

By: Senator(s) Williams

To: Energy

SENATE BILL NO. 2511

1 AN ACT TO AMEND SECTION 77-19-3, MISSISSIPPI CODE OF 1972, TO
 2 CLARIFY CERTAIN DEFINITIONS AND TO DEFINE "BROADBAND SERVICEABLE
 3 LOCATION" AND "COMMUNITY ANCHOR INSTITUTION"; TO AMEND SECTION
 4 77-19-5, MISSISSIPPI CODE OF 1972, TO ALLOW BEAM TO MAKE
 5 DETERMINATIONS AND AWARDS FOR ELIGIBLE PROJECTS; TO AMEND SECTION
 6 77-19-7, MISSISSIPPI CODE OF 1972, TO ALLOW BEAM TO REVIEW
 7 APPLICATIONS AND MAKE DETERMINATIONS AND AWARDS TO PROVIDE
 8 BROADBAND ACCESS IN ELIGIBLE PROJECT AREAS, TO SPECIFY THAT THE
 9 BEAM FUND SHALL BE USED FOR THE EXPANSION AND ACCESSIBILITY OF
 10 BROADBAND IN ELIGIBLE PROJECT AREAS, AND TO REQUIRE THAT
 11 DISBURSEMENTS FROM THE FUND BE MADE IN COMPLIANCE WITH FEDERAL
 12 STATUTES, RULES, REGULATIONS AND GUIDELINES; TO AMEND SECTION
 13 77-19-9, MISSISSIPPI CODE OF 1972, TO STIPULATE THAT FUNDS FROM
 14 GRANT PROGRAMS SHALL ONLY BE USED TO EXTEND SERVICE INTO ELIGIBLE
 15 PROJECT AREAS AND THAT FEDERAL REQUIREMENTS FOR FUNDS SUPERSEDE
 16 ANY LIMITATIONS SET FORTH IN THIS CHAPTER; TO AMEND SECTION
 17 77-19-11, MISSISSIPPI CODE OF 1972, TO REQUIRE THAT THE CRITERIA
 18 FOR DETERMINING THE AWARD OF FUNDS SHALL COMPLY WITH FEDERAL LAWS,
 19 RULES, REGULATIONS, AND GUIDANCE AND TO ALLOW THE CONSIDERATION OF
 20 CERTAIN FACTORS IN AWARDED FUNDS; TO AMEND SECTION 77-19-15,
 21 MISSISSIPPI CODE OF 1972, TO CLARIFY WHAT INFORMATION IS REQUIRED
 22 ON AN APPLICATION FOR FUNDING; TO AMEND SECTION 77-19-17,
 23 MISSISSIPPI CODE OF 1972, TO REQUIRE THAT THE GOVERNOR BE NOTIFIED
 24 BEFORE DISBURSEMENT OF GRANT MONIES AND TO CREATE CERTAIN
 25 EXEMPTIONS FOR BEAM EXPENDITURES THAT ARE REIMBURSED BY FEDERAL
 26 GRANT PROGRAM FUNDS; AND FOR RELATED PURPOSES.

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

28 **SECTION 1.** Section 77-19-3, Mississippi Code of 1972, is
 29 amended as follows:

30 77-19-3. As used in this chapter:



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

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

45 (c) "Office" means the Office of Broadband Expansion
46 and Accessibility of Mississippi (BEAM) within the Department of
47 Finance and Administration created in Section 77-19-5.

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

52 (e) "Eligible broadband service provider" means any
53 company, firm, corporation, limited liability company,
54 partnership * * *, association or governmental entity (i) that has
55 been providing broadband service to at least one hundred (100)



56 residences and businesses in Mississippi for at least three (3)
57 consecutive years; (ii) is an electric power association's
58 broadband affiliate operating pursuant to Section 77-17-1 et seq. ;
59 or (iii) that * * * can demonstrate financial, technical, and
60 operational capability in building and operating a broadband
61 network.

62 (f) "Eligible project" means a discrete and specific
63 project * * * as defined by the applicable grant program,
64 including all statutes, rules, regulations or guidance relevant to
65 that grant program, in which the applicant seeks to provide
66 broadband services to residences, businesses, and community anchor
67 institutions * * * currently * * * without broadband service in
68 accordance with the applicable * * * grant program's guidelines.

69 (g) * * * "Broadband serviceable location" (BSL) means
70 a location based on geographic coordinates of all structures where
71 a broadband connection can be installed.

