

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 7305**

**BILL NUMBER: SB 352**

**NOTE PREPARED: Jan 15, 2021**

**BILL AMENDED:**

**SUBJECT:** Broadband Development.

**FIRST AUTHOR:** Sen. Houchin

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:**  **GENERAL**  
 **DEDICATED**  
 **FEDERAL**

**IMPACT:** State

**Summary of Legislation:** The bill amends the statutory priorities for the funding of projects from the rural broadband fund to provide that the Office of Community and Rural Affairs (OCRA) shall establish as a priority the funding of projects to extend the deployment of eligible broadband service to areas in which the only available connections to the Internet are at actual speeds of not more than 25 megabits per second downstream. (Current law prioritizes the funding of projects to deploy eligible broadband service to rural areas based on two different levels of broadband speed available in such areas.)

The bill requires the OCRA to amend, not later than April 15, 2021, the OCRA's guidelines implementing the broadband grant program as necessary to reflect the changes to the funding priorities made by the bill's provisions.

It provides that not later than 90 days before the date on which applications for grant funding may first be submitted with respect to a particular round of funding, the OCRA shall issue to any persons providing broadband service in rural areas a request for information soliciting: (1) data identifying each service address for which the person provides broadband service in a rural area, including information on upload and download speeds of the service provided; and (2) information identifying service addresses or other locations in rural areas to which the person will provide eligible broadband service not later than 18 months after the date on which applications for grant funding may first be submitted with respect to the particular round of grant funding.

The bill provides that if the information received by the OCRA in response to a request for information does not indicate that any person is providing broadband service to a particular service address, the OCRA shall consider the service address to be: (1) without broadband service; and (2) eligible for inclusion in any

proposed broadband project for which grant funding is sought.

The bill provides that with respect to any service addresses or other locations identified by a person for the deployment of eligible broadband service not later than 18 months after the date on which applications may first be submitted for a particular round of funding, the OCRA shall consider the service addresses or locations identified to be ineligible for inclusion in any proposed broadband project for which funding is sought, subject to the person submitting: (1) a plan for the proposed deployment; and (2) quarterly progress reports on the person's activities in furtherance of the plan.

The bill provides that before each round of grant funding, the OCRA shall publish on the OCRA's Internet web site: (1) data, not identified by provider, as to which service addresses in rural areas receive broadband service at certain specified speeds; (2) data, not identified by provider, as to which service addresses in rural areas are planned for broadband deployment within the 18 month period beginning with the date applications may first be submitted for the particular round of funding; and (3) a map of Indiana showing the general locations of these service addresses or locations.

The bill provides that any information submitted to the OCRA under these provisions: (1) is confidential for purposes of the statute concerning access to public records; (2) is subject to certain protections concerning confidential or proprietary business information; and (3) may not be disclosed by the OCRA, other than in a form that does not identify the person providing the information.

The bill prohibits the Department of Transportation (INDOT) from requiring a private entity to agree, as a condition of the department leasing a right-of-way to the private entity, that fixtures constructed or installed by the private entity in or under the right-of-way are or become, without additional consideration, property of the INDOT or of the state.

The bill provides that the INDOT may, in consultation with the OCRA and with the Indiana Office of Technology (IOT) establish and implement a long-term policy with regard to the use, by public or private entities, of the rights-of-way of interstates and state owned roads for the deployment of broadband service throughout the state.

The bill provides that, to the extent permitted under federal law, rules, or regulations, the INDOT shall transfer any net revenue produced by: (1) the lease of rights-of-way; or (2) fees charged for access to rights-of-way; under the policy to the rural broadband fund.

**Effective Date:** Upon passage.

**Explanation of State Expenditures:** *Office of Community and Rural Affairs (OCRA):* The bill amends the priorities to be used by the OCRA in determining priority for the funding of rural broadband projects. The OCRA is also required to begin soliciting specific information from any persons providing broadband service in rural areas for the purpose of determining whether service addresses are without broadband service and thus eligible for inclusion in proposed broadband projects. Before each round of rural broadband grant funding, the OCRA must publish certain information on its website, including data on rural broadband coverage and speeds and data identifying rural areas that are planned for broadband deployment. The bill also requires the OCRA to amend its guidelines implementing the broadband grant program as necessary by April 15, 2021, to reflect the changes made by the bill. Implementing the provisions of the bill represent an additional workload on the agency, but should likely be accomplished within existing resources.

*Department of Transportation (INDOT):* The bill provides that the INDOT may work in consultation with the OCRA and the Indiana Office of Technology (IOT) to develop and implement policy regarding the use of rights-of-way by public or private entities as a means of deploying broadband service throughout the state. Policy development and implementation are routine agency functions, and should be accomplished within existing resources.

**Explanation of State Revenues:** The bill prohibits INDOT from requiring a private entity to agree that fixtures constructed or installed by the private entity become property of INDOT or the state without additional consideration as a condition of leasing a right-of-way to the entity. This could impact state revenues to the extent that INDOT or the state cannot automatically acquire assets in this manner, but will likely have a minimal impact on General Fund revenue.

The bill also requires that INDOT begin transferring net revenues produced by the lease of rights-of-way, or fees charged for access to rights-of-way, to the rural broadband fund, per INDOT's new broadband deployment policy. This represents a shift of about \$1 M annually from the State Highway Fund to the Rural Broadband Fund. The fiscal impact from this change could be seen as early as FY 2021. The transfer of these funds from could result in the funding of more rural broadband projects per the bill's guidelines.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:**

**State Agencies Affected:** Office of Community and Rural Affairs; Indiana Department of Transportation; Indiana Office of Technology.

**Local Agencies Affected:**

**Information Sources:** Indiana Department of Transportation, Right-of-Way Funding.

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