

CHAPTER 241

PUBLIC UTILITIES

HOUSE BILL 20-1137

BY REPRESENTATIVE(S) McCluskie and Soper, Bockenfeld, Buckner, Buentello, Catlin, Cutter, Duran, Esgar, Exum, Hooton, Jaquez Lewis, Kipp, Lontine, McLachlan, Melton, Michaelson Jenet, Mullica, Roberts, Singer, Snyder, Titone, Valdez D., Wilson, Young, Arndt, Gonzales-Gutierrez, Woodrow;
also SENATOR(S) Donovan, Crowder, Danielson, Ginal, Hansen, Sonnenberg, Todd, Winter.

AN ACT

CONCERNING A REQUIREMENT THAT THE BROADBAND DEPLOYMENT BOARD GIVE SUBSTANTIAL WEIGHT TO A LOCAL ENTITY'S WRITTEN CERTIFICATION THAT AN AREA WITHIN THE ENTITY'S JURISDICTION IS AN UNSERVED AREA WHEN CONSIDERING AN APPLICATION FOR GRANT MONEY FOR THE PROVISION OF BROADBAND SERVICE TO THAT UNSERVED AREA.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 40-15-102, **amend** (17.5) as follows:

40-15-102. Definitions. As used in this article 15, unless the context otherwise requires:

(17.5) (a) "Local entity" means elected members of a county ~~government~~, OR municipal government. ~~school district, or board of cooperative educational services in an unserved area.~~

(b) FOR PURPOSES OF THIS SUBSECTION (17.5), "MUNICIPAL GOVERNMENT" MEANS A HOME RULE OR STATUTORY CITY, TOWN, OR CITY AND COUNTY OR A TERRITORIAL CHARTER CITY.

SECTION 2. In Colorado Revised Statutes, 40-15-509.5, **amend** (8) introductory portion, (8)(a), and (8)(b) as follows:

40-15-509.5. Broadband service - report - broadband deployment board - broadband administrative fund - creation - definitions - rules - repeal. (8) The board shall direct the commission to transfer money, in a manner consistent with this section, from the account for broadband deployment established in the HCSM

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

to approved grant applicants. The board shall develop criteria for awarding money for new projects ~~into~~ TO DEPLOY BROADBAND IN unserved areas, including:

(a) (I) Developing a project application process that places the burden on an eligible applicant to demonstrate that its proposed project meets the project eligibility criteria established in this subsection (8), including a requirement that the proposal concern a new project, and not a project already in progress, and a requirement to prove that the area to be served by the proposed project is an unserved area.

(II) To prove that the area to be served is an unserved area, the applicant:

(A) Must submit a map and a list of household addresses demonstrating the insufficient availability of broadband service in the area ~~The applicant must submit the application, map, and list of household addresses to the board; the board of county commissioners, city council, or other local entity with authority over the area to be served; and all incumbent providers or incumbent broadband providers that provide broadband internet service or broadband service in the area proposed to be served in the application; AND~~

(B) MAY SUBMIT TO THE BOARD THE WRITTEN CERTIFICATION OF A LOCAL ENTITY AS DESCRIBED IN SUBSECTION (8)(a)(III) OF THIS SECTION.

(III) AS ADDITIONAL EVIDENCE OF THE INSUFFICIENT AVAILABILITY OF BROADBAND SERVICE IN THE AREA THAT AN APPLICANT PROPOSES TO SERVE, THE APPLICANT MAY REQUEST FROM A LOCAL ENTITY WITH JURISDICTION OVER THE AREA PROPOSED TO BE SERVED A WRITTEN CERTIFICATION THAT THE AREA IS AN UNSERVED AREA. THE LOCAL ENTITY SHALL NOT PROVIDE WRITTEN CERTIFICATION UNTIL AFTER THE LOCAL ENTITY HAS:

(A) PROVIDED PUBLIC NOTICE, INCLUDING NOTIFICATION TO ANY INCUMBENT PROVIDER, IF ANY, AND HELD A HEARING ON THE ISSUE; AND

(B) COLLECTED, SOLICITED, AND REVIEWED ANY QUANTITATIVE DATA THAT IT DEEMS APPROPRIATE REGARDING THE AVAILABILITY OF BROADBAND SERVICE IN THE AREA THAT THE APPLICANT PROPOSES TO SERVE. A LOCAL ENTITY MUST COLLECT, SOLICIT, AND REVIEW QUANTITATIVE DATA IN ACCORDANCE WITH RULES ADOPTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REGULATORY AGENCIES, IN CONSULTATION WITH THE OFFICE OF INFORMATION TECHNOLOGY CREATED IN SECTION 24-37.5-103 AND THE BOARD, REGARDING STANDARDS CONCERNING QUANTITATIVE DATA.

(IV) The board shall establish a notice and comment period of at least sixty days within which ~~the~~ ANY INTERESTED PARTY, INCLUDING A local entity WITH JURISDICTION OVER THE AREA PROPOSED TO BE SERVED, WHETHER OR NOT THE ENTITY PROVIDED A WRITTEN CERTIFICATION AS DESCRIBED IN SUBSECTION (8)(a)(III) OF THIS SECTION, may review and comment on the application.

(b) Developing a methodology for determining whether a proposed project will serve unserved areas. THE BOARD'S METHODOLOGY MUST GIVE SUBSTANTIAL WEIGHT TO A LOCAL ENTITY'S WRITTEN CERTIFICATION ON THE ISSUE OF WHETHER

THE AREA TO BE SERVED IS AN UNSERVED AREA.

SECTION 3. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to applications submitted on or after the applicable effective date of this act.

Approved: July 6, 2020