SC4546X1

Sub. H.B. 110
L-134-0001-5

_____ moved to amend as follows:

In line 133 of the title, after "117.55," insert "122.4090, 122.4091, 122.4093, 122.4095, 122.4097, 122.4098,"

In line 310, after "117.55," insert "122.4090, 122.4091, 122.4093, 122.4095, 122.4097, 122.4098,"

After line 4776, insert:

"**Sec. 122.4090.** As used in sections 122.4090 to 122.4098 of the Revised Code:

"Broadband service" has the same meaning as "tier two broadband service" as defined in section 122.40 of the Revised Code.

"Government-owned network" means a network owned or controlled by, or operated in partnership with, any political subdivision of the state that is constructed, operated, or used for the provision of broadband service on a wholesale or retail basis.

"Political subdivision" has the same meaning as in section 125.04 of the Revised Code.

"Tier one broadband service" and "tier two broadband service" have the same meanings as in section 122.40 of the Revised Code.

"Unserved area" has the same meaning as in section 122.40 of the Revised Code, but is limited to an unserved area located within the geographic boundaries of a political subdivision that has established a government-owned network.

Sec. 122.4091. (A) A political subdivision that has established a government-owned network may provide broadband service within an unserved area in accordance with sections 122.4091 to 122.4098 of the Revised Code.

(B) No political subdivision that has established a government-owned network shall provide broadband service in any part of the state outside of an unserved area of that political subdivision.

Sec. 122.4093. Prior to establishing a government-owned network, a political subdivision shall do the following:

(A) Provide, in a newspaper of general circulation in the political subdivision at least once a week for two consecutive weeks, a formal public notice of its intent to provide broadband service in an unserved area;

(B) Obtain the same approvals and authorizations for the construction and deployment of broadband facilities in the public rights-of-way that are required for broadband service networks operated by private entities.

Sec. 122.4095. A political subdivision that has established a government-owned network may provide broadband service only to subscribers residing within unserved areas of the network.

Sec. 122.4097. (A) Before proceeding with the construction or deployment of broadband facilities or the operation of broadband service, a political subdivision that establishes a government-owned network under sections 122.4090 to 122.4098 of the Revised Code shall do the following:

(1) Establish adequate measures to protect the residents of the political subdivision from increases in any taxes or fees imposed by the political subdivision to offset losses in case of poor network performance of, or insufficient demand for, the network's broadband service;

(2) Prepare a formal business plan that includes, at a minimum, the following:

(a) A cost-benefit analysis for the network;

(b) Financially sound projections for the construction and operating costs for the network, and the number of broadband subscribers that will use the network;

(c) Criteria measuring the continued viability and sustainability of the network;

(d) Deployment deadlines and performance metrics established for the network.

(3) Provide information demonstrating that the proposed operation of the network and provision of broadband service do not adversely affect the political subdivision's credit rating;

(4) Provide information demonstrating that the proposed operation of the network and provision of broadband service in partnership with a private entity will not adversely affect the finances of the political subdivision, if the private entity breaches the partnership contract with the political subdivision or fails to meet capital or operating cost obligations;

(5) Conduct annual independent audits of the network's operation and the broadband service provided and provide a mechanism for making the audit results available for review by the public;

(6) Establish a mechanism to equitably refund any profits to taxpayers of the political subdivision, if the provision of broadband service through the operation of the network generates a net profit.

(B) The political subdivision shall submit, to the legislative authority of the political subdivision, the business plan and the information required under divisions (A)(2) to (4) of this section.

Sec. 122.4098. (A)(1) A political subdivision shall fund a government-owned network solely with capital funds allocated

specifically for the construction, deployment, purchase, lease, or operation of broadband facilities in the network.

(2) The funds shall be allocated pursuant to a formal resolution adopted by the legislative authority of the political subdivision.

(3) Capital budget funds shall not be allocated unless the legislative authority has reviewed the business plan and information provided pursuant to division (B) of section 122.4097 of the Revised Code and approved the business plan.

(B) A political subdivision shall not use revenues obtained from, or public monies allocated for, its provision of other residential or business services, including such services as electric, water, gas, street-lighting, pole attachment, and similar services, to fund or subsidize the construction, deployment, purchase, lease, or operation of broadband facilities or the provision of broadband service to subscribers.

(C) A political subdivision shall not aggregate federal funds received at different times to fund or subsidize the construction, deployment, purchase, lease, or operation of broadband facilities, or the provision of broadband service to subscribers."

The motion was _____ agreed to.

SYNOPSIS

Government-owned broadband networks

R.C. 122.4090, 122.4091, 122.4093, 122.4095, 122.4097, 122.4098,

Permits political subdivisions to establish a government-owned network for the provision of broadband service on a wholesale or retail basis only in unserved areas within the political subdivision, but not to any part of the state outside of that unserved area.

Defines "unserved areas" as areas within the geographic boundaries of the political subdivision with a network that are without access to "tier one broadband service" (broadband service capable of speeds of at least 10 but less than 25 Mbps downstream and at least 1 but less than 3 Mbps upstream) or "tier two broadband service" (broadband service capable of speeds of at least 25 Mbps downstream and at least 3 Mbps upstream).

Requires a political subdivision with a network to (1) provide notice in a newspaper of its intent to provide broadband service in an unserved area and (2) obtain the same approvals and authorizations that private entities must obtain to construct and deploy broadband facilities in public rights of way.

Requires the political subdivision to perform certain other tasks such as (1) preparing a formal business plan for the network, (2) establishing measures to protect residents from any increase in taxes or fees to offset any losses if the network performance is poor or demand for the service is insufficient, (3) providing information demonstrating that the network and provision of broadband service does not adversely affect the political subdivision's credit rating, and (4) establishing a mechanism to refund any profits to taxpayers if the provision of broadband service through the operation of the network generates a net profit.

Requires the network to be funded by capital funds allocated by the legislative authority of the political subdivision in a resolution adopted by the legislative authority after it approves the business plan submitted by the political subdivision.

Prohibits the political subdivision with a network from aggregating federal funds received at different times or using revenues and other public monies allocated for other residential or business services to fund or subsidize the construction, deployment, purchase, lease, or operation of broadband facilities, or the provision of broadband service to subscribers.