

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2071 Session of 2021

INTRODUCED BY CAUSER, SNYDER, OWLETT, MARSHALL, PICKETT, MATZIE, MAJOR AND T. DAVIS, NOVEMBER 9, 2021

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, NOVEMBER 17, 2021

AN ACT

1 Amending Title 64 (Public Authorities and Quasi-Public
2 Corporations) of the Pennsylvania Consolidated Statutes,
3 establishing the Pennsylvania Broadband Development Authority
4 to provide broadband Internet access to unserved AND <--
5 UNDERSERVED residents; and providing for powers and duties of
6 the authority and for grant awards.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Title 64 of the Pennsylvania Consolidated
10 Statutes is amended by adding a chapter to read:

11 CHAPTER 61

12 PENNSYLVANIA BROADBAND DEVELOPMENT AUTHORITY

13 Subchapter

14 A. General Provisions

15 B. Structure and Governance

16 C. Powers and Duties

17 SUBCHAPTER A

18 GENERAL PROVISIONS

19 Sec.

1 6101. Scope of chapter.

2 6102. Definitions.

3 § 6101. Scope of chapter.

4 This chapter relates to the development and expansion of
5 broadband services to unserved AND UNDERSERVED areas of this <--
6 Commonwealth.

7 § 6102. Definitions.

8 The following words and phrase as used in this chapter shall
9 have the meanings given to them in this section unless the
10 context clearly indicates otherwise:

11 "Applicant." ~~A nongovernmental~~ AN entity that submits an <--
12 application for a grant under section 6124 (relating to grant
13 applications and process)-, INCLUDING, BUT NOT LIMITED TO, A <--
14 COOPERATIVE, NONPROFIT ORGANIZATION, PUBLIC-PRIVATE PARTNERSHIP,
15 PRIVATE COMPANY, PUBLIC OR PRIVATE UTILITY, PUBLIC UTILITY
16 DISTRICT OR LOCAL GOVERNMENT.

17 "Authority." The Pennsylvania Broadband Development
18 Authority established under section 6111(a) (relating to
19 authority).

20 "Board." The board of directors of the Pennsylvania
21 Broadband Development Authority established under section 6112
22 (relating to board).

23 "COMMUNITY ANCHOR INSTITUTION." AN ENTITY, INCLUDING ANY <--
24 SCHOOL, LIBRARY, HEALTH CLINIC, HEALTH CENTER, HOSPITAL OR OTHER
25 MEDICAL PROVIDER, PUBLIC SAFETY ENTITY, INSTITUTION OF HIGHER
26 EDUCATION, PUBLIC HOUSING ORGANIZATION OR COMMUNITY SUPPORT
27 ORGANIZATION, THAT FACILITATES GREATER USE OF BROADBAND SERVICE
28 BY VULNERABLE POPULATIONS, INCLUDING LOW-INCOME INDIVIDUALS,
29 UNEMPLOYED INDIVIDUALS AND AGED INDIVIDUALS, THAT LACK ACCESS TO
30 GIGABIT-LEVEL BROADBAND SERVICE.

1 "Department." The Department of Community and Economic
2 Development.

3 ~~"Eligible cost." The cost of all labor, materials, machinery <--~~
4 ~~and equipment, land, property, rights and easements, plans and~~
5 ~~specifications, surveys or estimates of costs and revenues,~~
6 ~~prefeasibility studies, engineering and legal services and all~~
7 ~~other expenses necessary or incident to the acquisition,~~
8 ~~construction, improvement, expansion, extension, repair or~~
9 ~~rehabilitation of all or part of a project.~~

10 "High-speed broadband service." Wireless, wireline or fixed
11 wireless technology having A LATENCY SUFFICIENT TO SUPPORT REAL- <--
12 TIME, INTERACTIVE APPLICATIONS AND the capacity to reliably and
13 consistently transmit data from or to the Internet at:

14 (1) minimum speeds of at least 100 megabits per second
15 downstream and 20 megabits per second upstream; ~~or~~ <--

16 (2) minimum speeds adopted by the Federal Communications
17 Commission, ~~whichever is greater.~~; OR <--

18 (3) MINIMUM SPEEDS OTHERWISE REQUIRED TO COMPLY WITH
19 FUNDING OPPORTUNITIES FROM THE FEDERAL GOVERNMENT, WHICHEVER
20 IS GREATER.

