

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2348 Session of
2020

INTRODUCED BY CAUSER, DUNBAR, BENNINGHOFF, CONKLIN, SCHLEGEL
CULVER, ECKER, GLEIM, JAMES, MILLARD, MURT, OBERLANDER,
OWLETT, PICKETT, PYLE, RAPP, ROEBUCK, RYAN, SNYDER, STRUZZI,
WHEELAND AND ZIMMERMAN, MARCH 13, 2020

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, MARCH 13, 2020

AN ACT

1 Amending Title 64 (Public Authorities and Quasi-Public
2 Corporations) of the Pennsylvania Consolidated Statutes, in
3 Commonwealth Financing Authority, providing for Unserved
4 High-Speed Broadband Funding Program; establishing the
5 Unserved High-Speed Broadband Funding Program Account; making
6 an appropriation; and making a related repeal.

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 section to read:

11 § 1559. Unserved High-Speed Broadband Funding Program.

12 (a) Establishment.--There is a program established to be
13 known as the Unserved High-Speed Broadband Funding Program. The
14 program shall provide financial assistance in the form of grants
15 for projects located within this Commonwealth that support the
16 delivery of high-speed broadband service to unserved areas.

17 (b) Eligible applicants.--The following entities may apply
18 for grants under the program:

19 (1) A nongovernmental entity with the technical,

1 managerial and financial expertise to design, build and
2 operate a high-speed broadband service infrastructure within
3 this Commonwealth.

4 (2) A rural electric cooperative or local development
5 district established under the act of December 7, 1994
6 (P.L.845, No.120), known as the Local Development District
7 Act, located within this Commonwealth.

8 (c) Funding sources.--The following apply:

9 (1) A nongovernmental entity must use the entity's
10 private capital to finance a minimum of 25% of a project.

11 (2) State or local government grants, loans or subsidies
12 received by a nongovernmental entity to finance a project
13 shall not be counted toward the capital investment
14 requirement under paragraph (1).

15 (3) In addition to any grant award under the program, a
16 nongovernmental entity may use money from a Federal, State or
17 local government grant or loan program to finance a project
18 if the nongovernmental entity satisfies the capital
19 investment requirement under paragraph (1).

20 (d) Ineligible projects.--Projects proposed to be managed or
21 operated by a Federal, State or local government entity are
22 ineligible to receive grant funding under the program.

23 (e) Applications for grants.--The following apply:

24 (1) The authority shall establish an annual application
25 period during which applications for grant funding under the
26 program may be submitted. The annual application period shall
27 be no fewer than 90 days and no longer than 150 days.

28 (2) An application shall be submitted to the authority
29 on a form prescribed by the board. An application shall
30 include the following information:

1 (i) Evidence demonstrating the applicant's
2 experience and ability in building, operating and
3 managing a high-speed broadband service infrastructure
4 that serves households and businesses.

5 (ii) A description of the project area, including a
6 list of census blocks covered by the proposed deployment.
7 If a census block included in an application is
8 partially served by a provider of high-speed broadband
9 service, the application must clearly describe the
10 portions of the census block that are already served and
11 the portions which constitute an unserved area.

12 (iii) A certification that none of the grant money
13 provided by the program for the project will be used to
14 extend or deploy a high-speed broadband service
15 infrastructure to areas with access to high-speed
16 broadband service at the time of grant application
17 submission.

18 (iv) A description of the high-speed broadband
19 service infrastructure that is proposed to be deployed,
20 including facilities, equipment and network capabilities
21 and minimum speed thresholds.

22 (v) The number of households and businesses that
23 would have new or improved access to high-speed broadband
24 service as a result of the grant award.

25 (vi) The total cost of the project and the proposed
26 completion date of the project.

27 (vii) The amount of private capital pledged to
28 finance the project and a certification that no portion
29 of the private capital pledged is derived from any
30 Federal, State or local government grant or loan program.

1 (viii) Evidence demonstrating the economic and
2 commercial feasibility of the project.

3 (ix) Evidence that the project does not result in
4 overbuild.

5 (x) A list of all government authorizations, permits
6 and other required approvals to deploy a high-speed
7 broadband service infrastructure and a timetable for the
8 applicant's acquisition of the approvals.

9 (xi) Any other information required by the
10 authority.

11 (f) Criteria.--The following apply:

12 (1) The board shall give preference to projects that
13 have already been awarded Federal money or have Federal money
14 allocated for projects within this Commonwealth, including
15 money allocated from the Federal Communication Commission's
16 Connect America Fund or the Rural Digital Opportunity Fund or
17 money from the Federal Appalachian Regional Commission.

18 (2) The board shall give preference to projects that
19 will serve areas with no Internet access as opposed to areas
20 with slower Internet access.

21 (3) Specific criteria to be considered when weighing or
22 scoring an application are as follows:

23 (i) The size and scope of the unserved area to be
24 deployed.

25 (ii) The experience, technical ability and financial
26 capability of the applicant to successfully deploy a
27 high-speed broadband service infrastructure and provide
28 high-speed broadband service.

29 (iii) The extent to which Federal, State or local
30 government funding support is necessary to deploy a high-

1 speed broadband service infrastructure in an economically
2 feasible manner in a project area.

