

SENATE SUBSTITUTE
FOR
HOUSE COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1872

AN ACT

To amend chapter 620, RSMo, by adding thereto nine new sections relating to broadband internet service.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

1 Section A. Chapter 620, RSMo, is amended by adding thereto
2 nine new sections, to be known as sections 620.2450, 620.2451,
3 620.2452, 620.2453, 620.2454, 620.2455, 620.2456, 620.2457, and
4 620.2458, to read as follows:

5 620.2450. 1. A grant program is hereby established under
6 sections 620.2450 to 620.2458 to award grants to applicants who
7 seek to expand access to broadband internet service in unserved
8 and underserved areas of the state. The department of economic
9 development shall administer and act as the fiscal agent for the
10 grant program and shall be responsible for receiving and
11 reviewing grant applications and awarding grants under sections
12 620.2450 to 620.2458. Funding for the grant program established
13 under this section shall be subject to appropriation by the
14 general assembly.

15 2. As used in sections 620.2450 to 620.2458, the following
16 terms shall mean:

17 (1) "Underserved area", a project area without access to

1 wireline or fixed wireless broadband internet service of speeds
2 of at least twenty-five megabits per second download and three
3 megabits per second upload;

4 (2) "Unserved area", a project area without access to
5 wireline or fixed wireless broadband internet service of speeds
6 of at least ten megabits per second download and one megabit per
7 second upload.

8 620.2451. Grants awarded under sections 620.2450 to
9 620.2458 shall fund the acquisition and installation of retail
10 broadband internet service at speeds of at least twenty-five
11 megabits per second download and three megabits per second
12 upload, but that is scalable to higher speeds.

13 620.2452. Applicants eligible for grants awarded shall
14 include:

15 (1) Corporations, or their affiliates, registered in this
16 state;

17 (2) Incorporated businesses or partnerships;

18 (3) Limited liability companies registered in this state;

19 (4) Nonprofit organizations registered in this state;

20 (5) Political subdivisions; and

21 (6) Rural electric cooperatives organized under chapter 394
22 and their broadband affiliates.

23 620.2453. An eligible applicant shall submit an application
24 to the department of economic development on a form prescribed by
25 the department. An application for a grant under sections
26 620.2450 to 620.2458 shall include the following information:

27 (1) A description of the project area;

28 (2) A description of the kind and amount of broadband

1 internet infrastructure that is proposed to be deployed;

2 (3) Evidence demonstrating the unserved or underserved
3 nature of the project area;

4 (4) The number of households that would have new access to
5 broadband internet service, or whose broadband internet service
6 would be upgraded, as a result of the grant;

7 (5) A list of significant community institutions that would
8 benefit from the proposed grant;

9 (6) The total cost of the proposal and the timeframe in
10 which it will be completed;

11 (7) A list identifying sources of funding or in-kind
12 contributions, including government funding, that would
13 supplement any awarded grant; and

14 (8) Any other information required by the department of
15 economic development.

16 620.2454. 1. At least thirty days prior to the first day
17 applications may be submitted each fiscal year, the department of
18 economic development shall publish on its website the specific
19 criteria and any quantitative weighting scheme or scoring system
20 the department will use to evaluate or rank applications and
21 award grants under section 620.2455. Such criteria and
22 quantitative scoring system shall include the criteria set forth
23 in section 620.2455.

24 2. Within three business days of the close of the grant
25 application process, the department of economic development shall
26 publish on its website the proposed unserved and underserved
27 areas, and the proposed broadband internet speeds for each
28 application submitted. Upon request, the department shall

1 provide a copy of any application to an interested party.

2 3. A broadband internet service provider that provides
3 existing service in or adjacent to the proposed project area may
4 submit to the department of economic development, within forty-
5 five days of publication of the information under subsection 2 of
6 this section, a written challenge to an application. Such
7 challenge shall contain information demonstrating that:

8 (1) The provider currently provides broadband internet
9 service to retail customers within the proposed unserved or
10 underserved area;

11 (2) The provider has begun construction to provide
12 broadband internet service to retail customers within the
13 proposed unserved or underserved area; or

14 (3) The provider commits to providing broadband internet
15 service to retail customers within the proposed unserved or
16 underserved areas within the timeframe proposed by the applicant.

17 4. Within three business days of the submission of a
18 written challenge, the department of economic development shall
19 notify the applicant of such challenge.

20 5. The department of economic development shall evaluate
21 each challenge submitted under this section. If the department
22 determines that the provider currently provides, has begun
23 construction to provide, or commits to provide broadband internet
24 service at speeds of at least twenty-five megabits per second
25 download and three megabits per second upload, but scalable to
26 higher speeds, in the proposed project area, the department shall
27 not fund the challenged project.

28 6. If the department of economic development denies funding

1 to an applicant as a result of a broadband internet service
2 provider challenge under this section and such broadband internet
3 service provider does not fulfill its commitment to provide
4 broadband internet service in the unserved or underserved area,
5 the department of economic development shall not consider another
6 challenge from such broadband internet service provider for the
7 next two grant cycles, unless the department determines the
8 failure to fulfill the commitment was due to circumstances beyond
9 the broadband internet service provider's control.

10 620.2455. 1. The department of economic development shall
11 give first priority to grant applications that serve unserved
12 areas.

13 2. The department of economic development shall give
14 secondary priority to grant applications that demonstrate the
15 ability to receive matching funds that serve unserved areas,
16 whether such matching funds are government funds or other funds.