21 "Overbuild." The deployment of high-speed broadband service
22 infrastructure in an area that is not unserved OR UNDERSERVED. <--

23 "Program." The grant program established under section
24 6123(a) (relating to grant awards generally).

25 "Statewide broadband plan." The Statewide broadband plan
26 developed under section 6122(g) (relating to specific powers and
27 duties).

28 ~~"Unserved area." A project area without access to wireline <--~~
29 ~~or fixed wireless broadband service at the greater of:~~

30 ~~(1) minimum speeds of at least 100 megabits per second~~

~~downstream and 20 megabits per second upstream; or~~

~~(2) minimum speeds adopted by the Federal Communications Commission.~~

~~"Wireless infrastructure program manager." An entity~~

~~currently contracted with to do any of the following:~~

~~(1) Analyze, market, manage the occupancy of or handle revenues relating to Commonwealth owned assets or neutral host systems for revenue generating purposes.~~

~~(2) Construct, retrofit, upgrade or, through agreement with other providers, facilitate the construction of new telecommunications equipment on Commonwealth owned land, facilities or rights of way.~~

~~(3) Enter into site occupancy agreements for assets and telecommunications equipment with service providers that will facilitate the deployment of broadband services to consumers.~~

~~"UNDERSERVED AREA." A PROJECT AREA THAT IS NOT AN UNSERVED LOCATION AND LACKS ACCESS TO RELIABLE BROADBAND SERVICE OFFERED WITH A SPEED OF NOT LESS THAN 100 MEGABITS PER SECOND FOR DOWNLOADS AND 20 MEGABITS PER SECOND FOR UPLOADS AND A LATENCY SUFFICIENT TO SUPPORT REAL-TIME, INTERACTIVE APPLICATIONS.~~ <--

~~"UNSERVED AREA." A PROJECT AREA THAT HAS NO ACCESS TO BROADBAND SERVICE OR LACKS ACCESS TO RELIABLE BROADBAND SERVICE WITH A SPEED OF NOT LESS THAN 25 MEGABITS PER SECOND FOR DOWNLOADS AND THREE MEGABITS PER SECOND FOR UPLOADS AND A LATENCY SUFFICIENT TO SUPPORT REAL-TIME, INTERACTIVE APPLICATIONS.~~

SUBCHAPTER B

STRUCTURE AND GOVERNANCE

Sec.

6111. Authority.

1 6112. Board.

2 6113. Audits.

3 6114. Annual report.

4 6115. Trust accounts.

5 6116. Use of money of authority.

6 § 6111. Authority.

7 (a) Establishment.--The Pennsylvania Broadband Development
8 Authority is established as an independent authority. The
9 authority shall be an instrumentality of the Commonwealth and a
10 body corporate and politic, with corporate succession. The
11 exercise by the authority of the powers conferred on the
12 authority by this chapter shall be deemed and held to be a
13 public and essential government function.

14 (b) Governance.--The authority shall be governed by a board
15 of directors as provided in section 6112 (relating to board).
16 The powers of the authority shall be exercised by the board.

17 (c) Fiscal year.--The fiscal year of the authority shall be
18 the same as the fiscal year of the Commonwealth.

