

House Bill 608

By: Representatives Wiedower of the 119<sup>th</sup>, Burns of the 159<sup>th</sup>, Smyre of the 135<sup>th</sup>, Parsons of the 44<sup>th</sup>, Kelley of the 16<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 50 of the Official Code of Georgia Annotated, relating to state government,  
2 so as to provide for planning, deployment, and incentives of broadband services throughout  
3 the state; to provide for definitions; to provide for certain powers, duties, and responsibilities  
4 of the OneGeorgia Authority and the Department of Community Affairs relative to funding  
5 and contractual awards for the deployment of broadband services to unserved areas and  
6 unserved locations within such areas; to provide certain criteria and conditions for such  
7 awards; to establish a process and procedure for the department to receive and investigate  
8 comments and suggestions related to proposed awards; to provide for related matters; to  
9 repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended  
13 in paragraph (9) of Code Section 50-34-2, relating to definitions relative to the "OneGeorgia  
14 Authority Act," by deleting "and" at the end of subparagraph (G), by replacing the period  
15 with "; and" at the end of subparagraph (H), and by adding a new subparagraph to read as  
16 follows:

H. B. 608

17 "(I) The construction, improvement, modification, purchase, or lease of infrastructure  
18 or connections for broadband services through contracts with qualified broadband  
19 providers the authority determines as necessary to further advance the purposes and  
20 goals of the Georgia Broadband Deployment Initiative provided for in Code  
21 Section 50-40-80. As used in this subparagraph, the terms 'broadband services' and  
22 'qualified broadband provider' shall have the same meaning as provided in Code Section  
23 50-40-1."

24 **SECTION 2.**

25 Said title is further amended by revising Code Section 50-40-1, relating to definitions relative  
26 to the promotion and deployment of broadband services, as follows:

27 "50-40-1.

28 As used in this chapter, the term:

29 (1) 'Broadband network project' means any deployment of broadband services.

30 (2) 'Broadband services' means a wired or wireless terrestrial service that consists of the  
31 capability to transmit at a rate of not less than 25 megabits per second in the downstream  
32 direction and at least 3 megabits per second in the upstream direction to end users and in  
33 combination with such service provides:

34 (A) Access to the ~~Internet~~ internet; or

35 (B) Computer processing, information storage, or protocol conversion.

36 (3) 'Broadband services provider' means any provider of broadband services or a public  
37 utility or any other person or entity that builds or owns a broadband network project.

38 (3.1) 'Department of Community Affairs' or 'department' means the Department of  
39 Community Affairs created under Code Section 50-8-1.

40 (4) 'Development authority' shall have the same meaning as provided in Code  
41 Section 36-62A-20.

42 (5) 'Eligible applicants' means any or all public bodies or qualified broadband providers,  
43 designated by the Department of Community Affairs pursuant to paragraph (2) of  
44 subsection (b) of Code Section 50-40-81, as political subdivisions or qualified broadband  
45 providers qualified to apply for funds under this article.

46 (6) 'Local authority' shall have the same meaning as provided in Code  
47 Section 36-82-220.

48 (7) 'Location' means any residence, dwelling, home, business, or building.

49 (8) 'Political subdivision' means a county, municipal corporation, consolidated  
50 government, or local authority.

51 (9) 'Qualified broadband provider' means an entity that is authorized to apply for or that  
52 obtains a certificate of authority issued pursuant to Code Section 46-5-163 that:

53 (A)(i) Has, directly or indirectly, been providing broadband services to at least 1,000  
54 locations; and

55 (ii) Has been conducting business in the state for at least three years with a  
56 demonstrated financial, technical, and operational capability to operate a broadband  
57 services network; or

58 (B) Is able to demonstrate financial, technical, and operational capability to operate a  
59 broadband services network.

60 (10) 'Served area' means a census block that is not designated by the Department of  
61 Community Affairs as an unserved area.

62 (11) 'Unserved area' means a census block in which broadband services are not available  
63 to 20 percent or more of the locations as determined by the Department of Community  
64 Affairs pursuant to Article 2 of this chapter.

65 (12) 'Unserved location' means a location that does not have access to broadband  
66 services."

