

SENATE FILE NO. SF0076

Broadband development program-amendments.

Sponsored by: Senator(s) Dockstader and Representative(s)
Sommers

A BILL

for

1 AN ACT relating to the broadband development program;
2 creating requirements for providing funding for middle-mile
3 broadband projects; defining terms; amending minimum speed
4 requirements for projects funded under the program;
5 specifying eligible applicants for funding; amending
6 rulemaking authority and requirements for the program;
7 amending application contents; amending procedures for the
8 challenge process; specifying additional funding
9 priorities; amending and repealing limitations on funding
10 projects; repealing rulemaking requirements for broadband
11 speeds; requiring rulemaking; specifying applicability; and
12 providing for effective dates.

13

14 *Be It Enacted by the Legislature of the State of Wyoming:*

15

1 **Section 1.** W.S. 9-12-1510 is created to read:

2

3 **9-12-1510. Middle-mile broadband projects.**

4

5 (a) The council may fund middle-mile broadband
6 projects upon receiving an application as provided under
7 this article. The provisions of this article shall apply to
8 middle-mile broadband projects except as otherwise provided
9 by this section. The council shall not fund middle-mile
10 broadband projects under this article unless:

11

12 (i) There is no middle-mile infrastructure or
13 functional equivalent in the proposed geographic broadband
14 service area to be served by the proposed middle-mile
15 broadband project;

16

17 (ii) The middle-mile broadband project does not
18 result in any overbuild of middle-mile broadband
19 infrastructure or the functional equivalent;

20

21 (iii) The project enables broadband internet
22 providers to provide or improve last-mile broadband

1 internet service for end users or end user devices in
2 unserved areas;

3

4 (iv) The broadband provider receiving funding
5 under this article agrees to ensure that access to any
6 infrastructure created or improved by the project is
7 provided to other broadband providers at reasonable rates;

8

9 (v) The broadband provider agrees to:

10

11 (A) Allow the council to participate in
12 arbitration of determining reasonable rates in the event of
13 unsuccessful negotiations between the funding recipient and
14 another broadband provider for access to the
15 infrastructure; and

16

17 (B) Provide to the council upon the
18 council's request any marketing information based on
19 current leases to assist the council in determining
20 reasonable rates for access to the infrastructure for the
21 project funded under this article. Any information provided
22 under this subparagraph shall be confidential and shall not
23 be disclosed by the council.

1

2 (b) The council shall promulgate rules for the
3 funding of middle-mile broadband projects as provided by
4 this section.

5

6 **Section 2.** W.S. 9-12-1501(b), (c)(ii)(A), (B), by
7 creating a new subparagraph (C), (d), (g) and by creating a
8 new subsection (h), 9-12-1502(c)(ii), 9-12-1503(a)(i) and
9 by creating a new subsection (b), 9-12-1504(a)(intro), (i)
10 and (c) and 9-12-1505(b)(vii) and by creating a new
11 paragraph (ix) are amended to read:

12

13 **9-12-1501. Broadband development program established;**
14 **purposes; eligibility; definitions.**

15

16 (b) Funds may be provided under this article for the
17 acquisition, deployment and installation of infrastructure
18 that supports broadband service at a minimum of at least
19 twenty-five (25) megabits per second download and three (3)
20 megabits per second upload in residential areas and ~~one (1)~~
21 ~~gigabits~~ nine hundred (900) megabits per second download
22 speed and ~~one hundred (100)~~ thirty-five (35) megabits per
23 second upload speed in business corridors.

1

2 (c) Except as provided in subsection (d) of this
3 section, eligible applicants for funding awarded under this
4 article are public private partnerships which include:

5

6 (ii) A government entity specified in the
7 following:

8

9 (A) A city, town, improvement and service
10 district or county or joint powers board; ~~or~~

11

12 (B) A tribal government of either the
13 Northern Arapaho or Eastern Shoshone tribes of the Wind
14 River Indian Reservation; ~~or~~ or

15

16 (C) A state agency as defined by W.S.
17 9-2-1002(a)(i).

18

19 (d) A governmental entity specified in subparagraph
20 (c)(ii)(A) or (B) of this section shall develop a request
21 for proposals, as prescribed by the council, on such a form
22 as may be promulgated by the council, inviting business
23 entities to participate in a project proposed for funding

1 under this article. If no eligible business entity responds
2 to the request for proposal with a proposal meeting the
3 requirements specified, the governmental entity specified
4 in subparagraph (c)(ii)(A) or (B) may apply individually,
5 or jointly with any other governmental entity specified in
6 ~~subsection (c)~~ subparagraph (c)(ii)(A) or (B) of this
7 section.

