MISSISSIPPI LEGISLATURE

REGULAR SESSION 2022

By: Representatives Bounds, Stamps

To: Public Utilities; Appropriations

HOUSE BILL NO. 1029
(As Sent to Governor)

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

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

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

SECTION 2. As used in this act:

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

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

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

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

(e) "Eligible broadband service provider" means any company, firm, corporation, limited liability company, partnership or association (i) that has been providing broadband service to at least one hundred (100) residences and businesses in Mississippi for at least three (3) consecutive years; (ii) is an electric power association's broadband affiliate operating pursuant to Section 77-17-1 et seq.; or (iii) that has demonstrated financial, technical, and operational capability in building and operating a broadband network.
(f) "Eligible project" means a discrete and specific project located in an unserved or underserved area of the state seeking to provide broadband services to residences, businesses, and community institutions not currently available for service in accordance with the applicable federal guidelines.

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

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

**SECTION 4.** (1) The Office of Broadband Expansion and Accessibility of Mississippi (BEAM) shall serve as the state broadband office to review applications and make determinations and awards for projects to provide broadband access in unserved or underserved areas using the BEAM Fund created pursuant to this act.
(2) It shall be the duty and responsibility of BEAM to:

(a) Coordinate all broadband expansion and accessibility efforts on behalf of the state to ensure an effective and efficient use of broadband grant funds;

(b) Develop the plan and application for federal grant programs and for sub-grantees to receive funds from said federal grants;

(c) Develop rules and procedures, if necessary and in accordance with the Administrative Procedures Act, to implement a competitive statewide broadband grant program;

(d) Coordinate all information provided by broadband service providers, including all broadband mapping efforts for the state. All information provided by a broadband service provider pursuant to this act shall be presumed to be confidential, proprietary, and subject to exemption from disclosure under state and federal law and shall not be subject to disclosure except in the form of a map where information that could be used to determine provider-specific information about the network of the broadband service providers is not disclosed. Such provider-specific information shall not be released to any person without written permission of the submitting broadband service provider. In no instance shall a broadband service provider be required to provide any data beyond that which it is required to provide to the Federal Communications Commission pursuant to 47 USC Section 641 et seq.; and
(e) Apply for and receive federal grants or funds, including, but not limited to, Coronavirus Capital Projects Fund established by Section 604 of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021, and the Broadband Equity, Access and Deployment Program established by the Infrastructure Investment and Jobs Act of 2021, and all other federal broadband grant programs and any state support grant programs.

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

(4) There is created within the State Treasury the "Broadband Expansion and Accessibility of Mississippi (BEAM) Fund" for the purposes of the expansion and accessibility of broadband in unserved and underserved areas. The fund shall consist of all monies designated, accepted or appropriated by the State of Mississippi for broadband deployment; all monies received from the federal government awarded to or allocated by the state for broadband deployment; and donations, gifts and monies received from any other source, including transfers from other funds or accounts. Disbursements from the fund shall be made by the Department of Finance and Administration upon appropriation by the Legislature in accordance with the provisions of this act. All
unexpended and unencumbered monies in the fund at the end of the fiscal year shall remain in the fund. Monies in the fund shall be invested by the State Treasurer in the same manner as monies in the State General Fund and interest earned on the investment of these monies shall be credited to the fund.

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

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

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

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

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

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

(c) Projects that will deploy broadband service to the most unserved or underserved areas;
(d) The scalability of the proposed project network to support the deployment of higher broadband speeds over time;

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

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

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

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

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

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

**SECTION 7.** In accordance with federal laws, rules, regulations and guidance, the Office of Broadband Expansion and...
Accessibility of Mississippi (BEAM) shall establish and publish on its website its criteria for competitively scoring applications.

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

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

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

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

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

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

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

(g) The total cost of the project and a detailed budget and schedule for the project, including the submission of a business plan that provides for the use of funds provided under this act. Funds shall not be used to support the operational
expenses of the network or to subsidize any other service provided by the applicant; and

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

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

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

(4) BEAM shall not make a final determination and award to an applicant if verifiable information is made available that shows the proposed project includes an area where broadband services currently are deployed, or where construction of a network to deploy broadband service is underway by a provider
other than the applicant, and the construction is scheduled to be completed within one (1) year after the date of the application.

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

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

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

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

(3) BEAM shall provide to the Legislature an annual detailed report on the status and details of all projects considered and approved under this act no later than December 15 of each year.
SECTION 10. This act shall take effect and be in force from and after its passage.