



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-4652/1
MDK&JK:kjf

2017 SENATE BILL 847

February 21, 2018 - Introduced by Senators VINEHOUT, RINGHAND and CARPENTER, cosponsored by Representatives VRUWINK, ANDERSON, SARGENT, NOVAK, SUBECK, BROSTOFF, POPE, BERCEAU and CONSIDINE. Referred to Committee on Elections and Utilities.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT to repeal** 66.0422 (2) (c), 66.0422 (4), 66.0422 (5), 196.504 (1) (c) and
2 196.504 (2) (e); **to renumber** 196.504 (1) (ab), 196.504 (1) (ad), 196.504 (1) (ae),
3 196.504 (1) (am) and 196.504 (1) (b); **to renumber and amend** 196.504 (1) (ac);
4 **to amend** 71.28 (5n) (c), 196.504 (2) (a) and 196.504 (2) (c); and **to create** 20.155
5 (3) (a), 20.155 (3) (g), 71.07 (5n) (c) 6., 196.504 (1) (af), 196.504 (1) (d), 196.504
6 (1) (f), 196.504 (1) (i), 196.504 (2g), 196.504 (2r) and 196.504 (3) (d), (e) and (f)
7 of the statutes; **relating to:** various changes to the broadband expansion grant
8 program; local government telecommunications, video, or broadband service
9 facilities; claiming the manufacturing and agriculture tax credit; granting
10 rule-making authority; and making appropriations.

Analysis by the Legislative Reference Bureau

This bill does the following: 1) makes changes to the broadband expansion grant program; 2) eliminates requirements that apply to local government telecommunications, video, and broadband service facilities; and 3) changes the manufacturing and agriculture tax credit.

Broadband expansion grants. This bill appropriates \$200,000,000 in general purpose revenues in the 2017-19 fiscal biennium for the broadband

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expansion grant program administered by the Public Service Commission under current law. Under that program, the PSC makes grants to eligible applicants for the purpose of constructing broadband infrastructure in underserved areas designated by PSC. The bill's appropriation is in addition to appropriations from the universal service fund for the grants under current law.

The bill creates a definition for "broadband infrastructure," which is not defined under current law. The bill defines "broadband infrastructure" as infrastructure that provides broadband service at a minimum download speed of 25 megabits per second and a minimum upload speed of 3 megabits per second. Under the bill, infrastructure is eligible for a broadband expansion grant only if it satisfies the foregoing definition. The bill requires a person who receives a grant to reimburse the PSC for the grant if 1) the person fails to complete construction of the infrastructure; or 2) the infrastructure that is constructed fails to provide minimum download or upload speeds specified in the bill's definition of "broadband infrastructure."

The bill changes the priorities that apply to the PSC in awarding grants. Current law requires the PSC to give priority to projects that satisfy various requirements, including projects that affect "unserved areas," which current law defines as areas without specified types of Internet service. The bill requires instead that the PSC give first priority to projects for areas in which no broadband service is available and secondary priority to projects that satisfy the requirements specified under current law, except that the bill eliminates the priority for unserved areas. In addition, the bill requires the PSC to award no less than 85 percent of the grants in a fiscal year for projects to construct broadband infrastructure in counties with populations of 65,000 or less.

The bill also changes eligibility requirements for the grants. Under current law, telecommunications utilities are eligible to apply. Under the bill, a telecommunications utility is eligible only if it has not applied for or received support for broadband deployment under certain federal programs administered by the Federal Communications Commission. The bill also allows a city, village, town, or county to apply for a grant without submitting the application in partnership with a telecommunications utility or for-profit or not-for-profit organization, which is required under current law. The bill also specifies that a city, village, town, or county may use a grant for planning related to broadband infrastructure construction, including broadband feasibility reports. Also, the bill requires all applicants for grants to specify the broadband infrastructure the applicant intends to construct with a grant and requires the applicant to complete that construction before applying for a subsequent grant.

The bill also does the following:

1. Requires persons who receive grants to submit reports to the PSC on the progress of broadband infrastructure construction, the number of broadband service connections provided by that infrastructure, and the average download and upload speeds for those service connections.

2. Beginning on January 1, 2019, requires the Legislative Audit Bureau to conduct biennial performance audits of the broadband expansion grant program.

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3. Requires the PSC to require retail electric utilities and cooperatives to survey customers and members about broadband service availability. The PSC must reimburse the utilities and cooperatives for conducting the surveys and use the survey results to improve broadband mapping.

