

## CHAPTER 325

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**PUBLIC UTILITIES**

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**HOUSE BILL 22-1306**

BY REPRESENTATIVE(S) Titone and Baisley, Bennett, Amabile, Bacon, Bird, Boesenecker, Carver, Cutter, Exum, Jodeh, Lindsay, Lontine, Lynch, McCluskie, Mullica, Soper, Valdez D., Young;  
also SENATOR(S) Bridges and Priola, Kolker, Coram, Hisey, Rankin, Sonnenberg, Woodward.

**AN ACT****CONCERNING BROADBAND DEPLOYMENT GRANT PROCESSES IMPLEMENTED BY THE BROADBAND DEPLOYMENT BOARD.**

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

**SECTION 1.** In Colorado Revised Statutes, 24-37.5-119, **amend** (9)(a)(IV), (9)(l)(III), (9.5)(a), (9.5)(e), (9.5)(g), and (9.5)(h); and **add** (15.5) as follows:

**24-37.5-119. Broadband service - report - broadband deployment board - broadband administrative fund - creation - rules - legislative declaration - definitions - repeal.** (9) The board shall direct the commission to transfer money, in a manner consistent with this section, from the HCSM account dedicated for broadband deployment pursuant to subsection (3) of this section to approved grant applicants. The board shall develop criteria for awarding money for new projects to deploy broadband in unserved areas, including:

(a) (IV) The board shall establish a notice and comment period of ~~at least sixty~~ FORTY-FIVE days within which 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 (9)(a)(III) of this section,~~ may review and comment on the application.

(l) Establishing reporting and accountability requirements for a project receiving financial support from the HCSM account dedicated to broadband deployment pursuant to subsection (3) of this section, including contractual requirements that:

(III) The applicant demonstrate an ability to complete the proposed project within a reasonable time, not to exceed two years, unless delayed:

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*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.*

(A) By a government entity; OR

(B) DUE TO A DEMONSTRATED RELEVANT DISRUPTION IN THE SUPPLY CHAIN;

(9.5) (a) ~~(f)~~ The broadband stimulus grant program is hereby created. ~~As part of the grant program, the board, in any grant funding cycle in 2021 that occurs after July 7, 2021:~~

~~(A) Is encouraged to award grant money to applicants that applied for grants under subsection (9) of this section in the previous five years, met all of the award criteria set forth in subsection (9) of this section but were denied grants due to the insufficiency of grant money available at the time of application, and, as determined by the board, continue to meet all of the award criteria set forth in subsection (9) of this section; and~~

~~(B) May also award grant money to new grant applications received:~~

~~(f)~~ An applicant seeking a broadband stimulus grant under this subsection (9.5) must meet all of the grant award criteria set forth in ~~subsection (9) of this section and the requirements set forth in this subsection (9.5).~~

(e) (I) With respect to grants awarded pursuant to this subsection (9.5) and from money transferred to the broadband stimulus account from the economic recovery and relief cash fund created in section 24-75-228 (2)(a), grants may ~~only~~ be awarded ~~for broadband projects that, pursuant to~~ ONLY IN ACCORDANCE WITH treasury department ~~interim~~ regulations implementing the federal "American Rescue Plan Act of 2021", Pub.L. 117-2, ~~provide broadband infrastructure that is designed to provide service to unserved or underserved households and businesses and that is designed to, upon completion:~~ REFERRED TO IN THIS SUBSECTION (9.5) AS THE "TREASURY DEPARTMENT REGULATIONS".

(II) (A) THE BOARD SHALL REVIEW EACH DENIED APPLICATION RECEIVED BETWEEN JULY 1, 2021, AND THE EFFECTIVE DATE OF THIS SUBSECTION (9.5)(e)(II), IN WHICH GRANT MONEY WAS SOUGHT PURSUANT TO THIS SUBSECTION (9.5) BUT THE APPLICATION WAS DENIED ON THE BASIS THAT THE PROJECT WAS NOT IN AN UNSERVED AREA PURSUANT TO SUBSECTION (9) OF THIS SECTION DUE TO THE BOARD'S ASSESSMENT OF WIRELESS SERVICE, FOR COMPLIANCE WITH THE TREASURY DEPARTMENT REGULATIONS IN EFFECT ON THE EFFECTIVE DATE OF THIS SUBSECTION (9.5)(e)(II). IF THE APPLICATION COMPLIES WITH THE TREASURY DEPARTMENT REGULATIONS IN EFFECT ON THE EFFECTIVE DATE OF THIS SUBSECTION (9.5)(e)(II), THE BOARD SHALL AWARD GRANT MONEY TO THE APPLICANT AS SOON AS PRACTICABLE, UNLESS THE PROPOSED PROJECT THAT IS THE SUBJECT OF THE APPLICATION HAS ALREADY BEEN COMPLETED, THE APPLICANT SEEKS TO WITHDRAW OR REVISE THE APPLICATION, OR THE APPLICATION OR PROPOSED PROJECT IS NO LONGER ELIGIBLE FOR GRANT MONEY.

