



House of Representatives

File No. 786

General Assembly

January Session, 2021

(Reprint of File No. 262)

Substitute House Bill No. 6442
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
June 4, 2021

AN ACT CONCERNING EQUITABLE ACCESS TO BROADBAND.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2021*) As used in this section and
2 sections 2 to 8, inclusive, of this act:

3 (1) "Broadband Internet access service" means a mass-market retail
4 service by wire that provides the capability to transmit data to and
5 receive data from all or substantially all Internet endpoints, including
6 any capabilities that are incidental to and enable the operation of the
7 communications service, but excluding dial-up Internet access service;

8 (2) "Broadband Internet access service provider" means any person or
9 entity that provides broadband Internet access service through facilities
10 occupying public highways or streets authorized by the Public Utilities
11 Regulatory Authority, including through a certificate of public
12 convenience and necessity, a certificate of video franchise authority, a
13 certificate of cable franchise authority, or as a certified

14 telecommunications provider;

15 (3) "Digital equity" means a condition in which all individuals and
16 communities have the information technology capacity needed for
17 participation in society, democracy and the economy of the state;

18 (4) "Digital literacy" means the ability to use information and
19 communication technologies to find, evaluate, create and communicate
20 information, requiring both cognitive and technical skills;

21 (5) "Distressed municipality" has the same meaning as provided in
22 section 32-9p of the general statutes;

23 (6) "Shapefile" means a digital storage format containing geospatial
24 or location-based data and attribute information (A) regarding the
25 availability of broadband Internet access service, and (B) that can be
26 viewed, edited, and mapped in geographic information system
27 software; and

28 (7) "Unserved area" means an area, not larger than a United States
29 census block, as determined in accordance with the most recent United
30 States census, identified on the broadband map developed pursuant to
31 section 2 of this act, where broadband Internet access service with
32 download speeds of at least twenty-five megabits per second and
33 upload speeds of at least three megabits per second is not available from
34 at least one broadband Internet access service provider.

35 Sec. 2. (NEW) (*Effective July 1, 2021*) (a) The Office of Policy and
36 Management shall, in accordance with sections 4d-90 and 4-67p of the
37 general statutes and in consultation with other state agencies deemed
38 appropriate by the Secretary of the Office of Policy and Management,
39 develop and maintain an up-to-date broadband map, with
40 accompanying data, showing the availability and adoption of
41 broadband Internet access service, including broadband Internet
42 download and upload speeds, in the state. The Office of Policy and
43 Management may rely on credible and relevant data, as determined by
44 the Secretary of the Office of Policy and Management, provided by

45 broadband Internet access service providers, state agencies, political
46 subdivisions of the state and other third parties, including, but not
47 limited to, broadband Internet access service consumers, in the
48 development and maintenance of said map. The Secretary of the Office
49 of Policy and Management may employ outside consultants in the
50 development and maintenance of said map.

51 (b) On or before December 1, 2022, and each year thereafter, the
52 Secretary of the Office of Policy and Management shall publish said up-
53 to-date broadband map on the Office of Policy and Management's
54 Internet web site.

55 (c) (1) Each broadband Internet access service provider shall provide
56 the Office of Policy and Management, in a form and manner prescribed
57 by the Secretary of the Office of Policy and Management, with
58 information required to develop and maintain an up-to-date broadband
59 map showing the availability of broadband Internet access service and
60 subscription data by broadband Internet speed offered by such
61 provider.

62 (A) Such information may be submitted in the form of a labeled
63 shapefile that shall include (i) for each address or structure in the state
64 at which service is available from the broadband Internet access service
65 provider, the maximum advertised downstream bandwidth, maximum
66 advertised upstream bandwidth and transmission technology, and (ii)
67 for each area served by the broadband Internet access service provider,
68 provided such area is not larger than a census block group, for each
69 combination of advertised downstream and upstream bandwidth of the
70 service as sold and transmission technology, the total number of
71 connections and total number of consumer connections.

