

By: Representatives Bounds, Stamps

To: Public Utilities;
Appropriations

HOUSE BILL NO. 1029
(As Sent to Governor)

1 AN ACT TO CREATE THE BROADBAND EXPANSION AND ACCESSIBILITY OF
2 MISSISSIPPI (BEAM) ACT; TO DEFINE TERMS USED IN THE ACT; TO CREATE
3 THE OFFICE OF BROADBAND EXPANSION AND ACCESSIBILITY OF MISSISSIPPI
4 WITHIN THE DEPARTMENT OF FINANCE AND ADMINISTRATION; TO DESIGNATE
5 THE OFFICE AS THE STATE BROADBAND OFFICE TO REVIEW APPLICATIONS
6 FOR FUNDING BROADBAND INFRASTRUCTURE PROJECTS USING FEDERAL AND
7 STATE FUNDS; TO PROVIDE THAT THE OFFICE SHALL CONSIDER CERTAIN
8 FACTORS IN MAKING ITS DETERMINATIONS AND AWARDS; TO REQUIRE THE
9 OFFICE TO ESTABLISH AND PUBLISH ON ITS WEBSITE ITS CRITERIA FOR
10 COMPETITIVELY SCORING APPLICATIONS; TO REQUIRE AN APPLICANT TO
11 PROVIDE CERTAIN INFORMATION AT A MINIMUM ON THE APPLICATION; TO
12 REQUIRE THE OFFICE TO MAKE PRELIMINARY DETERMINATIONS, FINAL
13 DETERMINATIONS AND AWARDS AFTER CERTAIN INVESTIGATIONS; TO REQUIRE
14 THE OFFICE TO ACCEPT COMMENTS AND OBJECTIONS CONCERNING EACH
15 PRELIMINARY DETERMINATION AND INVESTIGATE THEM AS APPROPRIATE; AND
16 FOR RELATED PURPOSES.

17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

18 **SECTION 1.** This act shall be known and may be cited as the
19 "Broadband Expansion and Accessibility of Mississippi (BEAM) Act."

20 **SECTION 2.** As used in this act:

21 (a) "Applicant" means an eligible broadband service
22 provider that has authorization to do business in this state and
23 has demonstrated that it has the technical, financial and
24 managerial resources and experience to provide broadband services
25 in the state to retail end users.



26 (b) "Broadband service" means a mass-market retail
27 service by wire, cable, fiber, or radio provided to customers in
28 the State of Mississippi that provides the capability to transmit
29 data to, and receive data from, all or substantially all Internet
30 endpoints, at speeds of at least one hundred (100) megabits per
31 second downstream and twenty (20) megabits per second upstream,
32 and including, but not limited to, any capabilities that are
33 incidental to and enable the operation of communications service,
34 but excluding dial-up Internet access service.

35 (c) "Office" means the Office of Broadband Expansion
36 and Accessibility of Mississippi (BEAM) within the Department of
37 Finance and Administration created in Section 3 of this act.

38 (d) "Deployed" means, with respect to availability of
39 broadband service at a location, when the person or entity has
40 access regardless of whether a person or entity subscribes to the
41 broadband service at the location.

42 (e) "Eligible broadband service provider" means any
43 company, firm, corporation, limited liability company, partnership
44 or association (i) that has been providing broadband service to at
45 least one hundred (100) residences and businesses in Mississippi
46 for at least three (3) consecutive years; (ii) is an electric
47 power association's broadband affiliate operating pursuant to
48 Section 77-17-1 et seq.; or (iii) that has demonstrated financial,
49 technical, and operational capability in building and operating a
50 broadband network.



51 (f) "Eligible project" means a discrete and specific
52 project located in an unserved or underserved area of the state
53 seeking to provide broadband services to residences, businesses,
54 and community institutions not currently available for service in
55 accordance with the applicable federal guidelines.

56 (g) "Shapefile" means a digital storage format
57 containing geospatial or location-based data and attribute
58 information regarding the availability of broadband Internet
59 access service, and that can be viewed, edited, and mapped in
60 geographic information system software.

61 **SECTION 3.** There is created an Office of Broadband Expansion
62 and Accessibility of Mississippi (BEAM) within the Department of
63 Finance and Administration for the purpose of making
64 determinations and awards from applications for projects to
65 provide broadband service in unserved or underserved areas using
66 the Broadband Expansion and Accessibility of Mississippi (BEAM)
67 Fund created pursuant to this act. The Executive Director of the
68 Department of Finance and Administration shall hire a Director of
69 BEAM to administer the office.

