

SECOND REGULAR SESSION

HOUSE BILL NO. 2638

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE RIGGS.

5116H.02I

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 1, RSMo, by adding thereto one new section relating to the broadband development council, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 1, RSMo, is amended by adding thereto one new section, to be known as section 1.512, to read as follows:

1.512. 1. As used in this section, the following terms mean:

(1) "Broadband" or "broadband service", any service providing advanced telecommunications capability with the same downstream data rate and upstream data rate as required to satisfy the definition of "broadband" by the Federal Communications Commission and that:

(a) Does not require the end user to dial up a connection;

(b) Has the capacity to always be on;

(c) Has transmission speeds that are based on regular available bandwidth rates, not sporadic or burstable rates, with latency suitable for real-time applications and services such as voice over internet protocol and video conferencing; and

(d) Has a monthly usage capacity reasonably comparable to that of residential terrestrial fixed broadband offerings in urban areas.

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As the Federal Communications Commission updates the downstream data rate and the upstream data rate, the council shall publish the revised data rates within sixty days of the federal update;

(2) "Council", the broadband development council;

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 (3) "Digital navigation service", a person or entity that helps or teaches people
19 to safely and effectively use the internet;

20 (4) "Downstream data rate", the transmission speed from the service provider
21 source to the end user;

22 (5) "Internet protocol address" or "IP address", a unique string of numbers
23 separated by periods that identifies each computer using the internet protocol to
24 communicate over a network;

25 (6) "Unserved area", a community that has no access to broadband service;

26 (7) "Upstream data rate", the transmission speed from the end user to the
27 service provider source.

28 2. There is hereby established the "Broadband Development Council". The
29 broadband development office of the department of economic development shall
30 provide administrative, personnel, and technical support to the council as necessary.

31 3. The council shall consist of:

32 (1) The director of the department of economic development or his or her
33 designee;

34 (2) The chief information officer within the office of administration or his or her
35 designee;

36 (3) The commissioner of higher education or his or her designee;

37 (4) The commissioner of education or his or her designee;

38 (5) The director of the state broadband office or his or her designee;

39 (6) The following members of the public, appointed by and serving at the
40 pleasure of the governor, with the advice and consent of the senate:

41 (a) Two members representing users of large amounts of broadband service in
42 this state;

43 (b) One member from each congressional district representing business users of
44 this state; and

45 (c) One member from each congressional district representing residential users
46 of this state.

47

48 Members appointed under this subdivision shall serve no more than two three-year
49 terms. However, the terms shall be staggered with one-third of the inaugural members,
50 chosen by lot, serving one additional year and another one-third of the inaugural
51 members, chosen by lot, to serve an additional two years. Members appointed under
52 this subdivision shall be deemed part-time public officials and may have other
53 employment. Any person employed by, owning an interest in, or otherwise associated
54 with a broadband deployment project, project sponsor, or project participant is not

55 disqualified from serving as a council member but shall recuse himself or herself from
56 board actions if the member has a conflict of interest or would violate the rules of the
57 Missouri ethics commission;

58 (7) Three senators appointed by the president pro tempore of the senate, two of
59 whom shall be members of the majority party and one of whom shall be a member of
60 the minority party; and

61 (8) Three members of the house of representatives appointed by the speaker of
62 the house, two of whom shall be members of the majority party and one of whom shall
63 be a member of the minority party.

64 4. (1) The council shall select a chair and vice chair from among its members.
65 The director of the department of economic development shall chair the first meeting of
66 the council until a chair is selected. Terms of the chair and vice chair shall be two years,
67 and no member may serve more than two consecutive terms in either position. The
68 council shall appoint a secretary-treasurer, who need not be a member of the council
69 and who, among other tasks or functions designated by the council, shall keep records of
70 its proceedings.

71 (2) Fifteen voting members of the council shall constitute a quorum, and a
72 simple majority of the members present shall be sufficient for any action taken by vote
73 of the council.

74 (3) The council may appoint committees or subcommittees for the purposes of
75 investigations and recommendations. Members of these committees or subcommittees
76 need not be members of the council.