3 (iv) The proportion of the private capital provided
4 by the applicant to finance a project.

5 (v) The high-speed broadband service speed
6 thresholds proposed in the application and the
7 scalability of the high-speed broadband service
8 infrastructure proposed to be deployed to provide high-
9 speed broadband service to households and businesses.

10 (vi) An affidavit that no project grant awards will
11 be used to overbuild an area that is already served with
12 high-speed broadband service.

13 (g) Requirements.--The following apply:

14 (1) The requirements for the administration of the
15 program shall be as follows:

16 (i) An application for a grant under this section
17 must be received by a deadline, which shall be
18 established by the authority.

19 (ii) The authority shall execute a grant agreement
20 between the board and a grant recipient before the
21 payment of a grant award.

22 (iii) A grant recipient shall maintain full and
23 accurate records for the project.

24 (iv) A grant recipient shall submit to the authority
25 copies of all canceled checks or other records verifying
26 expenditures of grant money.

27 (v) A grant recipient shall submit to the authority
28 a final report of the project, including any information
29 as required by the board.

30 (2) The authority may establish additional requirements

1 for the program as the authority deems necessary to
2 administer the program.

3 (h) Restrictions and limitations.--The following apply:

4 (1) A grant recipient may not commence work on a project
5 before receiving authority approval of the grant under
6 subsection (e). Commencement of work prior to receiving
7 authority approval will result in a project application being
8 ineligible for funding consideration.

9 (2) A grant recipient may not make a substantial change
10 to an approved project without first obtaining authority
11 consent in writing.

12 (3) Any unused portion of a grant award shall be
13 returned to the authority.

14 (4) Grant money may only be used for new projects
15 approved by the board.

16 (5) Grant money may not be used for any of the
17 following:

18 (i) Paying fees for securing financing.

19 (ii) Paying interest on borrowed money.

20 (iii) Refinancing existing debt.

21 (iv) Paying for lobbying services.

22 (v) Paying fines.

23 (vi) Application preparation fees.

24 (6) The authority may establish additional restrictions
25 and limitations as the authority deems necessary to
26 administer the program.

27 (i) Account.--The following apply:

28 (1) The authority shall establish the Unserved High-
29 Speed Broadband Funding Program Account.

30 (2) The purpose of the account is to award grants under

1 this section.

2 (3) The following are the sources of the account:

3 (i) Appropriations, including Federal money.

4 (ii) Return on the money in the account.

5 (4) Money in the account is continuously appropriated to
6 the account. This appropriation shall not lapse at the end of
7 a fiscal year.

8 (j) Guidelines.--Within 180 days of the effective date of
9 this section, the board shall adopt guidelines to implement this
10 section. The guidelines shall include provisions for submission,
11 review and approval of applications, award of grants and
12 administration of projects funded under the program, including a
13 provision for reasonable oversight and reporting to ensure that
14 project grant awards are used as intended.

15 (k) Appropriation.--The sum of \$5,000,000 is hereby
16 appropriated from the General Fund for the 2020-2021 fiscal year
17 for transfer to the authority for use for the program.

18 (l) Definitions.--The following words and phrases when used
19 in this section shall have the meanings given to them in this
20 subsection unless the context clearly indicates otherwise:

21 "Account." The Unserved High-Speed Broadband Funding Program
22 Account established under subsection (i).

23 "High-speed broadband service." The greater of the
24 following:

25 (1) Wireless, wireline or fixed wireless technology
26 having the capacity to transmit data from or to the Internet
27 at minimum speeds of at least 25 megabits per second
28 downstream and three megabits per second upstream.

29 (2) Minimum speeds adopted by the Federal Communications
30 Commission.

1 "High-speed broadband service infrastructure." The signal
2 transmission facilities and associated network equipment
3 proposed to be deployed in a project area used for the provision
4 of high-speed broadband service.

5 "Overbuild." The deployment of high-speed broadband service
6 infrastructure in an area where high-speed broadband service
7 infrastructure has been deployed and high-speed broadband
8 services are offered to the public at the time of submitting a
9 grant application for the program. The term shall not include
10 the incidental overlap of wireless coverage where applicable.

11 "Program." The Unserved High-Speed Broadband Funding Program
12 established under subsection (a).

13 "Project." The proposed deployment of high-speed broadband
14 service infrastructure in an unserved area of this Commonwealth
15 as set forth in an application for grant funding authorized
16 under this section.

17 "Unserved area." A project area without access to high-speed
18 broadband service.

19 Section 2. The Department of Revenue may not award a tax
20 credit under Article XVIII-E of the act of March 4, 1971 (P.L.6,
21 No.2), known as the Tax Reform Code of 1971, after June 30,
22 2020. Repeals are as follows:

23 (1) The General Assembly declares that the repeal under
24 paragraph (2) is necessary to effectuate the addition of 64
25 Pa.C.S. § 1559.

26 (2) Sections 1804-E and 1805-E of the act of March 4,
27 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, are
28 repealed.

29 Section 3. This act shall take effect July 1, 2020, or
30 immediately, whichever is later.