70 **SECTION 4.** (1) The Office of Broadband Expansion and
71 Accessibility of Mississippi (BEAM) shall serve as the state
72 broadband office to review applications and make determinations
73 and awards for projects to provide broadband access in unserved or
74 underserved areas using the BEAM Fund created pursuant to this
75 act.



76 (2) It shall be the duty and responsibility of BEAM to:
77 (a) Coordinate all broadband expansion and
78 accessibility efforts on behalf of the state to ensure an
79 effective and efficient use of broadband grant funds;
80 (b) Develop the plan and application for federal grant
81 programs and for sub-grantees to receive funds from said federal
82 grants;
83 (c) Develop rules and procedures, if necessary and in
84 accordance with the Administrative Procedures Act, to implement a
85 competitive statewide broadband grant program;
86 (d) Coordinate all information provided by broadband
87 service providers, including all broadband mapping efforts for the
88 state. All information provided by a broadband service provider
89 pursuant to this act shall be presumed to be confidential,
90 proprietary, and subject to exemption from disclosure under state
91 and federal law and shall not be subject to disclosure except in
92 the form of a map where information that could be used to
93 determine provider-specific information about the network of the
94 broadband service providers is not disclosed. Such
95 provider-specific information shall not be released to any person
96 without written permission of the submitting broadband service
97 provider. In no instance shall a broadband service provider be
98 required to provide any data beyond that which it is required to
99 provide to the Federal Communications Commission pursuant to 47
100 USC Section 641 et seq.; and



101 (e) Apply for and receive federal grants or funds,
102 including, but not limited to, Coronavirus Capital Projects Fund
103 established by Section 604 of the Social Security Act, as added by
104 Section 9901 of the American Rescue Plan Act of 2021, and the
105 Broadband Equity, Access and Deployment Program established by the
106 Infrastructure Investment and Jobs Act of 2021, and all other
107 federal broadband grant programs and any state support grant
108 programs.

109 (3) To effectuate the purposes of this act, any department,
110 division, board, bureau, committee, institution or agency of the
111 state, or any political subdivision thereof, shall, at the request
112 of the Director of BEAM, provide the assistance, information and
113 data needed to enable BEAM to carry out its duties.

114 (4) There is created within the State Treasury the
115 "Broadband Expansion and Accessibility of Mississippi (BEAM) Fund"
116 for the purposes of the expansion and accessibility of broadband
117 in unserved and underserved areas. The fund shall consist of all
118 monies designated, accepted or appropriated by the State of
119 Mississippi for broadband deployment; all monies received from the
120 federal government awarded to or allocated by the state for
121 broadband deployment; and donations, gifts and monies received
122 from any other source, including transfers from other funds or
123 accounts. Disbursements from the fund shall be made by the
124 Department of Finance and Administration upon appropriation by the
125 Legislature in accordance with the provisions of this act. All



126 unexpended and unencumbered monies in the fund at the end of the
127 fiscal year shall remain in the fund. Monies in the fund shall be
128 invested by the State Treasurer in the same manner as monies in
129 the State General Fund and interest earned on the investment of
130 these monies shall be credited to the fund.

131 **SECTION 5.** In making determinations and awards, the Office
132 of Broadband Expansion and Accessibility of Mississippi (BEAM)
133 shall consider the following:

134 (a) Funds for the grant programs shall only be used by
135 applicants for projects that exclusively extend broadband service
136 into unserved or underserved areas in this state; and

137 (b) Funds from federal broadband grant programs shall
138 be spent in accordance with federal laws, rules, regulations and
139 guidance, and federal laws, rules, regulations and guidance shall
140 supersede in any instance where this act conflicts.

141 **SECTION 6.** The criteria for determining the awarding of
142 funds shall include the following:

143 (a) The applicant's experience and financial
144 wherewithal to deploy, operate and manage the proposed project and
145 broadband service offerings, including evidence of the applicant's
146 successful operations of broadband services to retail end users;

147 (b) The readiness to build, operate and maintain the
148 project;

149 (c) Projects that will deploy broadband service to the
150 most unserved or underserved areas;



151 (d) The scalability of the proposed project network to
152 support the deployment of higher broadband speeds over time;

153 (e) The likelihood that the unserved or underserved
154 area will not be served with broadband service without such state
155 or federal grant funding;

