

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1642 Session of 2017

INTRODUCED BY PHILLIPS-HILL, SNYDER, BIZZARRO, R. BROWN, DAVIS, DOWLING, DRISCOLL, A. HARRIS, IRVIN, JAMES, RAPP, RYAN, THOMAS, NEILSON, WATSON, PICKETT, WARD, GROVE, WHEELAND, BOBACK, ROZZI, ROEBUCK, NESBIT, C. QUINN, NELSON, SCHLOSSBERG, BRADFORD, CAUSER AND KORTZ, AUGUST 24, 2017

AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, APRIL 17, 2018

AN ACT

1 Providing for an inventory of State-owned ~~communications~~ assets <--
2 ~~and the use of communication towers~~ for the development of <--
3 ~~wireless~~ MOBILE broadband services in unserved areas and <--
4 underserved areas of this Commonwealth.

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

7 Section 1. Short title.

8 This act shall be known and may be cited as the
9 ~~Communications Assets and Wireless~~ STATE-OWNED ASSETS AND MOBILE <--
10 Broadband Services Act.

11 Section 2. Definitions.

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

15 "Department." The Department of General Services of the
16 Commonwealth.

17 "FIXED BROADBAND SERVICES." AN INTERNET CONNECTION PROVIDED <--

1 THROUGH A LINK TO A STATIONARY LOCATION AT A DATA BIT RATE OR
2 CONNECTIVITY SPEED DEFINED BY DEPARTMENT POLICY.

3 "MOBILE BROADBAND SERVICES." AN INTERNET CONNECTION PROVIDED
4 THROUGH A LINK TO LOCATIONS THAT ARE NOT STATIONARY AT A DATA
5 BIT RATE OR CONNECTIVITY SPEED DEFINED BY DEPARTMENT POLICY.

6 "Qualified provider." A provider of ~~wireless~~ MOBILE <--
7 broadband service that has obtained all governmental approvals
8 required for the provision of ~~wireless~~ MOBILE broadband service <--
9 in the unserved area or underserved area in which it seeks to
10 provide the service.

11 "Secretary." The Secretary of General Services of the
12 Commonwealth.

13 "Underserved area." An area within this Commonwealth that is
14 demonstrated to ~~not have access to fixed broadband services at~~ <--
15 ~~25 megabits per second download and 3 megabits per second upload~~
16 ~~and also lacks access to~~ HAVE LIMITED ACCESS TO FIXED BROADBAND <--
17 SERVICES OR mobile broadband services.

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

21 ~~"Wireless broadband service." An Internet connection service~~ <--
22 ~~capable of transmitting information at a rate that is not less~~
23 ~~than 256 kilobits per second in at least one direction using a~~
24 ~~wireless link between a fixed location and the Internet service~~
25 ~~provider's facility. The term does not include wireless fidelity~~
26 ~~technology used in conjunction with dedicated subscriber line~~
27 ~~service or cable service to connect devices within a facility to~~
28 ~~the Internet via a broadband connection.~~

29 Section 3. Inventory of State-owned assets.

30 ~~The department shall conduct an annual inventory of all~~ <--

1 ~~communications towers, poles, buildings, facilities and other~~
2 ~~assets owned by a State department, agency, board, commission or~~
3 ~~other entity and shall leverage existing State owned assets for~~
4 ~~the provision of high speed broadband to unserved areas and~~
5 ~~underserved areas. The inventory shall be made publicly~~
6 ~~available to persons or private entities desirous of installing~~
7 ~~or collocating wireless facilities to provide high speed~~
8 ~~broadband services within this Commonwealth.~~ UNDER THE ACT OF <--
9 JUNE 15, 1972 (P.L.395, NO.117), ENTITLED "AN ACT PROVIDING FOR
10 AN INVENTORY OF ALL COMMONWEALTH REAL PROPERTY, EXCEPT HIGHWAY
11 RIGHTS-OF-WAY TO BE PREPARED BY THE DEPARTMENT OF PROPERTY AND
12 SUPPLIES, FOR ITS AVAILABILITY TO THE PUBLIC, FOR ITS UPDATING,
13 AND FOR COOPERATION BY ALL STATE GOVERNMENTAL AGENCIES; AND
14 MAKING AN APPROPRIATION," AND SECTION 508(B) OF THE ACT OF APRIL
15 9, 1929 (P.L.177, NO.175), KNOWN AS THE ADMINISTRATIVE CODE OF
16 1929, THE DEPARTMENT SHALL INCLUDE IN ITS INVENTORIES AND
17 SURVEYS OF REAL ESTATE STRUCTURES AND ASSETS INFORMATION ON
18 POSSIBLE USE OF THOSE ASSETS FOR FIXED BROADBAND SERVICES OR
19 MOBILE BROADBAND SERVICES. THE INFORMATION SHALL BE USED BY THE
20 DEPARTMENT OR ITS DESIGNEE WHEN ANALYZING RESOURCES AVAILABLE IN
21 PROVIDING BROADBAND SERVICES IN UNDERSERVED AREAS AND UNSERVED
22 AREAS.