19 (d) Dissolution.--Upon dissolution of the authority, all
20 property, money and assets of the authority shall be vested in
21 the Commonwealth. The authority shall dissolve upon the elapse
22 of six years from the effective date of this section~~;~~, UNLESS <--
23 OTHERWISE EXTENDED BY THE GENERAL ASSEMBLY. NO LATER THAN SIX
24 MONTHS PRIOR TO THE DISSOLUTION OF THE AUTHORITY UNDER THIS
25 SUBSECTION, THE AUTHORITY SHALL SUBMIT A REPORT TO THE GENERAL
26 ASSEMBLY. THE REPORT SHALL INCLUDE A STATUS OF ALL PROJECTS
27 UNDER THIS CHAPTER, A RECOMMENDATION OF WHETHER THE AUTHORITY
28 NEEDS ADDITIONAL TIME TO ACCOMPLISH THE PURPOSES OF THIS CHAPTER
29 AND THE ANTICIPATED TIMELINE FOR COMPLETION OF THE AUTHORITY'S
30 WORK.

1 (e) Procurement.--The authority shall be considered an
2 independent agency for purposes of 62 Pa.C.S. Pt. I (relating to
3 Commonwealth Procurement Code).

4 (f) Applicability.--The following acts shall apply to the
5 authority and the board:

6 (1) The act of July 19, 1957 (P.L.1017, No.451), known
7 as the State Adverse Interest Act.

8 (2) The act of February 14, 2008 (P.L.6, No.3), known as
9 the Right-to-Know Law.

10 (3) The provisions of 65 Pa.C.S. Chs. 7 (relating to
11 open meetings) and 11 (relating to ethics standards and
12 financial disclosure).

13 § 6112. Board.

14 (a) Composition.--

15 (1) The board of directors of the authority shall
16 consist of members selected as follows:

17 (i) The Secretary of Agriculture or a designee.

18 (ii) The Secretary of Community and Economic
19 Development or a designee.

20 (iii) The Secretary of Education or a designee.

21 (iv) The ~~chair~~ EXECUTIVE DIRECTOR of the Center for <--
22 Rural Pennsylvania or a designee.

23 (v) The chair of the Pennsylvania Public Utility
24 Commission or a designee.

25 (vi) The ~~executive director of the Governor's Office~~ <--
26 ~~of Broadband Initiatives~~ SECRETARY OF GENERAL SERVICES or <--
27 a designee.

28 (vii) ~~One individual appointed by the Governor~~ THE <--
29 SECRETARY OF THE BUDGET OR A DESIGNEE.

30 (viii) One individual appointed by the President pro

1 tempore of the Senate.

2 (ix) One individual appointed by the Minority Leader
3 of the Senate.

4 (x) One individual appointed by the Speaker of the
5 House of Representatives.

6 (xi) One individual appointed by the Minority Leader
7 of the House of Representatives.

8 (2) A member ~~appointed~~ under paragraph (1)(viii), (ix), <--
9 (x) or (xi) ~~may~~ SHALL be a member or employee of the General <--
10 Assembly.

11 (b) Organization.--The Governor shall select a member of the
12 board to serve as chairperson. The members shall select from
13 among themselves such officers as they deem necessary.

14 (c) Quorum and meetings.--

15 (1) ~~Five~~ SIX members of the board shall constitute a <--
16 quorum. The following shall apply:

17 (i) The consent of no fewer than ~~five~~ SIX members of <--
18 the board, with four of the consenting members ~~being~~ <--
19 ~~appointed~~ AS SPECIFIED under subsection (a)(1)(vii), <--
20 (viii), (ix), (x) or (xi), shall be necessary to take
21 action on ~~or~~ AND make a commitment on behalf of the <--
22 authority for any of the following: <--

23 ~~(A) Disbursing, encumbering, obligating or~~
24 ~~otherwise committing funds of any nature.~~

25 ~~(B) Adopting a Statewide broadband plan.~~

26 ~~(C) A legal binding or commitment of the~~
27 ~~authority.~~

28 ~~(D) Adopting guidelines, issuing directives,~~
29 ~~declaring policy goals or publishing documents or~~
30 ~~statements on the authority's behalf.~~