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**SECTION 3.**

68 Said title is further amended by revising Code Section 50-40-22, relating to petition  
69 contesting maps, as follows:

70 "50-40-22.

71 (a) An entity that is authorized to apply for or that obtains a certificate of authority  
72 pursuant to Code Section 45-5-163, a broadband services provider, or a political  
73 subdivision may file a petition with the Department of Community Affairs along with data  
74 specifying locations or census blocks which the petitioner alleges should be designated  
75 differently than as shown on the map published on the website of the Department of  
76 Community Affairs pursuant to Code Section 50-40-21. Upon receipt of such petition and  
77 data, the Department of Community Affairs shall provide notice of the petition on the  
78 Department of Community Affairs' website and shall notify all broadband services  
79 providers furnishing broadband services in ~~such census block or any census block in which~~  
80 ~~any such locations are positioned~~ this state. Such broadband services providers shall have  
81 45 days after the date such notice is sent to furnish information to the Department of  
82 Community Affairs showing whether the locations that are the subject of the petition  
83 currently have broadband services available. The Department of Community Affairs shall  
84 determine whether the designation of such locations or census blocks should be changed  
85 and shall issue such determination within 75 days of the date the notice is sent to the  
86 broadband services provider.

87 (b) Any determination made by the Department of Community Affairs pursuant to this  
88 Code section shall be final and not subject to review, and any such determination shall not  
89 be a contested case under Chapter 13 of Title 50, the 'Georgia Administrative Procedure  
90 Act.'"

**SECTION 4.**

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Said title is further amended by revising Code Section 50-40-81, relating to development of Georgia Broadband Deployment Initiative, funding awards, considerations, priorities, and compliance with federal provisions, as follows:

"50-40-81.

(a) ~~On or before July 1, 2019, the~~ The Department of Community Affairs shall develop and maintain the 'Georgia Broadband Deployment Initiative' program ~~to provide funding awards~~ to expand broadband services to unserved locations in unserved areas of the state through funding awards or through OneGeorgia Authority contractual awards. The goal of such program shall be to provide broadband services coverage throughout the entire state. The funding or contractual awards of the program shall represent the state's investment in the deployment of broadband services to unserved locations in unserved areas and shall be used only for capital expenses and expenses directly related to the construction, improvement, modification, purchase, or lease of property or communications services or facilities, including, without limitation, backhaul and transport, to facilitate the provision of broadband services.

(b)(1) Funding or contractual awards, in the form of grants, contracts, or loans, shall be competitively awarded to eligible applicants based on criteria consistent with this article and other factors established by the department; provided, however, that the department shall not discriminate between different types of broadband services technology as long as the technology is capable of transmitting data at the rates specified for each unserved area.

(2) The department shall designate political subdivisions and qualified broadband service providers as eligible applicants that shall be qualified to apply for funding or contractual awards under this article. All ~~such~~ eligible applicants that are political subdivisions are hereby granted all powers necessary for any and all purposes of the program, and in the case of any development authority included as an eligible applicant, the exercise of such

118 powers is hereby found and determined to promote the development of trade, commerce,  
119 industry, and employment opportunities.

120 (c) Funding or contractual awards shall be based on appropriations of funds or receipt of  
121 other funds to support the program. In no instance shall any state funds be used to support  
122 a project that will provide broadband services to any locations where broadband services  
123 are already available from a broadband services provider. An eligible applicant shall not  
124 receive a funding or contractual award for the same project or geographic area for which  
125 the eligible applicant has already obtained federal, state, or local government funding  
126 specifically to support the expansion of broadband networks.

127 (d) The department shall consider each of the following in the funding or contractual  
128 awards process:

129 (1) The effectiveness of ~~the~~ any partnership that may exist between an eligible applicant  
130 and a qualified broadband services provider for the deployment of broadband services;

131 (2) The benefit to the unserved locations or the unserved area in terms of the population  
132 served and the capacity and scalability of the technology to be deployed; and

133 (3) The total project cost and the ability to leverage other available ~~federal, local,~~ and  
134 private funds.