17 3. The department shall give third priority to grant
18 applications that serve underserved areas.

19 4. The department of economic development shall use a
20 quantitative weighing scheme or scoring system including, at a
21 minimum, the following elements to rank the applications:

22 (1) Financial, technical, and legal capability of the
23 applicant to deploy and operate broadband internet service;

24 (2) The number of locations served in the most cost-
25 efficient manner possible considering the project area density;

26 (3) Available minimum broadband speeds;

27 (4) Ability of the infrastructure to be scalable to higher
28 broadband internet speeds;

1 (5) Commitment of the applicant to fund at least fifty
2 percent of the project from private sources;

3 (6) Length of time the provider has been operating
4 broadband internet services in the state;

5 (7) The offering of new or substantially upgraded broadband
6 internet service to important community institutions including,
7 but not limited to, libraries, educational institutions, public
8 safety facilities, and health care facilities;

9 (8) The offering of service to economically distressed
10 areas of the state, as measured by indices of unemployment,
11 poverty, or population loss that are significantly greater than
12 the statewide average;

13 (9) The ability to provide technical support and training
14 to residents, businesses, and institutions in the community of
15 the proposed project to utilize broadband internet service;

16 (10) Plans to actively promote the adoption of the newly
17 available broadband internet service in the community; and

18 (11) Strong support for the proposed project from citizens,
19 businesses, and institutions in the community.

20 620.2456. 1. The department of economic development shall
21 not award any grant to an otherwise eligible grant applicant
22 where funding from the Connect America Fund has been awarded,
23 where high cost support from the federal Universal Service Fund
24 has been received by rate of return carriers, or where any other
25 federal funding has been awarded which did not require any
26 matching fund component, for any portion of the proposed project
27 area, nor shall any grant money be used to serve any retail end
28 user that already has access to wireline or fixed wireless

1 broadband internet service of speeds of at least twenty-five
2 megabits per second download and three megabits per second
3 upload.

4 2. No grant awarded under sections 620.2450 to 620.2458,
5 when combined with any federal, state, or local funds, shall fund
6 more than fifty percent of the total cost of a project.

7 3. No single project shall be awarded grants under sections
8 620.2450 to 620.2458 whose cumulative total exceeds five million
9 dollars.

10 4. The department of economic development shall endeavor to
11 award grants under sections 620.2450 to 620.2458 to qualified
12 applicants in all regions of the state.

13 5. An award granted under sections 620.2450 to 620.2458
14 shall not:

15 (1) Require an open access network;

16 (2) Impose rates, terms, and conditions that differ from
17 what a provider offers in other areas of its service area;

18 (3) Impose any rate, service, or any other type of
19 regulation beyond speed requirements set forth in section
20 620.2451; or

21 (4) Impose an unreasonable time constraint on the time to
22 build the service.

23 620.2457. By June thirtieth of each year, the department of
24 economic development shall publish on its website and provide to
25 the general assembly:

26 (1) A list of all applications for grants under sections
27 620.2450 to 620.2458 received during the previous year and, for
28 each application:

1 (a) The results of any quantitative weighting scheme or
2 scoring system the department of economic development used to
3 award grants or rank the applications;

4 (b) The grant amount requested;

5 (c) The grant amount awarded, if any;

6 (2) All written challenges.

7 620.2458. The department of economic development shall
8 develop administrative rules governing the eligibility,
9 application and grant award process, and to implement the
10 provisions of sections 620.2450 to 620.2458. Any rule or portion
11 of a rule, as that term is defined in section 536.010, that is
12 created under the authority delegated in this section shall
13 become effective only if it complies with and is subject to all
14 of the provisions of chapter 536 and, if applicable, section
15 536.028. This section and chapter 536 are nonseverable, and if
16 any of the powers vested with the general assembly pursuant to
17 chapter 536 to review, to delay the effective date, or to
18 disapprove and annul a rule are subsequently held
19 unconstitutional, then the grant of rulemaking authority and any
20 rule proposed or adopted after August 28, 2018, shall be invalid
21 and void.

22 Section B. Pursuant to section 23.253 of the Missouri
23 sunset act:

24 (1) The provisions of the new program authorized under
25 sections 620.2450, 620.2451, 620.2452, 620.2453, 620.2454,
26 620.2455, 620.2456, 620.2457, and 620.2458 shall sunset
27 automatically three years after the effective date of sections
28 620.2450, 620.2451, 620.2452, 620.2453, 620.2454, 620.2455,

1 620.2456, 620.2457, and 620.2458 unless reauthorized by an act of
2 the general assembly; and

3 (2) If such program is reauthorized, the program authorized
4 under sections 620.2450, 620.2451, 620.2452, 620.2453, 620.2454,
5 620.2455, 620.2456, 620.2457, and 620.2458 shall sunset
6 automatically six years after the effective date of the
7 reauthorization of sections 620.2450, 620.2451, 620.2452,
8 620.2453, 620.2454, 620.2455, 620.2456, 620.2457, and 620.2458;
9 and

10 (3) Sections 620.2450, 620.2451, 620.2452, 620.2453,
11 620.2454, 620.2455, 620.2456, 620.2457, and 620.2458 shall
12 terminate on September first of the calendar year immediately
13 following the calendar year in which the program authorized under
14 sections 620.2450, 620.2451, 620.2452, 620.2453, 620.2454,
15 620.2455, 620.2456, 620.2457, and 620.2458 is sunset.