1 ~~(E) Scheduling meetings of the board.~~

2 ~~(F) Extending a moratorium on a wireless tower~~
3 ~~sitting on property owned or controlled by the~~
4 ~~Department of Conservation and Natural Resources.~~
5 ~~During the period when the authority is in existence,~~
6 ~~a current moratorium or effective moratorium shall~~
7 ~~not be valid on or after the effective date of this~~
8 ~~section unless explicitly approved by the authority~~
9 ~~in accordance with this chapter. Any revenues derived~~
10 ~~by the Commonwealth or a State agency from a contract~~
11 ~~for a wireless tower sitting shall be used for the~~
12 ~~program or transferred by the State Treasurer into~~
13 ~~the General Fund upon the dissolution of the~~
14 ~~authority under section 6111(d) (relating to~~
15 ~~authority).~~

16 ~~(G) Authorizing an agreement between the~~
17 ~~Commonwealth or a Commonwealth agency or department~~
18 ~~with a wireless infrastructure program manager. A~~
19 ~~contract affected by the provisions of this clause~~
20 ~~shall be unenforceable after the effective date of~~
21 ~~this section and construed based on a change in~~
22 ~~applicable State law. UNDER SECTION 6121(1), (2),~~ <--
23 ~~(3), (4), (5) AND (6) (RELATING TO CORPORATE POWERS~~
24 ~~AND DUTIES IN GENERAL).~~

25 ~~(ii) A majority of the board shall be necessary to~~
26 ~~take any other action not specified under subparagraph~~
27 ~~(i) on behalf of the authority.~~

28 ~~(2) The board shall meet to conduct official business no~~
29 ~~less than once a month A QUARTERLY BASIS.~~ <--

30 ~~(d) Designees.--A public officer member of the board may~~

1 designate an officer or employee of the Commonwealth to
2 represent the public officer member at meetings of the board.
3 Each designee may lawfully vote and otherwise act on behalf of
4 the public officer member. The designation shall be in writing
5 delivered to the authority and shall continue in effect until
6 revoked or amended in writing delivered to the authority.

7 (e) Services.--

8 (1) The department shall provide administrative services
9 and staff, including legal counsel staff, to the authority
10 and the board. The authority shall reimburse the department
11 for the cost of providing the administrative services and
12 staff under this paragraph.

13 (2) The authority ~~may~~ SHALL enter into an agreement with <--
14 the department specifying the rights and obligations that the
15 authority and department have in administering their duties
16 required under this chapter to implement the purposes of this
17 chapter.

18 (f) Compensation.--The members of the board shall not be
19 entitled to compensation for service. ~~The members of the board~~ <--
20 ~~shall be entitled to reimbursement for all necessary and~~
21 ~~reasonable expenses incurred in connection with the performance~~
22 ~~of their duties.~~

23 (g) Fiduciary relationship.--The members of the board and
24 the professional personnel of the board shall stand in a
25 fiduciary relationship with the Commonwealth and the authority
26 as to the money and investments of the authority.

27 § 6113. Audits.

28 The accounts and books of the authority, including its
29 receipts, disbursements, contracts, mortgages, investments and
30 other matters relating to its finances, operations and affairs,

1 shall be examined and audited by the Auditor General.

2 § 6114. Annual report.

3 The board shall provide the Governor and the General Assembly
4 with an annual report by ~~December~~ MARCH 31 of each year <--
5 detailing all high-speed infrastructure projects funded under
6 section 6123 (relating to grant awards generally). The annual
7 report shall be published and maintained on the authority's
8 publicly accessible Internet website and may be submitted to the
9 Governor and the General Assembly by electronic mail.

10 § 6115. Trust accounts.

11 The authority may establish trust accounts for the deposit of
12 money available to the authority for the purposes of this
13 chapter.

14 § 6116. Use of money of authority.

15 (a) Use.--The board shall use the money available to the
16 authority to fund the program as necessary.

17 (b) Administrative expenses.--The authority ~~may~~ SHALL use <--
18 the money available to the authority to pay the administrative
19 expenses of the department and the authority incurred under this
20 chapter.