23 Section 4. Lease or conveyance of ~~communication towers~~ STATE- <--
24 OWNED ASSETS.

25 (a) ~~Duty of State entity~~ GENERAL RULE.--Notwithstanding any <--
26 provision of law to the contrary and subject to THE guidelines <--
27 adopted by the department, ~~a State department, agency, board,~~ <--
28 ~~commission or other entity~~ UNDER SECTION 5, THE DEPARTMENT <--
29 having responsibility for a State-owned ~~communication tower~~ <--
30 ASSET in an unserved area or underserved area may lease or <--

1 convey a license or other interest in the ~~communication tower~~ <--
2 ASSET to a qualified provider in order to permit the use of the <--
3 ~~communication tower~~ ASSET by the qualified provider in its <--
4 deployment of ~~wireless~~ MOBILE broadband service within the <--
5 unserved area or underserved area or portion of that unserved
6 area or underserved area.

7 (b) ~~Required information~~ EVIDENCE OF COMPLIANCE.--The <--
8 requirement under subsection (a) is subject to the qualified
9 provider presenting to the department ~~all of the following:~~ <--

10 ~~(1) A spectrum and certified structural analysis of the~~
11 ~~tower that demonstrates the following:~~

12 ~~(i) The new service will not interfere with current~~
13 ~~equipment.~~

14 ~~(ii) No structural element is beyond 85% capacity~~
15 ~~based on current and previously documented future loads.~~

16 ~~(iii) The tower meets industry standards established~~
17 ~~by the Telecommunications Industry Association or its~~
18 ~~successor.~~

19 ~~(2) Proof that the tower satisfies all applicable local~~
20 ~~government requirements.~~ EVIDENCE OF COMPLIANCE WITH <--
21 STRUCTURAL, PERMITTING AND OTHER GUIDELINES UNDER SECTION 5,
22 WHICH WILL BE REVIEWED BY THE DEPARTMENT OR ITS DESIGNEE.

23 Section 5. Departmental guidelines.

24 The department OR ITS DESIGNEE shall adopt guidelines for the <--
25 following:

26 ~~(1) Determining whether a provider of wireless broadband <--~~
27 ~~service is qualified to provide the service.~~

28 ~~(2) Requesting a State department, agency, board,~~
29 ~~commission or other entity to enter into a lease or other~~
30 ~~conveyance of an interest in a communication tower or site~~

1 ~~under this act.~~

2 ~~Section 6. Approvals.~~

3 ~~(a) Consideration. The lease or other conveyance under this~~
4 ~~act shall be for consideration as the secretary deems~~
5 ~~appropriate. The consideration shall not be required to be~~
6 ~~commensurate with the consideration paid for use of comparable~~
7 ~~space on similar towers.~~

8 ~~(b) Shared use. The lease or other conveyance may include~~
9 ~~shared use of the facilities by other political subdivisions or~~
10 ~~persons providing the same or similar services, and by the State~~
11 ~~department, agency, board, commission or other entity.~~

12 ~~(c) Governmental approvals. No transaction authorized by~~
13 ~~this act shall be made without the prior approval of the~~
14 ~~secretary and the approval of the Attorney General as to the~~
15 ~~form of a conveyancing instrument prior to execution.~~

16 ~~Section 7. Request for proposals.~~

17 ~~(a) Transmittal. No fewer than 100 days prior to the~~
18 ~~leasing of a State owned asset, the department shall transmit a~~
19 ~~State plan to the General Assembly for approval or disapproval.~~

20 ~~(b) Consideration by General Assembly. Upon transmittal~~
21 ~~under subsection (a), the State plan shall be:~~

22 ~~(1) Introduced as a resolution in both houses of the~~
23 ~~General Assembly.~~

24 ~~(2) Placed on the calendar of each house for the next~~
25 ~~legislative day following transmittal.~~

26 ~~(3) Considered by each house within 20 legislative days~~
27 ~~after transmittal.~~

28 ~~(c) Determination.~~

29 ~~(1) The State plan shall be deemed approved if each~~
30 ~~house of the General Assembly adopts the resolution under~~

1 ~~this section. The department may then submit the State plan~~
2 ~~to the Office of Administration for consideration.~~

3 ~~(2) The State plan shall be deemed disapproved if either~~
4 ~~house of the General Assembly fails by final vote to adopt~~
5 ~~the resolution under this section. The department may not~~
6 ~~then submit the State plan to the Office of Administration~~
7 ~~for consideration. The department shall determine the reason~~
8 ~~for the disapproval and modify the State plan.~~

9 ~~(3) If a vote is not taken by either house of the~~
10 ~~General Assembly as prescribed under this section, the State~~
11 ~~plan shall be deemed approved. The department may then submit~~
12 ~~the State plan to the Office of Administration for~~
13 ~~consideration.~~

14 (1) QUALIFICATIONS FOR BROADBAND SERVICE PROVIDERS. <--

15 (2) NEGOTIATING AND FINALIZING SITE OCCUPANCY

16 AGREEMENTS.

17 SECTION 6. APPROVALS.

18 THE DEPARTMENT OR ITS DESIGNEE SHALL IDENTIFY AN APPROPRIATE
19 TIMELINE OF NO MORE THAN 30 DAYS FOR APPROVAL OF SITE OCCUPANCY
20 AGREEMENTS.

21 Section 8 7. Effective date. <--

22 This act shall take effect immediately.