

FIRST REGULAR SESSION

HOUSE BILL NO. 1384

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE RIGGS.

2452H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 1, RSMo, by adding thereto one new section relating to the broadband enhancement council, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 1, RSMo, is amended by adding thereto one new section, to be known as section 1.512, to read as follows:

1.512. 1. As used in this section, the following terms mean:

(1) "Broadband" or "broadband service", any service providing advanced telecommunications capability with the same downstream data rate and upstream data rate as required to satisfy the definition of "broadband" by the Federal Communications Commission and:

(a) That does not require the end-user to dial up a connection;

(b) That has the capacity to always be on;

(c) That has transmission speeds that are based on regular available bandwidth rates, not sporadic or burstable rates, with latency suitable for real-time applications and services such as voice over internet protocol and video conferencing; and

(d) That has a monthly usage capacity reasonably comparable to that of residential terrestrial fixed broadband offerings in urban areas.

As the Federal Communications Commission updates the downstream data rate and the upstream data rate, the council shall publish the revised data rates within sixty days of the federal update;

(2) "Council", the broadband enhancement council;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 (3) "Downstream data rate", the transmission speed from the service provider
19 source to the end-user;

20 (4) "Internet protocol address" or "IP address", a unique string of numbers
21 separated by periods that identifies each computer using the internet protocol to
22 communicate over a network;

23 (5) "Unserved area", a community that has no access to broadband service;

24 (6) "Upstream data rate", the transmission speed from the end-user to the service
25 provider source.

26 2. There is hereby established the "Broadband Enhancement Council". The
27 broadband development office of the department of economic development shall provide
28 administrative, personnel, and technical support to the council as necessary.

29 3. The task force shall consist of:

30 (1) The director of the department of economic development or his or her designee;

31 (2) The chief information officer within the office of administration or his or her
32 designee;

33 (3) The commissioner of higher education or his or her designee;

34 (4) The commissioner of education or his or her designee;

35 (5) The following members of the public, appointed by and serving at the pleasure
36 of the governor, with the advice and consent of the senate:

37 (a) One member representing users of large amounts of broadband service in this
38 state;

39 (b) One member from each congressional district representing rural business users
40 of this state;

41 (c) One member from each congressional district representing rural residential
42 users of this state;

43 (d) One member representing urban business users of this state; and

44 (e) One member representing urban residential users of this state.

45

46 Members appointed under this subdivision shall serve no more than three three-year
47 terms. However, the terms shall be staggered with one-third of the inaugural members,
48 chosen by lot, serving one additional year and another one-third of the inaugural members,
49 chosen by lot, to serve an additional two years. Members appointed under this subdivision
50 shall be deemed part-time public officials and may have other employment. Any person
51 employed by, owning an interest in, or otherwise associated with a broadband deployment
52 project, project sponsor, or project participant is not disqualified from serving as a council

53 member but shall recuse himself or herself from board actions if the member has a conflict
54 of interest or would violate the rules of the Missouri ethics commission;

55 (6) Two senators appointed by the president pro tempore of the senate, serving as
56 ex officio, nonvoting advisory members, one of whom shall be a member of the majority
57 party and one of whom shall be a member of the minority party; and

58 (7) Two members of the house of representatives appointed by the speaker of the
59 house, serving as ex officio, nonvoting advisory members, one of whom shall be a member
60 of the majority party and one of whom shall be a member of the minority party.

61 4. (1) The council shall select a chair and vice chair from among its members. The
62 director of the department of economic development shall chair the first meeting of the
63 council until a chair is selected. Terms of the chair and vice chair shall be two years, and
64 no member may serve more than two consecutive terms in either position. The council
65 shall appoint a secretary-treasurer who need not be a member of the council and who,
66 among other tasks or functions designated by the council, shall keep records of its
67 proceedings.

68 (2) Seven voting members of the council shall constitute a quorum, and a simple
69 majority of the members present shall be sufficient for any action taken by vote of the
70 council.

71 (3) The council may appoint committees or subcommittees for the purposes of
72 investigations and recommendations. Members of these committees or subcommittees need
73 not be members of the council.