21 SUBCHAPTER C

22 POWERS AND DUTIES

23 Sec.

24 6121. Corporate powers and duties in general.

25 6122. Specific powers and duties.

26 6123. Grant awards generally.

27 6124. Grant applications and process.

28 § 6121. Corporate powers and duties in general.

29 The authority shall have and may exercise all powers
30 necessary or appropriate to carry out and effectuate ~~disbursal~~ <--

1 ~~as the fiscal agent for grants under this chapter and shall~~
2 ~~receive and review grant applications, award grants and develop~~
3 ~~a Statewide broadband plan under section 6122(g) (relating to~~
4 ~~specific powers and duties).~~ THE AUTHORITY'S PURPOSES UNDER THIS <--
5 CHAPTER, INCLUDING THE FOLLOWING:

6 (1) ADOPT BYLAWS, IF NECESSARY.

7 (2) MAKE AND EXECUTE CONTRACTS, GRANTS AND OTHER
8 INSTRUMENTS.

9 (3) APPLY FOR AND RECEIVE MONEY FROM ANY SOURCE
10 CONSISTENT WITH THE PURPOSES OF THIS CHAPTER, INCLUDING
11 LETTERS OF INTENT AND PROPOSALS UNDER SECTION 6122(F)
12 (RELATING TO SPECIFIC POWERS AND DUTIES).

13 (4) ESTABLISH PRIORITIES FOR AND ALLOCATE AND DISBURSE
14 MONEY RECEIVED CONSISTENT WITH THE PURPOSES OF THIS CHAPTER.

15 (5) ESTABLISH SUBCOMMITTEES COMPOSED OF MEMBERS OF THE
16 BOARD OR NONMEMBERS OF THE BOARD TO CONSULT WITH AND ADVISE
17 THE AUTHORITY.

18 (6) ADOPT A STATEWIDE BROADBAND PLAN.

19 (7) PERFORM OTHER OPERATIONAL ACTIVITIES NECESSARY OR
20 APPROPRIATE TO FURTHER THE PURPOSES OF THIS CHAPTER.

21 § 6122. Specific powers and duties.

22 (a) Single point of contact.--The authority shall aim to
23 serve as a single point of contact for entities wishing to
24 engage in broadband development and deployment in this
25 Commonwealth, including coordination of public and private
26 efforts to avoid overbuilding of capacity in any given
27 geographic area and to efficiently utilize existing
28 infrastructure.

29 (b) Funding resource base.--In addition to providing the
30 financial assistance authorized by this chapter to support

1 broadband deployment, the authority shall identify and promote
2 opportunities to access Federal funding, nongovernmental
3 organization funding and other funding opportunities to
4 eliminate duplicative funding requests and synthesize multiple-
5 provider joint efforts in any given geographic area.

6 (c) Cooperation of other Commonwealth entities.--All
7 Commonwealth agencies and departments charged with specific
8 aspects of broadband development and deployment shall
9 communicate and cooperate with the authority so that the
10 authority can maintain a centralized database of all broadband
11 deployment activities occurring within this Commonwealth to
12 avoid duplication of efforts as well as provide consultation on
13 their respective areas of expertise.

14 (d) Educational materials.--The authority may develop
15 educational materials and engage in public information campaigns
16 to encourage adoption of broadband where currently available and
17 increase consumer understanding of the need for broadband access
18 for all Commonwealth residents.

19 (e) ~~Municipal guidance~~ BEST PRACTICES.--The authority may <--
20 develop ~~guidelines~~ BEST PRACTICES for municipalities to assist <--
21 in streamlining zoning processes in order to expedite broadband
22 deployment.

23 (f) Letters of intent and proposals.--The authority shall be
24 responsible for drafting and filing all letters of intent,
25 initial and final proposals or other correspondence as required
26 to maximize access to the Broadband Equity, Access, and
27 Deployment Program as administered by the United States
28 Department of Commerce.