Local government telecommunications, video, and broadband service facilities. The bill eliminates a requirement for a city, village, or town (local government) to prepare a report before holding a public hearing on a proposed ordinance or resolution authorizing the local government to construct or operate facilities for providing telecommunications service, cable television or similar video service, or broadband service to the public. With exceptions, current law prohibits a local government from enacting an ordinance or adopting a resolution authorizing the local government to construct or operate such a facility unless the local government gives notice and holds a public hearing on the proposed ordinance or resolution. In addition, at least 30 days prior to the hearing, current law requires the local government to prepare and make available to the public a report that estimates the total costs and revenues for the facility and includes a cost-benefit analysis of the facility for a period of at least three years. Under this bill, a local government is not required to prepare that report.

Manufacturing and agricultural tax credit. The bill provides that an individual whose income is greater than \$2,000,000 a year may not claim the manufacturing and agriculture tax credit for taxable years beginning after December 31, 2017. Under current law, any person who has qualified production activities income from manufacturing or agriculture may claim the credit in an amount equal to the income multiplied by 7.5 percent.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
2 the following amounts for the purposes indicated:

2017-18 2018-19

3 **20.155 Public service commission**

4 (3) AFFILIATED GRANT PROGRAMS

5 (a) Broadband expansion grants;

6 general purpose revenue funding GPR B 100,000,000 100,000,000

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1 **SECTION 2.** 20.155 (3) (a) of the statutes is created to read:

2 20.155 (3) (a) *Broadband expansion grants; general purpose revenue funding.*

3 Biennially, the amounts in the schedule for making broadband expansion grants
4 under s. 196.504 and for reimbursing electric providers under s. 196.504 (3) (e).

5 **SECTION 3.** 20.155 (3) (g) of the statutes is created to read:

6 20.155 (3) (g) *Broadband expansion grants; program revenue funding.* All
7 moneys received as broadband grant reimbursements under s. 196.504 (2g) (c) for
8 making broadband expansion grants under s. 196.504.

9 **SECTION 4.** 66.0422 (2) (c) of the statutes is repealed.

10 **SECTION 5.** 66.0422 (4) of the statutes is repealed.

11 **SECTION 6.** 66.0422 (5) of the statutes is repealed.

12 **SECTION 7.** 71.07 (5n) (c) 6. of the statutes is created to read:

13 71.07 (5n) (c) 6. For taxable years beginning after December 31, 2017, no
14 individual may claim the credit under this subsection for a taxable year in which the
15 individual's adjusted gross income is greater than \$2,000,000.

16 **SECTION 8.** 71.28 (5n) (c) of the statutes is amended to read:

17 71.28 (5n) (c) *Limitations.* Partnerships, limited liability companies, and
18 tax-option corporations may not claim the credit under this subsection, but the
19 eligibility for, and the amount of, the credit are based on their share of the income
20 described under par. (b). A partnership, limited liability company, or tax-option
21 corporation shall compute the amount of credit that each of its partners, members,
22 or shareholders may claim and shall provide that information to each of them.
23 Partners, members of limited liability companies, and shareholders of tax-option
24 corporations may claim the credit in proportion to their ownership interests, but, for
25 taxable years beginning after December 31, 2017, no partner, member, or

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1 shareholder may claim the credit for a taxable year in which the adjusted gross
2 income of the partner, member, or shareholder is greater than \$2,000,000.

3 **SECTION 9.** 196.504 (1) (ab) of the statutes, as created by 2017 Wisconsin Act
4 59, is renumbered 196.504 (1) (e).

5 **SECTION 10.** 196.504 (1) (ac) of the statutes, as affected by 2017 Wisconsin Act
6 59, is renumbered 196.504 (1) (g), and 196.504 (1) (g) 2. and 3., as renumbered, are
7 amended to read:

8 196.504 (1) (g) 2. A telecommunications utility that has not received or applied
9 for A-CAM or phase II support.

10 3. A political subdivision ~~that submits an application in partnership with an~~
11 ~~eligible applicant under subd. 1. or 2.~~

12 **SECTION 11.** 196.504 (1) (ad) of the statutes, as created by 2017 Wisconsin Act
13 59, is renumbered 196.504 (1) (h).

14 **SECTION 12.** 196.504 (1) (ae) of the statutes is renumbered 196.504 (1) (j).

15 **SECTION 13.** 196.504 (1) (af) of the statutes is created to read:

16 196.504 (1) (af) "A-CAM support" means support for the deployment of voice
17 and broadband-capable networks from the federal Connect America Fund that is
18 made to telecommunications utilities regulated as rate-of-return carriers by the
19 federal communications commission and that is based on the federal
20 communications commission's Alternative Connect America Cost Model.

21 **SECTION 14.** 196.504 (1) (am) of the statutes is renumbered 196.504 (1) (k).

22 **SECTION 15.** 196.504 (1) (b) of the statutes is renumbered 196.504 (1) (L).

23 **SECTION 16.** 196.504 (1) (c) of the statutes, as created by 2017 Wisconsin Act
24 59, is repealed.

