 768 kilobits per second or greater for uploads, 120
but not greater than 10 megabits per second for downloads and 1 121
megabit per second for uploads as depicted by the latest state 122
broadband map; 123

(3) Applications for project areas that have internet 124
service at speeds of 10 megabits per second or greater for 125
downloads and 1 megabit per second or greater for uploads, but 126
not greater than the speed benchmarks for broadband service as 127
defined in division (A) of section 122.97 of the Revised Code, 128
as depicted by the latest state broadband map. 129

(B) After classifying applications by priority under 130

division (A) of this section, the director shall further 131
evaluate applications within each classification to give 132
priority to applications that do any or all of the following: 133

(1) Offer new or substantially upgraded broadband service 134
to important community institutions, including, but not limited 135
to, libraries, educational institutions, public safety 136
facilities, and healthcare facilities; 137

(2) Facilitate the use of telemedicine and electronic 138
health records; 139

(3) Serve economically distressed areas of the state, as 140
measured by indices of unemployment, poverty, or population loss 141
that are significantly greater than the statewide average; 142

(4) Provide technical support and train residents, 143
businesses, and institutions in the community served by the 144
project to utilize broadband service; 145

(5) Include a plan to promote the newly available 146
broadband services in the community; 147

(6) Provide evidence of strong support for the project 148
from citizens, government, businesses, and institutions in the 149
community; 150

(7) Provide access to broadband service to a greater 151
number of unserved households and businesses; 152

(8) Leverage greater amounts of funding for the project 153
from public and private sources, including federal programs that 154
provide financial support for the deployment of new broadband 155
infrastructure; 156

(9) Encourage the development of new or existing 157
industries through the use of broadband service. 158

(C) The director shall endeavor to award grants under this 159
section to qualified applicants in geographically dispersed 160
regions of the state. 161

(D) The director shall provide public notice of each grant 162
awarded under the program. 163

(E) The director shall deny a grant application if any 164
internet service provider's written response described in 165
division (J) of section 122.974 of the Revised Code credibly 166
demonstrates that either of the following apply: 167

(1) The internet service provider currently provides or 168
has begun construction to provide broadband service in the 169
proposed project area at minimum upload and minimum download 170
speeds that meet or exceed the benchmark upload and download 171
speeds specified in the latest annual broadband progress report 172
issued by the federal communications commission referenced in 173
division (A) of section 122.97 of the Revised Code. 174

(2) The internet service provider credibly commits to 175
complete construction and provide broadband service in the 176
proposed project area at minimum upload and minimum download 177
speeds that meet or exceed the benchmark upload and download 178
speeds specified in the latest annual broadband progress report 179
issued by the federal communications commission referenced in 180
division (A) of section 122.97 of the Revised Code within 181
twenty-four months of the date the contact is made. 182

(F) (1) If the director denies funding to an applicant as a 183
result of an internet service provider's commitment made under 184
division (E) (2) of this section and the internet service 185
provider does not fulfill its commitment, the director shall be 186
prohibited for the following two grant cycles from denying 187

funding to an applicant for the same project area on the basis 188
of the same internet service provider providing a written 189
response under division (E) of this section. 190

(2) Division (F)(1) of this section shall not apply if the 191
director determines that the internet service provider's failure 192
to fulfill its commitment was the result of factors beyond the 193
internet service provider's control. 194

Sec. 122.976. Grant amounts awarded under section 122.975 195
of the Revised Code shall not exceed the lesser of: 196

(A) Fifty per cent of the total project cost; or 197

(B) Five million dollars. 198

Sec. 122.977. If a recipient of a grant awarded under 199
section 122.975 of the Revised Code does not spend all of the 200
funds awarded to the recipient, the director of development 201
services may, in the director's sole discretion, reallocate the 202
unspent funds to other grant applicants, provided that the 203
reallocation does not result in the total amount awarded to any 204
single applicant exceeding the limit set forth in section 205
122.976 of the Revised Code. 206

Sec. 122.978. An entity that provides broadband service in 207
the state may challenge a grant awarded under section 122.975 of 208
the Revised Code on the basis that the entity already provides 209
broadband service in the proposed project area. 210

Sec. 122.979. A challenge under section 122.978 of the 211
Revised Code shall meet the following requirements: 212

(A) It shall be made in writing; 213

(B) It shall include evidence demonstrating that the 214
entity provides broadband service in the proposed project area, 215