29 (g) Broadband plan.--The authority shall develop an <--
30 ~~enforceable~~ A Statewide broadband plan in collaboration with <--

1 local and regional entities to advance broadband buildout, <--
2 INCLUDING EQUITABLE ACCESS AND DIGITAL LITERACY COMPONENTS, for
3 the benefit of residents of this Commonwealth and as necessary
4 to facilitate access of ~~nongovernmental entities~~ APPLICANTS to <--
5 funding opportunities from the Federal Government. THE STATEWIDE <--
6 BROADBAND PLAN SHALL ALSO INCORPORATE OPPORTUNITIES TO UTILIZE
7 COMMONWEALTH ASSETS TO THE EXTENT PRACTICABLE. The Statewide
8 broadband plan shall inure as expeditiously as possible and no
9 later than one year from the effective date of this section. A
10 political subdivision shall have the opportunity to ~~submit a~~ <--
11 ~~localized broadband plan to the authority and comment upon an~~
12 initial Statewide broadband plan proposal of the authority.
13 § 6123. Grant awards generally.
14 (a) Authorization.--The authority shall award grants under a <--
15 ~~program~~ ONE OR MORE PROGRAMS established by the authority, and <--
16 the amount of the grants shall be limited to the money available
17 to the authority. The authority shall aim to disburse all money
18 available before dissolution under section 6111(d) (relating to
19 authority).
20 (b) Eligible entities.--~~A nongovernmental entity~~ AN <--
21 APPLICANT with the technical, managerial and financial expertise
22 to design, build and operate high-speed broadband service
23 infrastructure within this Commonwealth shall be eligible to
24 receive a grant from the authority for the deployment of the
25 high-speed broadband service infrastructure. In order to qualify
26 for a grant from the authority, the ~~nongovernmental entity~~ <--
27 APPLICANT shall commit to investing a minimum ~~of 25%~~ AMOUNT of <--
28 the entity's private capital to finance a proposed high-speed
29 broadband service infrastructure project AS DETERMINED BY THE <--
30 AUTHORITY IN ACCORDANCE WITH FEDERAL LAW AND GUIDANCE.

1 (c) Other funding sources.--A Federal, State or local
2 government grant, loan or subsidy received by a nongovernmental <--
3 entity AN APPLICANT to finance a proposed high-speed broadband <--
4 service infrastructure project shall not be counted toward the
5 private capital investment requirement under subsection (b). A <--
6 nongovernmental entity UNLESS OTHERWISE DETERMINED BY THE <--
7 AUTHORITY. AN APPLICANT may use a Federal, State or local
8 government grant, loan or subsidy to finance a proposed high-
9 speed broadband service infrastructure project under subsection
10 (b) if the entity satisfies the private capital investment
11 requirement under subsection (b).

12 (d) Ineligible projects.--Proposed projects that will result
13 in overbuild or are to be managed or operated by a Federal, OR <--
14 State or local government entity shall be ineligible to receive <--
15 a grant from the authority under this section.

16 § 6124. Grant applications and process.

17 (a) Application period.--The authority shall establish an
18 annual application period during which applications for grants <--
19 under section 6123 (relating to grant awards generally) may be
20 submitted to the authority. The annual application period under <--
21 this subsection shall be for a period of no less than 90 60 days <--
22 and no longer than 150 120 days. <--

23 (b) Form and contents.--An application for a grant under
24 section 6123 shall be submitted to the authority and shall
25 include all of the following information: <--

26 (1) Evidence demonstrating the applicant's experience
27 and ability in building, operating and managing high speed
28 broadband network service or utility service serving
29 households and businesses.

