SENATE BILL
No. 442 Session of 2021

INTRODUCED BY PHILLIPS-HILL, STEFANO, MARTIN, YAW, BROOKS, GORDNER, SCHWANK, HUTCHINSON, PITTMAN, MASTRIANO, AUMENT AND BAKER, MARCH 19, 2021

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JUNE 21, 2021

AN ACT

1 Providing for an inventory of State-owned assets for the development of fixed broadband services in unserved areas, establishing the Broadband Services Restricted Account and providing for underserved areas of this Commonwealth.

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

Section 1. Short title.

3 This act shall be known and may be cited as the State-owned Assets and Broadband Services Act.

Section 2. Definitions.

4 The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

5 "Department." The Department of General Services of the Commonwealth.

6 "Fixed broadband service." An Internet connection provided through a link to a stationary location.
"Mobile broadband service." An Internet connection provided through a link to locations that are not stationary.

"Qualified provider." A provider of mobile broadband service that has obtained all governmental approvals required for the provision of fixed broadband service in the unserved area or underserved area in which it seeks to provide the service.

"Underserved area." An area within this Commonwealth that is demonstrated to have limited access to fixed broadband services or mobile broadband services.

"Unserved area." An area within this Commonwealth that is demonstrated to not have access to fixed broadband services or mobile broadband services.

Section 3. Inventory of State-owned assets.

(A) BROADBAND SERVICES.--Under the act of June 15, 1972 (P.L.395, No.117), entitled "An act providing for an inventory of all Commonwealth real property, except highway rights-of-way to be prepared by the Department of Property and Supplies, for its availability to the public, for its updating, and for cooperation by all State governmental agencies; and making an appropriation," and section 508(b) of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, the department shall include in its inventories and surveys of real estate structures and assets information on possible use of those assets for fixed broadband services or mobile broadband services. The information shall be used by the department or its designee when analyzing resources available in providing broadband services in underserved areas and unserved areas.

(B) PUBLICATION.--THE DEPARTMENT SHALL SUBMIT AN INVENTORY OF STATE-OWNED ASSETS POTENTIALLY AVAILABLE FOR FIXED BROADBAND SERVICES AND MOBILE BROADBAND SERVICES TO THE LEGISLATIVE
REFERENCE BUREAU FOR PUBLICATION IN THE PENNSYLVANIA BULLETIN
AND POST THE INVENTORY ON ITS PUBLICLY ACCESSIBLE INTERNET
WEBSITE WITHIN 120 DAYS OF THE EFFECTIVE DATE OF THIS SECTION.

Section 3.1. Inventory of county-owned assets.

(a) Preparation of inventories.--A county may prepare and periodically update an inventory of county-owned assets that are available and may be used to provide broadband services in underserved areas and unserved areas.

(b) Transmission to department.--A county inventory prepared under subsection (a) may be transmitted to the department and shall be included in the information used by the department under section 3 when analyzing resources available to provide broadband services in underserved areas and unserved areas.

(c) Publication.--The department shall submit a county inventory prepared under subsection (a) to the legislative reference bureau for publication in the Pennsylvania bulletin and post the inventory on its publicly accessible internet website within 120 days of the effective date of this section.

Section 4. Lease or conveyance of State-owned assets.

(a) General rule.--Notwithstanding any provision of law to the contrary and subject to the guidelines adopted by the department under section 6, the State agency having responsibility for a State-owned asset for fixed broadband services or mobile broadband services in an unserved area or underserved area may AUCTION, lease or convey a license or other interest in the asset to a qualified provider in order to permit the use of the asset by the qualified provider in its deployment of fixed broadband services or mobile broadband services within the unserved area or underserved area or portion of that unserved area or underserved area.

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Evidence of compliance.--The requirement under subsection (a) is subject to the qualified provider presenting to the State agency evidence of compliance with structural, permitting and other guidelines under section 6, which will be reviewed by the department or its designee.

Section 5. Broadband Services Restricted Account.

(a) Establishment.--The Broadband Services Restricted Account is established in the General Fund. The money in the restricted account is appropriated on a continuing basis to the department for the purpose of deploying high-speed broadband services in unserved areas and underserved areas.

(b) Funding.--The following shall be deposited into the restricted account established under subsection (a):

(1) All revenue generated from leases, licenses or other interests in assets authorized by this act.