72 (B) In prescribing the form and manner of the information submitted
73 pursuant to this subsection, the Secretary of the Office of Policy and
74 Management shall make reasonable efforts to conform with the
75 Broadband Deployment Accuracy and Technological Availability Act,
76 47 USC 641 et seq., as amended from time to time, the Federal

77 Communications Commission rules adopted thereunder and the
78 Federal Communications Commission's Form 477 filing process.

79 (2) Any information provided by a broadband Internet access service
80 provider pursuant to this subsection shall be deemed a trade secret and
81 exempt from public disclosure pursuant to section 1-210 of the general
82 statutes. Pursuant to a data sharing agreement, the Office of Policy and
83 Management may provide such information to the Department of
84 Energy and Environmental Protection, the Office of State Broadband
85 and the Commission for Educational Technology for the purposes of
86 administering the grant program and preparing the reports required
87 under section 3 of this act, and shall not disclose such information to any
88 nongovernmental individual or entity, other than an outside consultant
89 employed pursuant to subsection (a) of this section or section 3 of this
90 act, except: (A) In an aggregated form necessary to develop and
91 maintain the map and data pursuant to subsection (a) of this section, or
92 (B) with the permission of the broadband Internet access service
93 provider. Any contract or data-sharing agreement entered into by the
94 Office of Policy and Management with other governmental entities or
95 outside consultants shall include a confidentiality agreement
96 concerning the trade secret information obtained pursuant to this
97 subsection.

98 (d) Each state agency and political subdivision of the state shall
99 provide all information requested by the Office of Policy and
100 Management for the purpose of developing and maintaining an up-to-
101 date broadband map.

102 Sec. 3. (NEW) (*Effective July 1, 2021*) (a) On or before January 1, 2022,
103 the Commissioner of Energy and Environmental Protection shall
104 establish and administer a grant program, subject to the availability of
105 federal funding, to support the deployment of broadband Internet
106 access service. The commissioner shall establish criteria consistent with
107 any requirement of federal law for the grants, including, but not limited
108 to, (1) application requirements, (2) applicant eligibility, (3) addressing
109 unserved areas in distressed municipalities, (4) broadband Internet

110 access service speed, and (5) an applicant's commitment to pay at least
111 twenty per cent of the costs for any project entered into pursuant to this
112 section with such applicant's own funding, provided such funding does
113 not derive from government grants, loans or subsidies to said applicant.
114 In awarding such grants, the commissioner may give priority to
115 applicants based on the percentage of said applicant's commitment to
116 cost sharing. The commissioner may deny applications from broadband
117 Internet access service providers that do not provide information to the
118 Office of Policy and Management pursuant to subsection (c) of section 2
119 of this act or to the Department of Energy and Environmental Protection
120 pursuant to subsection (b) of section 4 of this act. The commissioner may
121 employ outside consultants in developing and implementing said grant
122 program.

123 (b) On or before January 1, 2023, and every year thereafter for a
124 period of five years after receiving a grant pursuant to this section, the
125 recipient of such grant shall submit a report to the Commissioner of
126 Energy and Environmental Protection concerning the status of such
127 recipient's broadband Internet access service deployment and other
128 information deemed relevant by the commissioner.

129 (c) On or before December 1, 2022, and every two years thereafter, the
130 Department of Energy and Environmental Protection, in consultation
131 with the Office of Policy and Management, the Office of State
132 Broadband, the Commission for Educational Technology and other state
133 agencies deemed appropriate by the Commissioner of Energy and
134 Environmental Protection, shall report to the Governor concerning (1)
135 the grants awarded pursuant to this section, (2) the status and progress
136 made toward a state-wide goal of attaining universal access to (A)
137 broadband Internet download speeds of one gigabit per second; and (B)
138 broadband Internet upload speeds of one hundred megabits per second,
139 and (3) broadband Internet access service adoption rates, the price and
140 nonprice barriers to broadband adoption and digital equity. Such report
141 shall include recommendations to overcome any such barriers,
142 including, but not limited to, addressing issues of digital literacy and
143 affordability.

144 Sec. 4. (NEW) (*Effective July 1, 2021*) (a) The Department of Energy
145 and Environmental Protection shall maintain, on the department's
146 Internet web site, a public listing of federal funding opportunities to
147 facilitate the deployment of broadband Internet access service in the
148 state.