30 (2) A description of the proposed high speed broadband

1 ~~service infrastructure project area, including a list of~~
2 ~~census blocks covered by the proposed deployment. If a census~~
3 ~~block included in an application is currently partially~~
4 ~~served by a provider of high speed broadband service, the~~
5 ~~application shall describe the portions of the census block~~
6 ~~that are already served by the provider and the portions that~~
7 ~~constitute an unserved area.~~

8 ~~(3) A certification that none of the grant funds for the~~
9 ~~proposed high speed broadband service infrastructure project~~
10 ~~will be used to extend or deploy high speed broadband service~~
11 ~~infrastructure to areas with access to high speed broadband~~
12 ~~service at the time of the submission of the application and~~
13 ~~acknowledgment that grant funds utilized for overbuilding may~~
14 ~~be subject to refund or clawback by the authority and the~~
15 ~~Auditor General, regardless of the dissolution of the~~
16 ~~authority under section 6111(d) (relating to authority).~~
17 ~~Grant funds that are subject to repayment shall be made~~
18 ~~available for the Unserved High Speed Broadband Funding~~
19 ~~Program.~~

20 ~~(4) A description of the high speed broadband service~~
21 ~~infrastructure that is proposed to be deployed, including~~
22 ~~facilities, equipment and network capabilities, minimum speed~~
23 ~~thresholds and a timeline for deployment.~~

24 ~~(5) The number of households and businesses that would~~
25 ~~have new or improved access to high speed broadband service~~
26 ~~as a result of the grant award.~~

27 ~~(6) The total cost of the proposed high speed broadband~~
28 ~~service infrastructure project and the proposed completion~~
29 ~~date of the project.~~

30 ~~(7) The amount of private capital pledged to finance the~~

~~proposed high speed broadband service infrastructure project and a certification that no portion of the private capital pledged is derived from a Federal, State or local government grant, loan or subsidy program.~~

~~(8) Evidence demonstrating the economic and commercial feasibility of the proposed high speed broadband service infrastructure project.~~

~~(9) A list of each Federal, State or local government authorization, permit or other required approval to deploy high speed broadband service infrastructure and a timetable for the applicant's acquisition of each authorization, permit or other required approval.~~

~~(10) Any other information required by the authority.~~

~~INFORMATION REQUIRED BY FEDERAL LAW OR GUIDANCE OR ANY OTHER INFORMATION REQUIRED BY THE AUTHORITY. THE AUTHORITY SHALL DEVELOP AN APPLICATION FORM AND POST AND MAKE THE APPLICATION FORM AVAILABLE ON THE AUTHORITY'S PUBLICLY ACCESSIBLE INTERNET WEBSITE.~~

~~(c) Availability for review.--Within five 10 business days after the expiration of the application period under subsection (a), the authority shall make the applications received PROPOSED UNSERVED OR UNDERSERVED AREAS AND THE COMMUNITY ANCHOR INSTITUTIONS available for review on the authority's publicly accessible Internet website.~~

~~(d) Overbuild challenges.--Within 45 days of the authority making the applications available on the authority's publicly accessible Internet website under subsection (c), a broadband service provider providing high speed broadband service to households and businesses within a proposed high speed broadband service infrastructure project area may challenge an application~~

1 BEFORE AWARDING GRANT FUNDS UNDER SECTION 6123, THE AUTHORITY <--
2 SHALL ENSURE A TRANSPARENT, EVIDENCE-BASED AND EXPEDITIOUS
3 CHALLENGE PROCESS UNDER WHICH A UNIT OF LOCAL GOVERNMENT,
4 NONPROFIT ORGANIZATION OR BROADBAND SERVICE PROVIDER MAY
5 CHALLENGE A PROPOSED PROJECT on the grounds that awarding a
6 grant under section 6123 to the applicant will result in an
7 overbuild. A AFTER RESOLVING EACH CHALLENGE UNDER THIS <--
8 SUBSECTION, AND NOT LATER THAN 60 DAYS BEFORE AWARDING GRANT
9 FUNDS UNDER SECTION 6123, THE AUTHORITY SHALL PROVIDE PUBLIC
10 NOTICE OF THE FINAL CLASSIFICATION OF EACH UNSERVED AND
11 UNDERSERVED LOCATION OR COMMUNITY ANCHOR INSTITUTION WITHIN THE
12 COMMONWEALTH. A UNIT OF LOCAL GOVERNMENT, NONPROFIT ORGANIZATION
13 OR OTHER broadband service provider shall submit a challenge
14 under this subsection in writing to the authority, and the
15 challenge shall include all of the following information:

16 (1) A declaration disputing that the proposed high-speed
17 broadband service infrastructure project area is unserved OR <--
18 UNDERSERVED.