156 (f) The applicant's ability to demonstrate the
157 community's support for the project and a collaborated plan to
158 leverage broadband services for community needs and economic
159 development, such as rural development, education, tourism, new
160 investment, or business attraction or retention;

161 (g) A preference for those applications seeking to
162 deploy and provide broadband services to areas in which there is
163 currently no fixed terrestrial Internet access service available;

164 (h) No discrimination or preference to applications on
165 the basis of the type of technology proposed by any applicant to
166 be used to provide broadband services so long as the technology
167 proposed meets the federal guidelines;

168 (i) The size and scope of the unserved or underserved
169 area to be deployed; and

170 (j) The broadband service speed thresholds proposed in
171 the application and the scalability of the broadband service
172 network infrastructure proposed to be deployed to provide
173 broadband service to households and businesses.

174 **SECTION 7.** In accordance with federal laws, rules,
175 regulations and guidance, the Office of Broadband Expansion and



176 Accessibility of Mississippi (BEAM) shall establish and publish on
177 its website its criteria for competitively scoring applications.

178 **SECTION 8.** (1) An applicant for funding under this act
179 shall provide the following information at a minimum on the
180 application:

181 (a) The location of the project by use of a shapefile;

182 (b) The type and amount of broadband infrastructure to
183 be deployed for the project, including the amount the applicant
184 intends to invest in the project from private funds;

185 (c) Evidence regarding the unserved or underserved
186 nature of the community in which the project is to be located;

187 (d) The number of households that will have access to
188 broadband service as a result of the project, or whose Internet
189 access service will be upgraded to broadband service as a result
190 of the project;

191 (e) The significant community institutions that will
192 benefit from the proposed project;

193 (f) Evidence of community support for the project with
194 a narrative on the impact that the investment will have on
195 community and economic development efforts in the area;

196 (g) The total cost of the project and a detailed budget
197 and schedule for the project, including the submission of a
198 business plan that provides for the use of funds provided under
199 this act. Funds shall not be used to support the operational



200 expenses of the network or to subsidize any other service provided
201 by the applicant; and

202 (h) The broadband service provider's experience and
203 financial capabilities.

204 (2) After scoring and considering all applications, the
205 Office of Broadband Expansion and Accessibility of Mississippi
206 (BEAM) shall make its preliminary determinations. Within thirty
207 (30) days after the preliminary determinations have been made,
208 BEAM shall publish on its website the applications, the proposed
209 geographic broadband service area illustrated by a shapefile, and
210 the proposed broadband service speeds for each application that
211 receives a preliminary determination.

212 (3) Within thirty (30) days from the date the preliminary
213 determinations are published on BEAM's website, BEAM shall accept
214 comments or objections concerning each application and investigate
215 each of them as appropriate. BEAM shall consider all comments and
216 objections received and the investigative findings in determining
217 whether an applicant is eligible for a final determination and
218 award.

219 (4) BEAM shall not make a final determination and award to
220 an applicant if verifiable information is made available that
221 shows the proposed project includes an area where broadband
222 services currently are deployed, or where construction of a
223 network to deploy broadband service is underway by a provider



224 other than the applicant, and the construction is scheduled to be
225 completed within one (1) year after the date of the application.

226 (5) An applicant's or challenging party's trade secrets,
227 financial information and proprietary information submitted under
228 this act as part of an application or challenge are exempt from
229 disclosure under the Mississippi Public Records Act, Section
230 25-61-1 et seq.

231 (6) Any contractor deploying broadband infrastructure for a
232 project that has been awarded grant monies by BEAM is encouraged
233 to use Mississippi employment to the fullest extent possible.

234 **SECTION 9.** (1) Before the distribution of any grant monies
235 from the BEAM Fund, BEAM shall notify the Lieutenant Governor, the
236 Speaker of the House of Representatives and the Legislative Budget
237 Office of the planned distribution.

238 (2) BEAM may employ the services of such persons as the
239 Director of BEAM considers necessary for the purposes of
240 consultation or investigation and fix the salaries of or contract
241 for the services of such legal, professional, technical and
242 operational personnel and consultants, subject to applicable
243 provisions of the State Personnel Board. Additional legal
244 assistance may be retained in accordance with this subsection (2)
245 only with the approval of the Attorney General.

246 (3) BEAM shall provide to the Legislature an annual detailed
247 report on the status and details of all projects considered and
248 approved under this act no later than December 15 of each year.



249 **SECTION 10.** This act shall take effect and be in force from
250 and after its passage.