149 (b) Not later than ninety days after each such opportunity is listed,
150 each broadband Internet access service provider shall notify the
151 Department of Energy and Environmental Protection, in a form and
152 manner prescribed by the department, to the extent permissible under
153 applicable federal law, rules or guidelines, whether such provider
154 applied or intends to apply for such opportunity.

155 (1) If such provider applied or intends to apply for such opportunity,
156 such provider shall notify the Department of Energy and Environmental
157 Protection, in a form and manner prescribed by the department, of the
158 municipalities where broadband deployment would be facilitated. Each
159 broadband Internet access service provider that applies for such
160 funding shall, to the extent permissible under federal law, rules or
161 guidelines, provide the department with a copy of the application. Any
162 application provided by such provider pursuant to this subparagraph
163 shall be deemed a trade secret and exempt from public disclosure
164 pursuant to section 1-210 of the general statutes.

165 (2) If such provider did not apply or does not intend to apply for such
166 opportunity, such provider shall notify the Department of Energy and
167 Environmental Protection, in a form and manner prescribed by the
168 department, of the reasons for such determination to the extent
169 permissible under applicable federal law, rules or guidelines.

170 Sec. 5. (NEW) (*Effective July 1, 2021*) (a) On or before January 1, 2022,
171 the Public Utilities Regulatory Authority shall initiate an uncontested
172 proceeding to develop a process for the construction of facilities in the
173 public highways, streets or other public rights-of-way to ensure timely
174 and nondiscriminatory procedures that accomplish conduit excavations
175 for telecommunications service providers and broadband Internet

176 access service providers. Upon application by the broadband Internet
177 access service providers for the construction of underground facilities
178 that will contain conduit for telecommunications service providers or
179 broadband Internet access service providers, the Public Utilities
180 Regulatory Authority shall condition any approval of such application
181 on the following:

182 (1) The size of such conduit shall be consistent with industry best
183 practices and sufficient to accommodate potential demand;

184 (2) Any handholes and manholes for fiber optic cable access and
185 pulling with respect to each such practice shall be placed at intervals
186 consistent with industry best practices;

187 (3) Such conduit shall be installed with a pull tape and capabilities of
188 supporting additional fiber optic cable;

189 (4) The applicant shall notify telecommunications service providers
190 and broadband Internet access service providers of the proposed
191 excavation to reduce the potential for future street excavations in the
192 same location;

193 (5) Any requesting telecommunications service provider or
194 broadband Internet access service provider shall be able to access such
195 conduit on a competitively neutral and nondiscriminatory basis and for
196 a charge not to exceed a cost-based rate;

197 (6) The applicant shall report to the authority upon completion of any
198 approved construction verifying that it has complied with the
199 provisions of this subsection; and

200 (7) Any other condition deemed prudent and reasonable by the
201 authority.

202 (b) For excavations in the state highway rights-of-way, the applicant
203 shall comply with the Department of Transportation's encroachment
204 permit process, including the payment of any applicable fees. Any
205 application for construction in the public highways, streets or other

206 public rights-of-way shall require the applicant to install a conduit for
207 the benefit of the Department of Transportation, as required by section
208 16-233 of the general statutes.

209 (c) The Commissioner of Transportation is authorized to lease space,
210 or enter into any other contract or agreement to permit access to such
211 space, in any conduit installed by the Department of Transportation in
212 the public highways, streets or other public rights-of-way on such terms
213 and conditions, and for any purpose, deemed to be in the public interest
214 by said commissioner.

215 (d) Nothing in this section shall be construed to limit the use of
216 conduit by the Department of Transportation on public highways,
217 streets or other public rights-of-way as otherwise permitted by law.

218 (e) All telecommunications service providers and broadband Internet
219 access service providers that are authorized by the authority to install
220 facilities in, under or over the public highways, streets or other public
221 rights-of-way shall obey, observe and comply with this section and each
222 applicable order made by the authority with respect to underground
223 conduit. Failure to comply with this section or applicable orders of the
224 authority may result in a civil penalty levied by the authority in
225 accordance with section 16-41 of the general statutes. Any such fines
226 shall not be recoverable costs in any rate proceeding conducted by the
227 authority.