19 (2) An affidavit from the broadband service provider of
20 the provider's existing or planned provision of high-speed
21 broadband service within the proposed high-speed broadband
22 service infrastructure project area.

23 (e) Review.--In reviewing an application and any
24 accompanying challenge under this section, the authority shall
25 ensure that the grant award under section 6123 is used to deploy
26 high-speed broadband service infrastructure to unserved OR <--
27 UNDERSERVED areas. The authority may not award a grant under
28 section 6123 to fund deployment of high-speed broadband service
29 infrastructure for a project area that results in an overbuild.

30 (f) Criteria.--The authority shall award grants under

1 section 6123 for proposed high-speed broadband service
2 infrastructure projects based upon a scoring system, which shall
3 be released to the public at least 30 days before the beginning
4 of the application period under subsection (a). The authority
5 shall consider all of the following criteria when weighing or
6 scoring an application for a grant under section 6123:

7 (1) The size and scope of the unserved OR UNDERSERVED <--
8 area to be deployed.

9 (2) The experience, technical ability and financial
10 capability of the applicant to successfully deploy high-speed
11 broadband service infrastructure and provide high-speed
12 broadband service.

13 (3) The length of time which the applicant has been
14 providing high-speed broadband or utility service.

15 (4) The extent to which Federal, State or local
16 government funding support is necessary to deploy high-speed
17 broadband network infrastructure in an economically feasible
18 manner in the proposed project area.

19 (5) The proportion of the private capital pledged by the
20 applicant to finance the proposed high-speed broadband
21 service infrastructure project under subsection (b).

22 (6) The high-speed broadband service speed thresholds
23 proposed in the application and the scalability of the high-
24 speed broadband service infrastructure proposed to be
25 deployed to provide high-speed broadband service to
26 households and businesses.

27 (7) An affidavit that no grant funding shall be used to
28 overbuild an area that is already served with high-speed
29 broadband service.

30 (8) Other factors which the authority determines to be

1 reasonable and appropriate for the purposes of this chapter.

2 (g) Regulatory obligations.--In awarding grants under
3 section 6123, except as required under applicable Federal or <--
4 State law, the authority shall not consider any additional
5 regulatory obligations, including open access network <--
6 requirements, or any rate, service or other obligation beyond
7 the speed requirements set forth in the definition of "high
8 speed broadband service." EXCEPT AS REQUIRED UNDER APPLICABLE <--
9 FEDERAL OR STATE LAW.

10 (h) Time for project completion.--Applicants shall be <--
11 afforded a reasonable length of time to complete proposed high
12 speed broadband service infrastructure projects selected for
13 grants under section 6123. APPLICANTS SHALL DEPLOY THE BROADBAND <--
14 NETWORK AND BEGIN PROVIDING SERVICE TO EACH CUSTOMER THAT
15 DESIRES SERVICE NOT LATER THAN FOUR YEARS AFTER THE DATE IN
16 WHICH THE APPLICANT RECEIVES A GRANT UNLESS OTHERWISE EXTENDED
17 BY THE AUTHORITY AS ALLOWED BY FEDERAL LAW AND GUIDANCE. Grant
18 funds awarded to an applicant who fails to complete a proposed
19 high-speed broadband service infrastructure project within a <--
20 reasonable length of time FOUR YEARS, UNLESS OTHERWISE EXTENDED <--
21 BY THE AUTHORITY, may be subject to refund or clawback by the
22 authority and OR the Auditor General, regardless of the <--
23 dissolution of the authority under section 6111(d). Grant funds
24 that are subject to repayment shall be made available for the
25 Unserved High-Speed Broadband Funding Program.

26 Section 2. This act shall take effect in 60 days.