74 (4) No member of the council who serves by virtue of his or her office shall receive
75 compensation or reimbursement of expenses for serving as a member. Members appointed
76 under subdivision (5) of subsection 3 of this section and the members of any committee or
77 subcommittee are entitled to be reimbursed for actual and necessary expenses.

78 (5) No member shall be subject to antitrust or unfair competition liability based on
79 membership or participation in the council. The council shall be deemed to provide an
80 essential governmental function and shall have state-action immunity.

81 5. (1) The council shall:

82 (a) Explore any and all ways to expand access to broadband services including, but
83 not limited to, middle mile, last mile, and wireless applications;

84 (b) Gather data regarding the various speeds provided to consumers and compare
85 that data to the speeds the internet service provider advertises;

86 (c) Explore the potential for increased use of broadband service for the purposes
87 of education, career readiness, workforce preparation, and alternative career training;

88 (d) Explore ways to encourage state and municipal agencies to expand the
89 development and use of broadband services to better serve the public through the use of
90 audio and video streaming, voice over internet protocol, teleconferencing, and wireless
91 networking;

92 (e) Assist in expanding electronic instruction and distance education services;

93 (f) Advise and make recommendations to the general assembly regarding:

94 a. Strategies to make broadband service available to unserved and underserved
95 areas; and

96 b. Statutory changes that may enhance and expand broadband in the state; and

97 (g) Submit a report to the general assembly and governor on or before January
98 first each year. The report shall include a summary of the actions taken by the council
99 during the previous year.

100 (2) In addition to other powers, the council is hereby granted the powers necessary
101 and appropriate to carry out and effectuate the duties described under subdivision (1) of
102 this subsection. The council shall have the power to:

103 (a) Provide consultation services to project sponsors regarding the planning,
104 acquisition, improvement, construction, or development of any broadband deployment
105 project;

106 (b) Promote awareness of public facilities that have community broadband access
107 that can be used for distance education and workforce development;

108 (c) Advise on the deployment of online government portals so that all public bodies
109 and political subdivisions have homepages, one-stop government access, and the ability to
110 stream audio and video of public meetings;

111 (d) Make and execute contracts, commitments, and other agreements necessary or
112 convenient to exercise its powers including, but not limited to, hiring consultants to assist
113 in the mapping of the state and categorization of areas within the state;

114 (e) Acquire by gift or purchase, hold, or dispose of real property and personal
115 property in the exercise of its powers and performance of its duties;

116 (f) Receive and disburse funds appropriated for its use by the general assembly or
117 from other funding sources and solicit, apply for, and receive any funds, property, or
118 services from any person, government agency, or organization to perform its duties;

119 (g) Oversee the use of conduit; and

120 (h) Perform any other activities to further its purpose.

121 (3) The council may:

122 (a) Retain outside expert consultants to assist in the purposes of this section. Any
123 retention and contracting of expert consultants shall be transparent, and the council shall

124 **make publicly available any contracts, retention agreements, payments, and invoicing for**
125 **services;**

126 **(b) Take action to increase awareness of issues concerning broadband services and**
127 **to educate and inform the public; and**

128 **(c) Seek nonstate funding and grants, which the council may use itself or disburse**
129 **to fund projects and initiatives.**

130 **6. There is hereby created in the state treasury the "Broadband Enhancement**
131 **Fund", which shall consist of moneys collected under this section. All moneys collected by**
132 **the council including, but not limited to, appropriations, gifts, bequests, and donations,**
133 **shall be deposited in the fund. The state treasurer shall be custodian of the fund. In**
134 **accordance with sections 30.170 and 30.180, the state treasurer may approve**
135 **disbursements. The fund shall be a dedicated fund, and moneys in the fund shall be used**
136 **solely by the department of economic development for the purposes of this section. The**
137 **state treasurer shall invest moneys in the fund in the same manner as other funds are**
138 **invested. Any interest and moneys earned on such investments shall be credited to the**
139 **fund.**