228 Sec. 6. (NEW) (*Effective July 1, 2021*) Each broadband Internet access
229 service provider shall have the same right of access to an occupied
230 building, as defined in section 16-247l of the general statutes, as afforded
231 to certified telecommunications service providers under section 16-247l
232 of the general statutes.

233 Sec. 7. (NEW) (*Effective July 1, 2021*) The State Building Inspector and
234 the Codes and Standards Committee shall, in accordance with section
235 29-252b of the general statutes, revise the State Building Code to include
236 provisions requiring buildings that qualify as a new construction or a
237 major alteration of a commercial or multifamily building to include a

238 minimum infrastructure requirement to support broadband Internet
239 access service. The State Building Inspector and the Codes and
240 Standards Committee shall define such minimum infrastructure
241 requirements in such revisions.

242 Sec. 8. Section 16-49 of the general statutes is repealed and the
243 following is substituted in lieu thereof (*Effective July 1, 2021*):

244 (a) As used in this section:

245 (1) "Company" means (A) any public service company other than a
246 telephone company, that had more than one hundred thousand dollars
247 of gross revenues in the state in the calendar year preceding the
248 assessment year under this section, except any such company not
249 providing service to retail customers in the state, (B) any telephone
250 company that had more than one hundred thousand dollars of gross
251 revenues in the state from telecommunications services in the calendar
252 year preceding the assessment year under this section, except any such
253 company not providing service to retail customers in the state, (C) any
254 certified telecommunications provider that had more than one hundred
255 thousand dollars of gross revenues in the state from
256 telecommunications services in the calendar year preceding the
257 assessment year under this section, except any such certified
258 telecommunications provider not providing service to retail customers
259 in the state, (D) any electric supplier that had more than one hundred
260 thousand dollars of gross revenues in the state in the calendar year
261 preceding the assessment year under this section, except any such
262 supplier not providing electric generation services to retail customers in
263 the state, or (E) any certified competitive video service provider issued
264 a certificate of video franchise authority by the Public Utilities
265 Regulatory Authority in accordance with section 16-331e that had more
266 than one hundred thousand dollars of gross revenues in the state in the
267 calendar year preceding the assessment year under this section, except
268 any such certified competitive video service provider not providing
269 service to retail customers in the state;

270 (2) "Telecommunications services" means (A) in the case of
271 telecommunications services provided by a telephone company, any
272 service provided pursuant to a tariff approved by the authority other
273 than wholesale services and resold access and interconnections services,
274 and (B) in the case of telecommunications services provided by a
275 certified telecommunications provider other than a telephone company,
276 any service provided pursuant to a tariff approved by the authority and
277 pursuant to a certificate of public convenience and necessity; and

278 (3) "Fiscal year" means the period beginning July first and ending
279 June thirtieth.

280 (b) On or before July 15, 1999, and on or before May first, annually
281 thereafter, each company shall report its intrastate gross revenues of the
282 preceding calendar year to the Public Utilities Regulatory Authority,
283 which amount shall be subject to audit by the authority. For each fiscal
284 year, each company shall pay the authority the company's share of all
285 expenses of the department's Bureau of Energy and Technology, the
286 Office of Consumer Counsel, the Office of Policy and Management's
287 expenses related to the duties under sections 2 and 3 of this act and the
288 operations of the Public Utilities Regulatory Authority for such fiscal
289 year. On or before September first, annually, the authority shall give to
290 each company a statement which shall include: (1) The amount
291 appropriated to the department's Bureau of Energy and Technology, the
292 Office of Consumer Counsel, the Office of Policy and Management's
293 expenses related to the duties under sections 2 and 3 of this act and the
294 operations of the Public Utilities Regulatory Authority for the fiscal year
295 beginning July first of the same year; (2) the total gross revenues of all
296 companies; and (3) the proposed assessment against the company for
297 the fiscal year beginning on July first of the same year, adjusted to reflect
298 the estimated payment required under subdivision (1) of subsection (c)
299 of this section. Such proposed assessment shall be calculated by
300 multiplying the company's percentage share of the total gross revenues
301 as specified in subdivision (2) of this subsection by the total revenue
302 appropriated to the department's Bureau of Energy and Technology, the
303 Office of Consumer Counsel, the Office of Policy and Management's

304 expenses related to the duties under sections 2 and 3 of this act and the
305 operations of the Public Utility Regulatory Authority, as specified in
306 subdivision (1) of this subsection.