72 (h) "Community anchor institution," unless otherwise
73 defined in the applicable federal statutes, regulations, rules and
74 guidance of the relevant grant program, means a school, library,
75 medical or health care provider, public safety entity, community
76 college or other institution of higher education, or other
77 community support organization or agency that provides outreach,
78 access, equipment or support services to facilitate a greater use
79 of broadband service by vulnerable populations, including
80 low-income, unemployed and aged individuals.



81 **SECTION 2.** Section 77-19-5, Mississippi Code of 1972, is
82 amended as follows:

83 77-19-5. There is created an Office of Broadband Expansion
84 and Accessibility of Mississippi (BEAM) within the Department of
85 Finance and Administration for the purpose of making
86 determinations and awards from applications for eligible projects
87 to provide broadband service * * * using the Broadband Expansion
88 and Accessibility of Mississippi (BEAM) Fund created pursuant to
89 Section 77-19-7. The Executive Director of the Department of
90 Finance and Administration shall hire a Director of BEAM to
91 administer the office.

92 **SECTION 3.** Section 77-19-7, Mississippi Code of 1972, is
93 amended as follows:

94 77-19-7. (1) The Office of Broadband Expansion and
95 Accessibility of Mississippi (BEAM) shall serve as the state
96 broadband office to review applications and make determinations
97 and awards for projects to provide broadband access in * * *
98 eligible project areas using the BEAM Fund created pursuant to
99 this chapter.

100 (2) It shall be the duty and responsibility of BEAM to:

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



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

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

110 (d) Coordinate all information provided by broadband
111 service providers, including all broadband mapping efforts for the
112 state. All information provided by a broadband service provider
113 pursuant to this chapter shall be presumed to be confidential,
114 proprietary, and subject to exemption from disclosure under state
115 and federal law and shall not be subject to disclosure except in
116 the form of a map where information that could be used to
117 determine provider-specific information about the network of the
118 broadband service providers is not disclosed. Such
119 provider-specific information shall not be released to any person
120 without written permission of the submitting broadband service
121 provider. In no instance shall a broadband service provider be
122 required to provide any data beyond that which it is required to
123 provide to the Federal Communications Commission pursuant to 47
124 USC Section 641 et seq.; and

125 (e) Apply for and receive federal grants or funds,
126 including, but not limited to, Coronavirus Capital Projects Fund
127 established by Section 604 of the Social Security Act, as added by
128 Section 9901 of the American Rescue Plan Act of 2021, and the



129 Broadband Equity, Access and Deployment Program established by the
130 Infrastructure Investment and Jobs Act of 2021, and all other
131 federal broadband grant programs and any state support grant
132 programs.

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

139 (4) There is created within the State Treasury the
140 "Broadband Expansion and Accessibility of Mississippi (BEAM) Fund"
141 for the purposes of the expansion and accessibility of broadband
142 in * * * eligible project areas. The fund shall consist of all
143 monies designated, accepted or appropriated by the State of
144 Mississippi for broadband deployment; all monies received from the
145 federal government awarded to or allocated by the state for
146 broadband deployment; and donations, gifts and monies received
147 from any other source, including transfers from other funds or
148 accounts. Disbursements from the fund shall be made by the
149 Department of Finance and Administration * * * in compliance with
150 the federal statutes, rules, regulations and guidance regarding
151 the use of monies from the relevant grant program. All unexpended
152 and unencumbered monies in the fund at the end of the fiscal year
153 shall remain in the fund. Monies in the fund shall be invested by



154 the State Treasurer in the same manner as monies in the State
155 General Fund and interest earned on the investment of these monies
156 shall be credited to the fund.

157 **SECTION 4.** Section 77-19-9, Mississippi Code of 1972, is
158 amended as follows:

159 77-19-9. In making determinations and awards, the Office of
160 Broadband Expansion and Accessibility of Mississippi (BEAM) shall
161 consider the following:

162 (a) Funds for the grant programs shall only be used by
163 applicants for projects that exclusively extend broadband service
164 into * * * eligible project areas in this state; and

165 (b) Funds from federal broadband grant programs shall
166 be spent in accordance with federal laws, rules, regulations and
167 guidance, and federal laws, rules, regulations and guidance shall
168 supersede * * * any limitations contained in this chapter.