(2) All revenue generated from the contract entered into between the department and a wireless infrastructure program manager on August 23, 2019, and identified by the department as Contract Number 4400021522. UPON EACH DEPOSIT INTO THE RESTRICTED ACCOUNT, THE DEPARTMENT SHALL NOTIFY, IN WRITING, THE MAJORITY CHAIR AND MINORITY CHAIR OF THE APPROPRIATIONS COMMITTEE OF THE SENATE AND THE MAJORITY CHAIR AND MINORITY CHAIR OF THE APPROPRIATIONS COMMITTEE OF THE HOUSE OF REPRESENTATIVES OF THE SPECIFIC DOLLAR AMOUNT GENERATED FROM THE CONTRACT SPECIFIED IN THIS PARAGRAPH.

(3) All revenue generated from any other contract or agreement entered into between the department and a wireless infrastructure program manager for any of the following purposes:

   (i) to analyze and market Commonwealth-owned assets,
a neutral host system, for revenue-generating purposes;
   (ii) to manage the occupancy, revenues and expenses
associated with each asset;
   (iii) to construct or, through agreement with a
service provider, facilitate the construction of new
telecommunication equipment on Commonwealth-owned land,
facilities or within rights-of-way;
   (iv) to retrofit or facilitate the upgrade of
existing telecommunication equipment, including, but not
limited to, space on any previously constructed towers
and buildings; and
   (v) to enter into site occupancy agreements for
assets and telecommunication equipment with service
providers that will facilitate the deployment of
broadband services to urban and rural consumers.

Section 6. Departmental guidelines.

(A) GUIDELINES.--The department or its designee shall adopt
   guidelines for the following:
   (1) Qualifications for broadband service providers.
   (2) Negotiating and finalizing site occupancy
   agreements.

(B) REAL ESTATE TAXES.--IN THE GUIDELINES ADOPTED UNDER
   SUBSECTION (A), THE DEPARTMENT OR ITS DESIGNEE SHALL SPECIFY
   THAT REAL ESTATE TAXES ASSESSED AS A RESULT OF FIXED ASSETS
   CONSTRUCTED TO PROVIDE FIXED BROADBAND SERVICES OR MOBILE
   BROADBAND SERVICES SHALL BE THE RESPONSIBILITY OF THE QUALIFIED
   PROVIDER. A LEASE, CONTRACT OR AGREEMENT SIGNED UNDER THE
   PROVISIONS OF THIS ACT MAY NOT REQUIRE THE COMMONWEALTH OR ITS
   POLITICAL SUBDIVISIONS OR INSTITUTIONALITIES TO PAY REAL ESTATE
   TAXES ON FIXED ASSETS CONSTRUCTED TO PROVIDE FIXED BROADBAND
SERVICES OR MOBILE BROADBAND SERVICES.

(C) RIGHT-TO-KNOW LAW.--THE GUIDELINES ADOPTED UNDER SUBSECTION (A) SHALL BE PUBLIC RECORD AS DEFINED IN SECTION 102 OF THE ACT OF FEBRUARY 14, 2008 (P.L.6, NO.3), KNOWN AS THE RIGHT-TO-KNOW LAW, AND SHALL BE AVAILABLE ON THE DEPARTMENT'S PUBLICLY ACCESSIBLE INTERNET WEBSITE.

Section 7. Approvals.

The department or its designee shall identify an appropriate timeline of no more than 90 days for approval of site occupancy agreements.

Section 8. Statewide Mobile Radio and Microwave System.


(b) Allocation of proceeds.--Proceeds from the lease or licensing of a tower or other asset of the Statewide Mobile Radio and Microwave System shall be used for the purpose of maintaining and improving the STATEWIDE MOBILE RADIO AND MICROWAVE SYSTEM.

Section 9. Applicability.

This act shall not apply to AS FOLLOWS:

(1) The SECTIONS 3, 3.1, 4, 5, 6 AND 7 SHALL NOT APPLY TO THE Pennsylvania State Police.

(2) The SECTIONS 3, 3.1, 4, 5, 6, 7 AND 8 SHALL NOT APPLY TO THE Pennsylvania Historical and Museum Commission.

Section 10. Effective date.

This act shall take effect immediately.