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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 1363 Session of  
2022

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INTRODUCED BY KANE, FONTANA, KEARNEY, STREET, TARTAGLIONE,  
COSTA, BREWSTER, SCHWANK AND CAPPELLETTI, NOVEMBER 14, 2022

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REFERRED TO COMMUNICATIONS AND TECHNOLOGY, NOVEMBER 14, 2022

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AN ACT

1 Amending Titles 53 (Municipalities Generally) and 66 (Public  
2 Utilities) of the Pennsylvania Consolidated Statutes, in  
3 municipal authorities, further providing for purposes and  
4 powers; and, in alternative form of regulation of  
5 telecommunications services, further providing for  
6 definitions, for network modernization plans and for  
7 additional powers and duties.

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

10 Section 1. Section 5607(a) of Title 53 of the Pennsylvania  
11 Consolidated Statutes is amended by adding a paragraph to read:  
12 § 5607. Purposes and powers.

13 (a) Scope of projects permitted.--Every authority  
14 incorporated under this chapter shall be a body corporate and  
15 politic and shall be for the purposes of financing working  
16 capital; acquiring, holding, constructing, financing, improving,  
17 maintaining and operating, owning or leasing, either in the  
18 capacity of lessor or lessee, projects of the following kind and  
19 character and providing financing for insurance reserves:

20 \* \* \*

1           (19) Publicly owned Internet network infrastructure  
2 planning, management and implementation as defined in the  
3 articles of incorporation by the governing body. Projects  
4 will connect premises to underserved areas as defined by the  
5 Federal Communications Commission.

6           \* \* \*

7           Section 2. The definition of "broadband" in section 3012 of  
8 Title 66 is amended to read:

9           § 3012. Definitions.

10          The following words and phrases when used in this chapter  
11 shall have the meanings given to them in this section unless the  
12 context clearly indicates otherwise:

13          \* \* \*

14          "Broadband." As follows:

15           (1) A communication channel using any technology and  
16 having a bandwidth equal to or greater than [1.544] 100  
17 megabits per second (Mbps) in the downstream direction and  
18 equal to or greater than [128 kilobits per second (Kbps)] 100  
19 megabits per second (Mbps) in the upstream direction.

20           (2) The Mbps standards specified in paragraph (1) shall  
21 be increased in this definition following any increased  
22 standards as determined by the Federal Communications  
23 Commission and published in accordance with section 3019(j)  
24 (relating to additional powers and duties).

25          \* \* \*

26          Section 3. Section 3014(c) (2) (i) and (7), (d) (7), (h)  
27 introductory paragraph and (j) (4) (iii) of Title 66 are amended  
28 to read:

29          § 3014. Network modernization plans.

30          \* \* \*

1 (c) Bona fide retail request program.--A local exchange  
2 telecommunications company that elects to amend its network  
3 modernization plan pursuant to subsection (b) (2) or (3) shall no  
4 later than 90 days after the effective date of its amended plan  
5 implement a bona fide retail request program in areas where it  
6 does not provide broadband. Not later than 30 days in advance of  
7 program implementation, the local exchange telecommunications  
8 company shall file with the commission and provide the  
9 department with a written description of the program, a sample  
10 request for advanced services form for use in the program and  
11 the form of any advanced services term subscription agreements  
12 customers will be required to execute in connection with  
13 receiving the requested services. A bona fide retail request  
14 program shall consist of the following:

15 \* \* \*

16 (2) To be considered a bona fide retail request, the  
17 written request must include:

18 (i) a request that a minimum of 50 retail access  
19 lines or 25% of retail access lines within a community,  
20 whichever is less, each be provided the same advanced  
21 service or comparable advanced services having a  
22 bandwidth within 100 kilobits per second (Kbps) of each  
23 other. Notwithstanding the foregoing comparable bandwidth  
24 limitation, where a request includes individual customer  
25 requests for advanced services having equal to or less  
26 than [1.544] 100 megabits per second (Mbps) bandwidth in  
27 the downstream direction, all lines in the request shall  
28 be counted in meeting the minimum line requirement of  
29 this subparagraph;

30 \* \* \*

1 (7) No advanced service requested and deployed by a  
2 local exchange telecommunications company under the bona fide  
3 retail request program which has a bandwidth of less than  
4 [1.544] 100 megabits per second (Mbps) in the downstream  
5 direction shall be counted as a credit toward the local  
6 exchange telecommunications company's broadband deployment  
7 obligation under its network modernization plan amended  
8 pursuant to subsection (b) (2) or (3).

9 \* \* \*

10 (d) Business attraction or retention program.--

11 \* \* \*

12 (7) No advanced service requested of and deployed by a  
13 local exchange telecommunications company under the Business  
14 Attraction or Retention Program which has a bandwidth of less  
15 than [1.544] 100 megabits per second (Mbps) in the downstream  
16 direction shall be counted as a credit toward the local  
17 exchange telecommunication company's broadband deployment  
18 obligation under its network modernization plan amended under  
19 subsection (b) (2) or (3).

20 \* \* \*

21 (h) Prohibition against political subdivision advanced and  
22 broadband services deployment.--Except as provided in 53 Pa.C.S.  
23 § 5607(a) (19) (relating to purposes and powers):

24 \* \* \*

25 (j) Education Technology Program.--

26 \* \* \*

27 (4) No later than 90 days after the effective date of  
28 this section, the Department of Education shall prescribe the  
29 grant process and the form and manner of the E-Fund  
30 application. Grants shall be limited to the funds available

1 in the Education Technology Fund. In awarding grants, the  
2 Department of Education shall give priority to applications:

3 \* \* \*

4 (iii) that are submitted by school entities that do  
5 not have broadband service, provided, however, that  
6 nothing in this subsection shall preclude the department  
7 from awarding funds to school entities for  
8 telecommunications services, infrastructure or facilities  
9 that provide bandwidths greater than [1.544] 100 megabits  
10 per second (Mbps).

11 \* \* \*

12 Section 4. Section 3019 of Title 66 is amended by adding a  
13 subsection to read:

14 § 3019. Additional powers and duties.

15 \* \* \*

16 (j) Departmental update of broadband standards.--The  
17 Secretary of Community and Economic Development shall transmit  
18 notice to the Legislative Reference Bureau for publication in  
19 the Pennsylvania Bulletin upon the determination by the Federal  
20 Communications Commission that broadband is defined to involve  
21 speeds in excess of 100 megabits per second (Mbps) in the  
22 downstream direction and 100 megabits per second (Mbps) in the  
23 upstream direction.

24 Section 5. This act shall take effect in 90 days.