140 **7. (1) The council shall establish a mapping of broadband services in the state**
141 **based on analysis of data, broadband demand, and other relevant information. The**
142 **council shall publish an annual assessment and map of the status of broadband that shall**
143 **specifically designate underserved and unserved areas of the state.**

144 **(2) The council may also establish a public map that is interactive and reflects**
145 **estimated downstream data rates and upstream data rates in regions, counties, cities,**
146 **communities, streets, or other areas. The public map shall not be so specific as to show**
147 **data rates at a particular street address or physical location but may include data**
148 **regarding capacity, based upon fiber count.**

149 **(3) The mapping shall be based on information collected or received by the council**
150 **including, but not limited to, data collected from:**

151 **(a) State agencies, federal agencies, and private entities that collect data on**
152 **broadband services;**

153 **(b) Industry-provided information;**

154 **(c) Consumer data; and**

155 **(d) A voluntary data collection program that the council may establish. The**
156 **program may include voluntarily submitted data from internet service providers and**
157 **include any home or region data rate meters utilized by the provider and voluntarily**
158 **submitted data from customers of an internet service provider, reflecting the person's data**
159 **rate at a particular IP address, which may be based upon a web-based test or analysis**

160 program. Any data collected through a voluntary data collection program shall not be
161 deemed public information and is not subject to public release or availability. Any
162 voluntary data collection program established by the council shall:

163 a. Clearly state to the providers or customers submitting information that the data
164 rate speed may become public, including references to the provider or customer's physical
165 address;

166 b. Clearly state submission of information is voluntary and shall be deemed as
167 consent to use and make public such information; and

168 c. Not include any customer's website history or search information or otherwise
169 publicly identify the customer by name, IP address, or physical address.

170 (4) The mapping and designations therein shall be revised on a continuing basis by
171 the council.

172 (5) Any map of broadband services accessible to the public shall exclude:

173 (a) The location or identity of any critical infrastructure used by public or private
174 entities to provide internet services;

175 (b) Any identifying information of users, including name and IP addresses; and

176 (c) Any information designated as confidential for public security reasons by the
177 United States Department of Homeland Security or the department of public safety.
178 However, it shall be the duty of the public and private entities to make the council aware
179 of such confidential designation, and the actual or estimated upstream data rates and
180 downstream data rates of an area or region of the state shall not be excluded from public
181 or private maps unless the council determines good cause for the exclusion.

182 8. Any entity that has received or hereinafter receives state or federal moneys to
183 install infrastructure for broadband services shall furnish information to the council
184 concerning the location, type, and extent of such infrastructure.

185 9. (1) The council shall create guidelines for, and recommend to the general
186 assembly, a means to allow pipeline, railroad, and other rights-of-way in the state to be
187 donated to the state for use by public or private entities to facilitate broadband service and
188 availability through the placement of fiber.

189 (2) The council shall create guidelines for, and recommend to the general assembly,
190 a means of implementing a program to procure easements for use by public or private
191 entities to facilitate broadband service and availability through the placement of fiber.

192 10. (1) Notwithstanding the provisions of chapter 610, information provided to the
193 council, its consultants, or its other agents that is identified as confidential information
194 when submitted shall be exempt from disclosure and shall be secured and safeguarded.
195 Such information may include, but be not limited to, physical plant locations, subscriber

196 levels, market penetration data, and any other proprietary business information or any
197 other information that constitutes a trade secret.

198 (2) Any person who makes any unauthorized disclosure of such confidential
199 information or data shall be guilty of a class A misdemeanor.

200 11. The council may promulgate all necessary rules and regulations for the
201 administration of this section, including the voluntary data collection program under
202 paragraph (d) of subdivision (3) of subsection 7 of this section. Any rule or portion of a
203 rule, as that term is defined in section 536.010, that is created under the authority
204 delegated in this section shall become effective only if it complies with and is subject to all
205 of the provisions of chapter 536 and, if applicable, section 536.028. This section and
206 chapter 536 are nonseverable, and if any of the powers vested with the general assembly
207 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul
208 a rule are subsequently held unconstitutional, then the grant of rulemaking authority and
209 any rule proposed or adopted after August 28, 2021, shall be invalid and void.

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