307 (c) Each company shall pay the authority: (1) On or before June
308 thirtieth, annually, an estimated payment for the expenses of the
309 following year equal to twenty-five per cent of its assessment for the
310 fiscal year ending on such June thirtieth, (2) on or before September
311 thirtieth, annually, twenty-five per cent of its proposed assessment,
312 adjusted to reflect any credit or amount due under the recalculated
313 assessment for the preceding fiscal year, as determined by the authority
314 under subsection (d) of this section, provided if the company files an
315 objection in accordance with subsection (e) of this section, it may
316 withhold the amount stated in its objection, and (3) on or before the
317 following December thirty-first and March thirty-first, annually, the
318 remaining fifty per cent of its proposed assessment in two equal
319 installments.

320 (d) Immediately following the close of each fiscal year, the authority
321 shall recalculate the proposed assessment of each company, based on
322 the expenses, as determined by the Comptroller, of the department's
323 Bureau of Energy and Technology, the Office of Consumer Counsel, the
324 Office of Policy and Management's expenses related to the duties under
325 sections 2 and 3 of this act and the operations of the Public Utilities
326 Regulatory Authority for such fiscal year. On or before September first,
327 annually, the authority shall give to each company a statement showing
328 the difference between its recalculated assessment and the amount
329 previously paid by the company.

330 (e) Any company may object to a proposed or recalculated
331 assessment by filing with the authority, not later than September
332 fifteenth of the year of said assessment, a petition stating the amount of
333 the proposed or recalculated assessment to which it objects and the
334 grounds upon which it claims such assessment is excessive, erroneous,
335 unlawful or invalid. After a company has filed a petition, the authority
336 shall hold a hearing. After reviewing the company's petition and

337 testimony, if any, the authority shall issue an order in accordance with
 338 its findings. The company shall pay the authority the amount indicated
 339 in the order not later than thirty days after the date of the order.

340 (f) The authority shall remit all payments received under this section
 341 to the State Treasurer for deposit in the Consumer Counsel and Public
 342 Utility Control Fund established under section 16-48a. Such funds shall
 343 be accounted for as expenses recovered from public service companies
 344 and certified telecommunications providers. All payments made under
 345 this section shall be in addition to any taxes payable to the state under
 346 chapters 211, 212, 212a and 219.

347 (g) Any assessment unpaid on the due date or any portion of an
 348 assessment withheld after the due date under subsection (c) of this
 349 section shall be subject to interest at the rate of one and one-fourth per
 350 cent per month or fraction thereof, or fifty dollars, whichever is greater.

351 (h) Any company that fails to report in accordance with this section
 352 shall be subject to civil penalties in accordance with section 16-41.

This act shall take effect as follows and shall amend the following sections:

| | | |
|-----------|---------------------|-------------|
| Section 1 | <i>July 1, 2021</i> | New section |
| Sec. 2 | <i>July 1, 2021</i> | New section |
| Sec. 3 | <i>July 1, 2021</i> | New section |
| Sec. 4 | <i>July 1, 2021</i> | New section |
| Sec. 5 | <i>July 1, 2021</i> | New section |
| Sec. 6 | <i>July 1, 2021</i> | New section |
| Sec. 7 | <i>July 1, 2021</i> | New section |
| Sec. 8 | <i>July 1, 2021</i> | 16-49 |

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

| Agency Affected | Fund-Effect | FY 22 \$ | FY 23 \$ |
|---|------------------------|-----------|-----------|
| Policy & Mgmt., Off. | CC&PUCF - Cost | 469,399 | 381,452 |
| Policy & Mgmt., Off. | CC&PUCF - Revenue Gain | 469,399 | 381,452 |
| Department of Energy and Environmental Protection | FF - Cost | See Below | See Below |

Note: CC&PUCF=Consumer Counsel and Public Utility Control Fund; FF=Federal Funds

Municipal Impact: None

Explanation

The bill as amended establishes a grant program administered by the Department of Energy and Environmental Protection (DEEP) for the purpose of broadband deployment and requires the Office of Policy and Management (OPM) to develop statewide broadband mapping.