8
9 (g) The Wyoming business council shall by rule
10 establish a definition of "business corridor" for purposes
11 of this article. An area shall not be considered a business
12 corridor unless multiple businesses are, or have undertaken
13 permitting, construction or other substantial steps to be,
14 located in proximity to each other. ~~such that the provision~~
15 ~~of broadband services at the speeds specified in~~
16 ~~subsections (e) and (f) of this section is technologically~~
17 ~~and economically feasible.~~

18
19 (h) As used in this article:

20
21 (i) "Last-mile" means a broadband project for
22 fixed terrestrial infrastructure, including fixed wireless
23 infrastructure, the primary purpose of which is to provide

1 broadband internet service to end users or end-user
2 devices;

3

4 (ii) "Middle-mile" means a broadband project for
5 fiber-optic infrastructure the primary purpose of which is
6 to connect last-mile broadband infrastructure and networks
7 to network service providers.

8

9 **9-12-1502. Application process.**

10

11 (c) Funding under this article to a public private
12 partnership shall not require of the partnering business
13 entity:

14

15 (ii) Rates, terms and conditions that differ
16 from those the provider offers in its other service areas,
17 except as provided in W.S. 9-12-1510;

18

19 **9-12-1503. Application contents; application**
20 **modification.**

21

22 (a) An applicant for funding under this article shall
23 provide the following information on the application:

1

2 (i) The location of the project, including a
3 shapefile depicting the location and boundaries of the
4 proposed project area or, for a middle-mile project, a map
5 depicting the location and endpoints;

6

7 (b) The council may require an applicant to submit
8 additional information to enable the council to properly
9 assess the application for funding. The council may request
10 an applicant to modify an application based on current
11 broadband access in the proposed geographic broadband
12 service area before awarding funding under this article.

13

14 **9-12-1504. Challenge process.**

15

16 (a) Within three (3) business days of the close of
17 the funding application process, the council shall publish
18 on its official website the proposed geographic broadband
19 service area and the proposed broadband service speeds for
20 each application submitted and shall notify each broadband
21 provider who is listed with the council as providing
22 broadband service in the proposed project area of the
23 application and proposed project. The notification to each

1 listed broadband provider shall include the shapefile or
2 map submitted by the applicant under W.S. 9-12-1503(a)(i).

3 An existing broadband service provider may, within ~~thirty~~
4 ~~(30)~~ ten (10) business days of publication of the
5 information, submit in writing to the council a challenge
6 to an application. A challenge shall contain information
7 demonstrating that:

8
9 (i) The provider currently provides or has begun
10 construction, ~~or~~ undertaken permitting or ~~other significant~~
11 ~~steps toward construction~~ has received other federal or
12 state funding for a project in the proposed geographic
13 broadband service area to provide broadband service
14 comparable to that in the proposed project at speeds equal
15 to or greater than the speeds proposed in the application
16 and with other capabilities and project size comparable to
17 the project proposed in the application; or

18
19 (c) If the council denies funding to an applicant as
20 a result of a broadband service provider's challenge made
21 under this section, and the broadband service provider does
22 not fulfill the provider's commitment to provide broadband
23 service in the project area, the challenging provider is

1 prohibited from applying for funding for a project under
2 this article for the following five (5) years and the
3 council is prohibited from denying funding to an applicant
4 as a result of a challenge by the same broadband service
5 provider for the following ~~two (2) fiscal~~ five (5) years,
6 unless the council determines that the broadband service
7 provider's failure to fulfill the provider's commitment was
8 the result of factors beyond the broadband service
9 provider's control.

10

11 **9-12-1505. Funding determinations.**

12

13 (b) In evaluating applications and entering into
14 agreements to provide funding, the council shall give
15 priority to applications that meet one (1) or more of the
16 following criteria, with additional priority given for
17 meeting multiple criteria:

18

19 (vii) Provide access to very high speed
20 broadband service to business districts or other business
21 areas and are likely to secure economic benefits for the
22 surrounding locality; ~~or~~

23

1 (ix) Are for projects that are economically and
2 technologically feasible for expanding broadband access in
3 unserved areas of the state.

4
5 **Section 3.** W.S. 9-12-1503(a)(ix) and (x),
6 9-12-1506(a) and 9-12-1508 are repealed.

7
8 **Section 4.** The provisions of this act shall apply to
9 all projects approved for funding under the broadband
10 development program on or after the effective date of this
11 section.

12
13 **Section 5.** The Wyoming business council shall
14 promulgate all rules necessary to implement the provisions
15 of this act.

16
17 **Section 6.**

18
19 (a) Except as provided in subsection (b) of this
20 section, this act is effective July 1, 2021.

21
22 (b) Sections 5 and 6 of this act are effective
23 immediately upon completion of all acts necessary for a

1 bill to become law as provided by Article 4, Section 8 of
2 the Wyoming Constitution.

3

4

(END)