77 (4) No member of the council who serves by virtue of his or her office shall
78 receive compensation or reimbursement of expenses for serving as a member. Members
79 appointed under subdivision (5) of subsection 3 of this section and the members of any
80 committee or subcommittee are entitled to be reimbursed for actual and necessary
81 expenses.

82 (5) No member shall be subject to antitrust or unfair competition liability based
83 on membership or participation in the council. The council shall be deemed to provide
84 an essential governmental function and shall have state-action immunity.

85 5. (1) The council shall:

86 (a) Explore any and all ways to expand access to broadband services including,
87 but not limited to, middle mile, last mile, and wireless applications;

88 (b) Gather data regarding the various speeds provided to consumers and
89 compare that data to the speeds the internet service provider advertises;

90 (c) Explore the potential for increased use of broadband service for the purposes
91 of education, career readiness, workforce preparation, and alternative career training;

92 (d) Explore ways to encourage state and municipal agencies to expand the
93 development and use of broadband services to better serve the public through the use of
94 audio and video streaming, voice over internet protocol, teleconferencing, and wireless
95 networking;

96 (e) Assist in expanding electronic instruction and distance education services,
97 including digital navigation services;

98 (f) Advise and make recommendations to the general assembly regarding:

99 a. Strategies to make broadband service available to unserved and underserved
100 areas;

101 b. Statutory changes that may enhance and expand broadband in the state; and

102 c. Strategies to increase adoption of the emergency broadband benefit program
103 or any successor program; and

104 (g) Submit a report to the general assembly and governor on or before January
105 first each year. The report shall include a summary of the actions taken by the council
106 during the previous year.

107 (2) In addition to other powers, the council is hereby granted the powers
108 necessary and appropriate to carry out and effectuate the duties described under
109 subdivision (1) of this subsection. The council shall have the power to:

110 (a) Provide consultation services to project sponsors regarding the planning,
111 acquisition, improvement, construction, or development of any broadband deployment
112 project;

113 (b) Promote awareness of public facilities that have community broadband
114 access that can be used for distance education and workforce development;

115 (c) Advise on the deployment of online government portals so that all public
116 bodies and political subdivisions have websites, one-stop government access, and the
117 ability to stream audio and video of public meetings;

118 (d) Make and execute contracts, commitments, and other agreements necessary
119 or convenient to exercise its powers including, but not limited to, hiring consultants to
120 assist in the mapping of the state and categorization of areas within the state;

121 (e) Acquire by gift or purchase, hold, or dispose of real property and personal
122 property in the exercise of its powers and performance of its duties;

123 (f) Receive and disburse funds appropriated for its use by the general assembly
124 or from other funding sources and solicit, apply for, and receive any funds, property, or
125 services from any person, government agency, or organization to perform its duties; and

126 (g) Perform any other activities to further its purpose.

127 (3) The council may:

128 (a) Retain outside expert consultants to assist in the purposes of this section.
129 Any retention and contracting of expert consultants shall be transparent, and the
130 council shall make publicly available any contracts, retention agreements, payments,
131 and invoicing for services;

132 (b) Take action to increase awareness of issues concerning broadband services
133 and to educate and inform the public; and

134 (c) Seek nonstate funding and grants, which the council may use itself or
135 disburse to fund projects and initiatives.

136 6. There is hereby created in the state treasury the "Broadband Development
137 Fund", which shall consist of moneys collected under this section. All moneys collected
138 by the council including, but not limited to, appropriations, gifts, bequests, and
139 donations, shall be deposited in the fund. The state treasurer shall be custodian of the
140 fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve
141 disbursements. The fund shall be a dedicated fund, and moneys in the fund shall be
142 used solely by the department of economic development for the purposes of this section.
143 The state treasurer shall invest moneys in the fund in the same manner as other funds
144 are invested. Any interest and moneys earned on such investments shall be credited to
145 the fund.