169 **SECTION 5.** Section 77-19-11, Mississippi Code of 1972, is
170 amended as follows:

171 77-19-11. The criteria for determining the awarding of funds
172 shall comply with applicable federal laws, rules, regulations and
173 guidance and may also include the following:

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



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

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

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

184 (e) The likelihood that the * * * eligible project area
185 will not be served with broadband service without such state or
186 federal grant funding;

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

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

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

199 (i) The size and scope of the * * * eligible project
200 area to be deployed; and

201 (j) The broadband service speed thresholds proposed in
202 the application and the scalability of the broadband service



203 network infrastructure proposed to be deployed to provide
204 broadband service to households and businesses.

205 **SECTION 6.** Section 77-19-15, Mississippi Code of 1972, is
206 amended as follows:

207 77-19-15. (1) An applicant for funding under this chapter
208 shall provide in the application all information required by
209 applicable federal laws, rules, regulations or guidance, as well
210 as the following * * *:

211 (a) The location of * * * all BSLs in the eligible
212 project area in a format as required by BEAM;

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

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

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

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

225 (f) Evidence of community support for the project * * *
226 and the impact that the investment will have on community and
227 economic development efforts in the area;



228 (g) The total cost of the project and a detailed budget
229 and schedule for the project, including * * * details for the use
230 of funds provided under this chapter. Funds shall not be used to
231 support the operational expenses of the network or to subsidize
232 any other service provided by the applicant except as allowed
233 under applicable federal law; and

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

236 (2) After scoring and considering all applications, the
237 Office of Broadband Expansion and Accessibility of Mississippi
238 (BEAM) shall make its preliminary determinations. Within thirty
239 (30) days after the preliminary determinations have been made,
240 BEAM shall publish on its website the * * * applicant, the project
241 name, the award amount for that project, the BSLs proposed to be
242 served, and the proposed broadband service speeds for * * * the
243 projects.

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



251 (4) BEAM shall not make a final determination and award to
252 an applicant if verifiable information is made available that
253 shows the proposed project includes an area:

254 (a) Where broadband services currently are
255 deployed * * * by a provider other than the applicant; or

256 (b) Where construction of a network to deploy broadband
257 service is underway by a provider other than the applicant, and
258 the construction is scheduled to be completed within one (1) year
259 after the date of the application.

260 BEAM shall have the discretion to confirm whether any such
261 construction will be completed as scheduled based upon information
262 from the objector or the applicant which may include, without
263 limitation, construction contracts, performance bonds guaranteeing
264 performance of the construction contracts, affidavits of project
265 managers attesting to the progress of the construction, and any
266 other documents as BEAM may request.

267 (5) An applicant's or challenging party's trade secrets,
268 financial information and proprietary information submitted under
269 this chapter as part of an application or challenge are exempt
270 from disclosure under the Mississippi Public Records Act, Section
271 25-61-1 et seq.

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



275 **SECTION 7.** Section 77-19-17, Mississippi Code of 1972, is
276 amended as follows:

277 77-19-17. (1) Before the distribution of any grant monies
278 from the BEAM Fund, BEAM shall notify the Governor, Lieutenant
279 Governor, the Speaker of the House of Representatives and the
280 Legislative Budget Office of the planned distribution.

281 (2) BEAM may employ the services of such persons as the
282 Director of BEAM considers necessary for the purposes of
283 consultation or investigation and fix the salaries of or contract
284 for the services of such legal, professional, technical and
285 operational personnel and consultants, subject to applicable
286 provisions of the State Personnel Board. Additional legal
287 assistance may be retained in accordance with this subsection (2)
288 only with the approval of the Attorney General. Any expenditures
289 by BEAM which are reimbursed by federal grant program funds are
290 exempt from the provisions of Title 25, Chapter 53, Mississippi
291 Code of 1972, and BEAM shall be exempt from provisions of the
292 Public Procurement Review Board for any requirements of personal
293 or professional service contracts or the preapproval of the
294 solicitation for such contracts used in the execution of its
295 responsibilities under this chapter.

296 (3) BEAM shall provide to the Legislature an annual detailed
297 report on the status and details of all projects considered and
298 approved under this chapter no later than December * * * 1 of each
299 year.



300 **SECTION 8.** The amendments to the BEAM Act, Laws 2022, Ch.
301 397 (H.B. No. 1029), Mississippi Code of 1972, Sections 77-19-1
302 through 77-19-17, as set forth herein in Sections 1 through 7,
303 shall apply to all grant programs administered by BEAM from and
304 after April 14, 2022, the date of the passage of the original BEAM
305 Act, and it is the intent of the Legislature for this amended BEAM
306 Act to apply retroactively as if it had been enacted in this
307 manner on April 14, 2022.

308 **SECTION 9.** This act shall take effect and be in force from
309 and after its passage.