25 **SECTION 17.** 196.504 (1) (d) of the statutes is created to read:

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1 196.504 (1) (d) “Broadband infrastructure” means infrastructure for the
2 provision of broadband service at a minimum download speed of 25 megabits per
3 second and a minimum upload speed of 3 megabits per second.

4 **SECTION 18.** 196.504 (1) (f) of the statutes is created to read:

5 196.504 (1) (f) “Electric provider” means a retail electric public utility or retail
6 electric cooperative.

7 **SECTION 19.** 196.504 (1) (i) of the statutes is created to read:

8 196.504 (1) (i) “Phase II support” means the federal communications
9 commission’s 2nd phase of support for rural broadband deployment from the federal
10 Connect America Fund that is made to telecommunications utilities regulated as
11 price cap carriers by the federal communications commission.

12 **SECTION 20.** 196.504 (2) (a) of the statutes, as affected by 2017 Wisconsin Act
13 59, is amended to read:

14 196.504 (2) (a) To make broadband expansion grants to eligible applicants for
15 the purpose of constructing broadband infrastructure in underserved areas
16 designated under par. (d) and to political subdivisions for project planning related
17 to such construction, including broadband feasibility reports. An eligible applicant
18 shall specify in its application for a grant the broadband infrastructure the applicant
19 intends to construct with the grant. Grants awarded under this section shall be paid
20 from the appropriations under s. 20.155 (3) (a), (g), (r), and (rm). Not less than 85
21 percent of the grants awarded in a fiscal year shall be for the construction of
22 broadband infrastructure in counties with populations of 65,000 or less.

23 **SECTION 21.** 196.504 (2) (c) of the statutes, as affected by 2017 Wisconsin Act
24 59, is amended to read:

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1 196.504 (2) (c) To establish criteria for evaluating applications and awarding
2 grants under this section. The criteria shall prohibit grants that have the effect of
3 subsidizing the expenses of a provider of telecommunications service, as defined in
4 s. 182.017 (1g) (cq), or the monthly bills of customers of those providers. The criteria
5 shall give first priority to projects for areas in which no broadband service is
6 available. The criteria shall give secondary priority to projects that include matching
7 funds, that involve public-private partnerships, ~~that affect unserved areas,~~ that are
8 scalable, that promote economic development, that will not result in delaying the
9 provision of broadband service to areas neighboring areas to be served by the
10 proposed project, or that affect a large geographic area or a large number of
11 underserved individuals or communities. When evaluating grant applications
12 under this section, the commission shall consider the degree to which the proposed
13 projects would duplicate existing broadband infrastructure, information about the
14 presence of which is provided to the commission by the applicant or another person
15 within a time period designated by the commission; the impacts of the proposed
16 projects on the ability of individuals to access health care services from home and the
17 cost of those services; and the impacts of the proposed projects on the ability of
18 students to access educational opportunities from home.

19 **SECTION 22.** 196.504 (2) (e) of the statutes, as created by 2017 Wisconsin Act
20 59, is repealed.

21 **SECTION 23.** 196.504 (2g) of the statutes is created to read:

22 196.504 (2g) (a) The commission shall require persons who receive grants
23 under sub. (2) (a) to submit reports to the commission on the progress of construction
24 activities for infrastructure specified in grant applications, the number of broadband

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1 service connections provided by that infrastructure after construction is completed,
2 and the average download and upload speeds for those service connections.

3 (b) A person who receives a grant under sub. (2) (a) may not apply for a
4 subsequent grant under sub. (2) (a) until completion of construction of the
5 infrastructure specified in the application for the prior grant.

6 (c) A person who receives a grant under sub. (2) (a) shall reimburse the
7 commission an amount equal to the grant if any of the following applies:

8 1. The person fails to complete construction of broadband infrastructure that
9 is specified in the person's application under sub. (2) (a).

10 2. The infrastructure constructed with the grant fails to provide broadband
11 service with an average minimum download speed of 25 megabits per second or an
12 average minimum upload speed of 3 megabits per second.

13 (d) The commission shall promulgate rules for submitting reports under par.
14 (a), determining completion of construction for purposes of par. (b), and making
15 reimbursements under par. (c). If a person fails to make a reimbursement as
16 required under the rules, the person is not eligible for any other grant under sub. (2)
17 (a).

18 **SECTION 24.** 196.504 (2r) of the statutes is created to read:

19 196.504 (2r) Biennially, beginning on January 1, 2019, the legislative audit
20 bureau shall conduct a performance evaluation audit of the broadband expansion
21 grant program under sub. (2).

22 **SECTION 25.** 196.504 (3) (d), (e) and (f) of the statutes are created to read:

23 196.504 (3) (d) Require electric providers to survey customers and members
24 about the availability of broadband service and provide the survey results to the
25 commission.