The bill results in a cost to OPM of \$469,399 in FY 22 and \$381,452 in FY 23 to hire consultants to assist with the development of the statewide broadband maps. The bill also results in a corresponding revenue gain to the Consumer Counsel and Public Utility Control (PUC) Fund by increasing existing assessments on public service companies to cover associated costs.

The grant program established is subject to the availability of federal funding and is therefore not anticipated to result in a cost to the General Fund or the PUC fund in FY 22 or FY 23. It is anticipated that DEEP will need to hire 3 staff members for the purpose of program development and grant administration at a cost of \$506,500 in FY 22 and \$521,700 in FY 23 to be funded by federal sources.

The American Rescue Plan Act of 2021 (ARPA) provides state funding specifically for the development of broadband infrastructure. Presumably, any such ARPA funding designated by the legislature would be used to fund administrative costs and grants provided to applicants of the program.

The bill also requires the State Building Inspector to revise the State Building Code. This provision does not result in a fiscal impact.

House "A" struck the underlying bill and results in the fiscal impact described above.

The Out Years

There is no anticipated cost in the outyears resulting from the bill, as developing broadband mapping is anticipated to be a one-time cost. Furthermore, ARPA funding is currently set to expire in FY 24. As the grant program is subject to available federal funding, the bill does not contemplate any costs borne by the State after such expiration.

The preceding Fiscal Impact statement is prepared for the benefit of the members of the General Assembly, solely for the purposes of information, summarization and explanation and does not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OLR Bill Analysis**sHB 6442 (as amended by House "A")******AN ACT CONCERNING EQUITABLE ACCESS TO BROADBAND.*****SUMMARY**

This bill contains various provisions related to broadband Internet access service (referred to as “broadband service” below) and broadband Internet access service providers (“broadband providers”). Among other things, it:

1. requires the Office of Policy and Management (OPM) to develop and maintain an up-to-date broadband map with data showing the availability and adoption of broadband service;
2. requires the Department of Energy and Environmental Protection (DEEP) commissioner to establish and administer a grant program to support the deployment of broadband service, subject to the availability of federal funding;
3. requires (a) DEEP to maintain a public listing of federal funding opportunities to facilitate deploying broadband service and (b) broadband providers to notify DEEP if they intend to apply for the funding;
4. requires the Public Utilities Regulatory Authority (PURA) to impose certain requirements on broadband providers when they apply to build certain underground facilities (e.g., notifying other providers about the proposed excavation to reduce the potential for future street excavations in the same location);
5. gives each broadband provider the same right of access to an occupied building as telecommunications service providers have

under current law;

6. requires the State Building Code to be revised to require that new construction or major alterations of a commercial or multi-family building include a minimum infrastructure requirement to support broadband service; and
7. expands the annual assessment that supports the Public Utility Control Fund to also cover OPM's expenses related to developing the broadband map and data required by the bill.

Under the bill, "broadband Internet access service" is a mass-market retail service by wire that provides the capability to transmit data to, and receive data from, all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the service's operation, but excluding dial-up Internet access service. A "broadband Internet access service provider" is an entity that provides broadband Internet access service through facilities occupying public highways or streets authorized by PURA, including through a certificate of public convenience and necessity, a certificate of video franchise authority, a certificate of cable franchise authority, or as a certified telecommunications provider (see BACKGROUND).

*House Amendment "A" adds the provisions on the grant program and federal funding opportunities to facilitate broadband deployment. Among other things, it also removes numerous provisions from the underlying bill, such as those that would have (1) required property owners to disclose their property's Internet speeds when they publicly list it for sale or rent, (2) allowed municipalities to use grants from the Local Capital Improvement Program to build a municipal broadband network, (3) generally expanded PURA's regulatory powers over broadband providers, (4) required broadband providers to refund customers for service outages that last more than 24 hours, (5) required PURA to develop a "one-touch make-ready" procedure for attaching additional equipment to utility poles; and (6) limited the days and times when a broadband provider can terminate a customer's service due to

delinquent payments.