135 (e) In addition to the criteria provided in subsection (d) of this Code section, the  
136 department may establish any other criteria for determining any funding or contractual  
137 awards that are reasonable and necessary to ensure that the funds are utilized to provide  
138 broadband services to the unserved areas. Such criteria may include, but shall not be  
139 limited to:

140 (1) Whether the ~~qualified broadband services provider in the partnership~~ eligible  
141 applicant is willing to agree to:

142 (A) Not charge more for broadband services to customers in any unserved area for  
143 which a funding award is received than it does for the same or similar broadband  
144 services to customers in other areas of the state; and

145 ~~(B) Serve 90 percent of any locations requesting broadband services in any unserved~~  
146 ~~area for which a funding award is received; and~~  
147 ~~(C)~~(B) Meet or exceed in any unserved area for which it receives a grant funding or  
148 contractual award a minimum level of dependable service as established by the  
149 department;

150 (2) The benefit to businesses; industrial parks; education centers; hospitals and other  
151 health care facilities, such as telehealth facilities and emergency care facilities;  
152 government buildings; public safety departments; or other providers of public services  
153 located within the unserved area;

154 (3) Data cap limits, signal latency, and reliability of the technology to be utilized;

155 (4) Historic service issues in other areas served by the qualified broadband services  
156 provider in the partnership; and

157 (5) The length of time it will take to deploy the broadband services in the unserved area  
158 or to the unserved locations.

159 (f) The department shall give competitive priority to any unserved area certified as a  
160 broadband ready community as provided in Article 3 of this chapter. ~~Partnerships that~~  
161 ~~include~~ Eligible applicants that are or partner with qualified broadband providers that  
162 cooperate in providing information requested pursuant to subsection (d) of Code Section  
163 50-40-21, as applicable, shall also factor favorably into the competitive funding or  
164 contractual awards process.

165 (g) As part of the application process and prior to awarding funds or a contract to an  
166 eligible applicant, the department shall establish a period of at least 60 days after the date  
167 the applications for funding or contractual awards are published on the department's  
168 website, during which time the department shall accept comments or objections concerning  
169 each application. In deciding whether an eligible applicant should be awarded funding or  
170 a contract, the department shall consider all comments or objections received and  
171 investigate them as needed. If a comment or objection submitted by another eligible

172 applicant requires an investigation and the comment or objection is found to be inaccurate,  
173 such eligible applicant shall reimburse the department for the cost of verifying the  
174 information.

175 (h) The department shall not award funds or a contract to an eligible applicant if verifiable  
176 information is made available that shows any of the following:

177 (1) The proposed project includes an unserved location or unserved area where at least  
178 one provider has deployed broadband services;

179 (2) The department receives a sworn statement from an officer of a broadband services  
180 provider that the proposed project includes an unserved location or unserved area where  
181 construction of a network to provide broadband services is underway, and the  
182 construction is scheduled to be completed within one year after the date of the  
183 application; or

184 (3) The department receives a sworn statement from an officer of a broadband services  
185 provider that the proposed project includes either of the following:

186 (A) A specific geographic area where an eligible applicant has been selected to receive  
187 funding, provisionally or otherwise, from the Federal Communications Commission or  
188 the United States Department of Agriculture specifically for the expansion of  
189 broadband services; provided, however, that this subparagraph shall not apply to an  
190 area if either of the following has occurred:

191 (i) The eligible applicant did not complete the requirements for obtaining the funding  
192 described in this subparagraph; or

193 (ii) The time period for the eligible applicant to meet its obligation described in this  
194 subparagraph expired and the geographic area remains an unserved area; or

195 (B) An area where the construction of a network to provide broadband services is to  
196 be completed no later than two years after the date of an application.

197 (i) The department shall not, as a condition of an award of money through a funding or  
198 contractual award, impose an open network architecture requirement, rate regulation, or



199 other term or condition of service that differs from the eligible applicant's terms or  
200 conditions of broadband services in other broadband services areas of the eligible applicant.  
201 ~~(g)~~(j) The department shall ensure that the program complies with all applicable federal  
202 laws, rules, and regulations."

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**SECTION 5.**

204 All laws and parts of laws in conflict with this Act are repealed.