<u>including either of the following:</u>	216
<u>(1) Form 477 the entity filed with the federal</u>	217
<u>communications commission for the current or preceding calendar</u>	218
<u>year;</u>	219
<u>(2) Invoices for broadband service subscriptions for the</u>	220
<u>current or preceding calendar year within the proposed project</u>	221
<u>area.</u>	222
<u>(C) It shall be received by the director of development</u>	223
<u>services not later than thirty days after public notice of the</u>	224
<u>grant award is issued under division (D) of section 122.975 of</u>	225
<u>the Revised Code.</u>	226
<u>Sec. 122.9710. The entity making a challenge under section</u>	227
<u>122.978 of the Revised Code shall provide a copy of the</u>	228
<u>challenge to the grant recipient.</u>	229
<u>Sec. 122.9711. (A) Not later than thirty days after</u>	230
<u>receiving a challenge under section 122.978 of the Revised Code,</u>	231
<u>the director of development services shall review the challenge</u>	232
<u>and do one of the following:</u>	233
<u>(1) Reject the challenge on the basis of incomplete or</u>	234
<u>insufficient evidence of broadband service in the project area;</u>	235
<u>(2) Allow the grant recipient to revise its application to</u>	236
<u>remove the challenged area from the proposed project;</u>	237
<u>(3) Terminate the grant award and reallocate the funds to</u>	238
<u>another applicant in accordance with section 122.977 of the</u>	239
<u>Revised Code.</u>	240
<u>(B) If the director makes a determination under division</u>	241
<u>(A) (2) of this section, the director shall modify the grant</u>	242
<u>award for the proposed project accordingly.</u>	243

Sec. 122.9712. An applicant that receives a grant under 244
section 122.975 of the Revised Code shall own the infrastructure 245
installed pursuant to the grant award, and shall be responsible 246
for ongoing maintenance and upgrades to such infrastructure. 247

Sec. 122.9713. The director of development services shall 248
seek out gifts, grants, donations, and pledges to provide 249
funding for the grant program. 250

Sec. 122.9714. The director of development services shall 251
adopt rules under Chapter 119. of the Revised Code necessary to 252
implement sections 122.97 to 122.9714 of the Revised Code. The 253
rules shall include procedures governing the application and 254
grant-award processes. 255

Sec. 184.10. As used in sections 184.10 to 184.20 of the 256
Revised Code: 257

(A) "In-state entity" includes individuals, public and 258
private entities, agencies, and institutions, private companies 259
or organizations, partnerships, business trusts, or other 260
business entities or ventures, or research organizations, 261
whether for profit or not for profit, that have substantial 262
presence in Ohio. 263

(B) "Research and development projects" means projects or 264
activities in support of Ohio industry, commerce, and business, 265
which include, without limitation, research and product 266
innovation, development, and commercialization through efforts 267
by, and may include collaboration among, Ohio business and 268
industry, state and local public entities and agencies, public 269
and private institutions, research organizations, or other in- 270
state entities specifically formed for the sole purpose of both 271
investing in and providing direct management support to any one 272

or combination of any of the foregoing entities or any other in- 273
state entities. Those projects and activities also include 274
projects and activities supporting any and all matters related 275
to research and development purposes including: attracting 276
researchers and research teams by endowing chairs or otherwise; 277
developing and commercializing products and processes; 278
promoting, developing, and securing intellectual property 279
matters and rights such as copyrights and patents; promoting, 280
developing, and securing property interests, including time 281
sharing arrangements; ~~and~~ promoting, developing, and securing 282
financial rights and matters such as royalties, licensing, and 283
other financial gain or sharing resulting from research and 284
development; and evaluating and overseeing the expansion of 285
broadband service to unserved areas of the state under sections 286
122.97 to 122.9714 of the Revised Code. 287

Sec. 5511.11. The director of transportation is hereby 288
encouraged to work with telecommunications providers in an 289
effort to lay fiber optic cable on or near state highways when 290
creating new or fixing existing state highways. 291

Section 2. That existing section 184.10 of the Revised 292
Code is hereby repealed. 293

Section 3. All items in this section are hereby 294
appropriated as designated out of any moneys in the state 295
treasury to the credit of the designated fund. For all 296
appropriations made in this act, those in the first column are 297
for fiscal year 2020 and those in the second column are for 298
fiscal year 2021. The appropriations made in this act are in 299
addition to any other appropriations made for the FY 2020-FY 300
2021 biennium. 301

DEV DEVELOPMENT SERVICES AGENCY 302

Facilities Establishment Fund Group			303
7037 195632 Broadband Development	\$50,000,000	\$50,000,000	304
Grant Program			305
TOTAL FCE Facilities Establishment			306
Fund Group	\$50,000,000	\$50,000,000	307
TOTAL ALL BUDGET FUND GROUPS	\$50,000,000	\$50,000,000	308
BROADBAND DEVELOPMENT GRANT PROGRAM			309
The foregoing appropriation item 195632, Broadband			310
Development Grant Program, shall be used to award grants under			311
the Ohio Broadband Development Grant Program as described in			312
sections 122.97 to 122.9714 of the Revised Code.			313
Section 4. Within the limits set forth in this act, the			314
Director of Budget and Management shall establish accounts			315
indicating the source and amount of funds for each appropriation			316
made in this act and shall determine the form and manner in			317
which appropriation accounts shall be maintained. Expenditures			318
from appropriations contained in this act shall be accounted for			319
as though made in the main operating appropriations act of the			320
133rd General Assembly.			321
The appropriations made in this act are subject to all			322
provisions of the main operating appropriations act of the 133rd			323
General Assembly that are generally applicable to such			324
appropriations.			325