146 7. (1) The council shall establish a mapping of broadband services in the state
147 based on analysis of data, broadband demand, and other relevant information. The
148 council shall publish an annual assessment and map of the status of broadband that
149 shall specifically designate underserved and unserved areas of the state.

150 (2) The council shall establish a public map that is interactive and reflects
151 estimated downstream data rates and upstream data rates in regions, counties, cities,
152 communities, streets, or other areas. The public map shall not be so specific as to show
153 data rates at a particular street address or physical location but may include data
154 regarding capacity, based upon fiber count.

155 (3) The mapping shall be based on information collected or received by the
156 council including, but not limited to, data collected from:

157 (a) State agencies, federal agencies, and private entities that collect data on
158 broadband services;

159 (b) Industry-provided information;

160 (c) Consumer data; and

161 (d) A voluntary data collection program that the council may establish. The
162 program may include voluntarily submitted data from internet service providers and
163 include any home or region data rate meters utilized by the provider and voluntarily
164 submitted data from customers of an internet service provider, reflecting the person's

data rate at a particular IP address, which may be based upon a web-based test or analysis program. Any data collected through a voluntary data collection program shall not be deemed public information and is not subject to public release or availability.

Any voluntary data collection program established by the council shall:

a. Clearly state to the providers or customers submitting information that the data rate speed may become public, including references to the provider or customer's physical address;

b. Clearly state submission of information is voluntary and shall be deemed as consent to use and make public such information; and

c. Not include any customer's website history or search information or otherwise publicly identify the customer by name, IP address, or physical address.

(4) The mapping and designations therein shall be revised on a continuing basis by the council.

(5) Any map of broadband services accessible to the public shall exclude:

(a) The location or identity of any critical infrastructure used by public or private entities to provide internet services;

(b) Any identifying information of users, including name and IP addresses; and

(c) Any information designated as confidential for public security reasons by the United States Department of Homeland Security or the department of public safety. However, it shall be the duty of the public and private entities to make the council aware of such confidential designation, and the actual or estimated upstream data rates and downstream data rates of an area or region of the state shall not be excluded from public or private maps unless the council determines good cause for the exclusion.

8. Any entity that has received or hereafter receives state or federal moneys to install infrastructure for broadband services shall furnish information to the council concerning the location, type, and extent of such infrastructure.

9. The council shall establish a university-based research organization, or contract with an organization, that shall annually survey each county and school district in the state to assess available internet speed and identify areas with challenges to high-speed internet access.

10. (1) The council shall create guidelines for, and recommend to the general assembly, a means to allow pipeline, railroad, and other rights-of-way in the state to be donated to the state for use by public or private entities to facilitate broadband service and availability through the placement of fiber.

(2) The council shall create guidelines for, and recommend to the general assembly, a means of implementing a program to procure easements for use by public or

201 private entities to facilitate broadband service and availability through the placement of
202 fiber.

203 **11. (1) Notwithstanding the provisions of chapter 610, information provided to**
204 **the council, its consultants, or its other agents that is identified as confidential**
205 **information when submitted shall be exempt from disclosure and shall be secured and**
206 **safeguarded. Such information may include, but not be limited to, physical plant**
207 **locations, subscriber levels, market penetration data, and any other proprietary**
208 **business information or any other information that constitutes a trade secret.**

209 **(2) Any person who makes any unauthorized disclosure of such confidential**
210 **information or data shall be guilty of a class A misdemeanor.**

211 **12. The council may promulgate all necessary rules and regulations for the**
212 **administration of this section, including the voluntary data collection program under**
213 **paragraph (d) of subdivision (3) of subsection 7 of this section. Any rule or portion of a**
214 **rule, as that term is defined in section 536.010, that is created under the authority**
215 **delegated in this section shall become effective only if it complies with and is subject to**
216 **all of the provisions of chapter 536 and, if applicable, section 536.028. This section and**
217 **chapter 536 are nonseverable, and if any of the powers vested with the general assembly**
218 **pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul**
219 **a rule are subsequently held unconstitutional, then the grant of rulemaking authority**
220 **and any rule proposed or adopted after August 28, 2022, shall be invalid and void.**

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