

FIRST REGULAR SESSION

# HOUSE BILL NO. 461

102ND GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVE RIGGS.

0147H.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  
2 known as section 1.512, to read as follows:

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

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

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

7 **(b) Has the capacity to always be on;**

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

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

13

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

17 **(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 the speaker of the house  
40 of representatives:

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

43           (b) One member from each congressional district representing broadband  
44 service users of this state.

45

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

54 board actions if the member has a conflict of interest or would violate the rules of the  
55 Missouri ethics commission;

56 (7) Two senators appointed by the president pro tempore of the senate and one  
57 senator appointed by the minority floor leader of the senate; and

58 (8) Two members of the house of representatives appointed by the speaker of the  
59 house of representatives and one member of the house of representatives appointed by  
60 the minority floor leader of the house of representatives.

61 4. (1) The council shall select a chair and vice chair from among its members.  
62 The director of the department of economic development shall chair the first meeting of  
63 the council until a chair is selected. Terms of the chair and vice chair shall be two years,  
64 and no member may serve more than two consecutive terms in either position. The  
65 council shall appoint a secretary-treasurer, who need not be a member of the council  
66 and who, among other tasks or functions designated by the council, shall keep records of  
67 its proceedings.

68 (2) Eleven voting members of the council shall constitute a quorum, and a simple  
69 majority of the members present shall be sufficient for any action taken by vote of the  
70 council.

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

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

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

82 5. (1) The council shall:

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

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

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

89 (d) Explore ways to encourage state and municipal agencies to expand the  
90 development and use of broadband services to better serve the public through the use of

91 **audio and video streaming, voice over internet protocol, teleconferencing, and wireless**  
92 **networking;**

93 **(e) Assist in expanding electronic instruction and distance education services,**  
94 **including digital navigation services;**

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

96 **a. Strategies to make broadband service available to unserved and underserved**  
97 **areas;**

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

99 **c. Strategies to increase adoption of the emergency broadband benefit program**  
100 **or any successor program; and**

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

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

107 **(a) Promote awareness of public facilities that have community broadband**  
108 **access that can be used for distance education and workforce development;**

109 **(b) Advise on the deployment of online government portals so that all public**  
110 **bodies and political subdivisions have websites, one-stop government access, and the**  
111 **ability to stream audio and video of public meetings; and**

112 **(c) Perform any other activities to further its purpose.**

113 **(3) The council may:**

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

118 **(b) Take action to increase awareness of issues concerning broadband services**  
119 **and to educate and inform the public; and**

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

122 **6. (1) The council shall establish a mapping of broadband services in the state**  
123 **based on analysis of data, broadband demand, and other relevant information. The**  
124 **council shall publish an annual assessment and map of the status of broadband that**  
125 **shall specifically designate underserved and unserved areas of the state.**

126 **(2) In conjunction with the department of economic development, the council**  
127 **shall establish a public map that is interactive and reflects estimated downstream data**

128 rates and upstream data rates in regions, counties, cities, communities, streets, or other  
129 areas. The public map shall not be so specific as to show data rates at a particular street  
130 address or physical location but may include data regarding capacity, based upon fiber  
131 count.

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

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

136 (b) Industry-provided information;

137 (c) Consumer data; and

138 (d) A voluntary data collection program that the council may establish. The  
139 program may include voluntarily submitted data from internet service providers and  
140 include any home or region data rate meters utilized by the provider and voluntarily  
141 submitted data from customers of an internet service provider, reflecting the person's  
142 data rate at a particular IP address, which may be based upon a web-based test or  
143 analysis program. Any data collected through a voluntary data collection program shall  
144 not be deemed public information and is not subject to public release or availability.  
145 Any voluntary data collection program established by the council shall:

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

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

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

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

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

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

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

159 (c) Any information designated as confidential for public security reasons by the  
160 United States Department of Homeland Security or the department of public safety.

161 However, it shall be the duty of the public and private entities to make the council aware  
162 of such confidential designation, and the actual or estimated upstream data rates and  
163 downstream data rates of an area or region of the state shall not be excluded from  
164 public or private maps unless the council determines good cause for the exclusion.

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

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

172           **9. (1) Notwithstanding the provisions of chapter 610, information provided to**  
173 **the council, its consultants, or its other agents that is identified as confidential**  
174 **information when submitted shall be exempt from disclosure and shall be secured and**  
175 **safeguarded. Such information may include, but not be limited to, physical plant**  
176 **locations, subscriber levels, market penetration data, and any other proprietary**  
177 **business information or any other information that constitutes a trade secret.**

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

180           **10. The council may promulgate all necessary rules and regulations for the**  
181 **administration of this section, including the voluntary data collection program under**  
182 **paragraph (d) of subdivision (3) of subsection 7 of this section. Any rule or portion of a**  
183 **rule, as that term is defined in section 536.010, that is created under the authority**  
184 **delegated in this section shall become effective only if it complies with and is subject to**  
185 **all of the provisions of chapter 536 and, if applicable, section 536.028. This section and**  
186 **chapter 536 are nonseverable and if any of the powers vested with the general assembly**  
187 **pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul**  
188 **a rule are subsequently held unconstitutional, then the grant of rulemaking authority**  
189 **and any rule proposed or adopted after August 28, 2023, shall be invalid and void.**

✓