(B) THIS SUBSECTION (9.5)(e)(II) IS REPEALED, EFFECTIVE JULY 1, 2023.

~~(f) Reliably meet or exceed symmetrical one hundred megabits per second download and upload speeds; or~~

~~(H) In cases where it is not practicable, because of the excessive cost of the project or geography or topography of the area to be served by the project, provide service meeting the standards set forth in subsection (9.5)(c)(1) of this section that:~~

~~(A) Reliably meets or exceeds one hundred megabits per second download speed and is between at least twenty megabits per second and one hundred megabits per second upload speed; and~~

~~(B) Is scalable to a minimum of one hundred megabits per second download speed and one hundred megabits per second upload speed.~~

~~(g) As used in subsection (9.5)(c) of this section, "unserved or underserved households and businesses" means one or more households or businesses that are not currently served by a wireline connection that reliably delivers at least twenty-five megabits per second downstream and three megabits per second upstream. FOR APPLICATIONS SEEKING BROADBAND STIMULUS GRANTS PURSUANT TO THIS SUBSECTION (9.5), THE BOARD SHALL:~~

~~(I) NOT APPLY THE GRANT REQUIREMENTS SET FORTH IN SUBSECTIONS (9), (11), AND (15) OF THIS SECTION;~~

~~(II) REVIEW THE APPLICATIONS ONLY FOR COMPLIANCE WITH THE TREASURY DEPARTMENT REGULATIONS; AND~~

~~(III) IMPLEMENT PROCESSES FOR APPEALS AND FOR EXERCISING RIGHTS OF FIRST REFUSAL THAT ARE SUBSTANTIALLY SIMILAR TO THE PROCESSES SET FORTH IN SUBSECTIONS (9) AND (15.5) OF THIS SECTION, INCLUDING THE PROVISIONS IN SUBSECTION (9) OF THIS SECTION THAT AFFORD RIGHTS TO INCUMBENT PROVIDERS.~~

~~(h) This subsection (9.5) is repealed, effective September 1, 2023. FOR ALL GRANTS AWARDED PURSUANT TO THIS SUBSECTION (9.5), THE BOARD SHALL REQUIRE GRANTEES TO COMPLY WITH ALL CONTRACTING, REPORTING, AND ACCOUNTABILITY REQUIREMENTS SET FORTH IN THE TREASURY DEPARTMENT REGULATIONS AND MAY REQUIRE GRANTEES TO COMPLY WITH SOME OR ALL OF THE REPORTING AND ACCOUNTABILITY REQUIREMENTS SET FORTH IN SUBSECTION (9)(1) OF THIS SECTION.~~

~~(15.5) (a) AN APPEAL OF A BOARD DECISION SHALL BE HEARD IN THE DISTRICT COURT OF THE CITY AND COUNTY OF DENVER AND MUST BE FILED WITHIN THIRTY DAYS AFTER THE BOARD'S PUBLICATION OF THE DECISION.~~

~~(b) IF AN APPELLANT PREVAILS ON APPEAL, THE COURT MAY ORDER THE BOARD TO AWARD THE APPELLANT THE GRANT MONEY THAT THE APPELLANT REQUESTED IN ITS APPLICATION TO THE BOARD, ALONG WITH THE APPELLANT'S COURT COSTS. IF THERE IS INSUFFICIENT GRANT MONEY AVAILABLE IN THE GRANT CYCLE IN WHICH THE COURT AWARDS THE APPELLANT GRANT MONEY, THE COURT SHALL ORDER THE BOARD TO ROLL FORWARD THE APPELLANT'S APPLICATION INTO THE NEXT GRANT CYCLE AND TO GIVE PRIORITY OF FUNDING TO THE APPELLANT'S APPLICATION TO THE EXTENT THAT THE APPLICATION REMAINS ELIGIBLE FOR FUNDING. THIS SUBSECTION (15.5) SETS FORTH THE EXCLUSIVE REMEDIES AVAILABLE TO AN APPELLANT THAT PREVAILS IN APPEALING A BOARD DECISION.~~

**SECTION 2. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: June 2, 2022