EFFECTIVE DATE: July 1, 2021

§ 2 — BROADBAND MAPPING

The bill requires OPM, in consultation with other state agencies that the OPM secretary deems appropriate, to develop and maintain an up-to-date broadband map with accompanying data showing the availability and adoption of broadband service, including upload and download speeds, in the state. It must do this in accordance with the state laws on geospatial information systems and the state data plan. To develop and maintain the map, OPM may (1) rely on credible and relevant data, as the secretary determines, provided by broadband providers, state agencies, political subdivisions (e.g., municipalities), and other third parties, such as broadband service consumers, and (2) employ outside consultants to develop and maintain the map.

The bill requires (1) each state agency and political subdivision to provide all information requested by OPM to develop and maintain the broadband map and (2) OPM to begin annually publishing the map on its website by December 1, 2022.

Provider Information

The bill requires each broadband provider to provide OPM with information required to develop and maintain an up-to-date broadband map showing broadband service availability and subscription data by broadband Internet speed offered by the provider.

The information must include the maximum advertised downstream and upstream bandwidths and the transmission technology for each address or structure in the state at which service is available from the provider. For each area the provider serves, as long as it is not larger than a census block group, the information must also include the total number of connections and consumer connections for each combination of advertised downstream and upstream bandwidths of the service as sold and transmission technology.

The bill requires the OPM secretary to prescribe the form and manner for providing the information, but it explicitly allows the information to be submitted as a labeled shapefile. Under the bill, a “shapefile” is a digital storage format containing geospatial or location-based data and attribute information (1) on broadband service availability and (2) that can be viewed, edited, and mapped in geographic information system software.

The bill also requires the secretary, when prescribing the form and manner for providing the information, to make reasonable efforts to conform with the (1) federal Broadband Deployment Accuracy and Technological Availability Act (47 USC 641 et seq., as amended from time to time), (2) Federal Communications Commission’s (FCC) rules adopted under that act, and (3) FCC’s Form 477 filing process.

Confidentiality

Under the bill, the information provided by the broadband providers must be deemed a trade secret and exempt from disclosure under the Freedom of Information Act (FOIA). OPM may provide the information, under a data sharing agreement, to DEEP, the Office of State Broadband, and the Commission for Educational Technology for administering the grant program (see § 3 below), but may not disclose it to a non-governmental individual or entity other than an outside consultant employed as allowed under the bill. Any contract or data-sharing agreement entered into by OPM with other governmental entities or outside consultants must include a confidentiality agreement about the trade secret information under the bill.

The information may also be disclosed (1) in an aggregated form needed to develop and maintain OPM’s broadband map and data described above or (2) with the broadband provider’s permission.

§ 3 — BROADBAND DEPLOYMENT GRANT PROGRAM

The bill requires the DEEP commissioner, by January 1, 2022, to establish and administer a grant program, subject to the availability of federal funding, to support the deployment of broadband service. It

allows the commissioner to employ outside consultants to develop and implement the program.

Criteria for Awarding Grants

The commissioner must establish criteria for the grants consistent with any federal requirements for them. The criteria must at least include (1) application requirements; (2) applicant eligibility; (3) addressing unserved areas in distressed municipalities (see “BACKGROUND”); (4) broadband service speed; and (5) an applicant’s commitment to pay at least 20% of the costs for a grant-eligible project with the applicant’s own funding, as long as it does not derive from government grants, loans, or subsidies to the applicant.

Under the bill, an “unserved area” is an area (1) that is no larger than a U.S. census block, as determined in the most recent census, and (2) where no broadband provider offers broadband service with download speeds of at least 25 megabits per second and upload speeds of at least three megabits per second, as identified on OPM’s broadband map.

The bill allows the commissioner, when awarding the grants, to prioritize applicants based on the percentage of their commitment to cost sharing. It also allows her to deny applications from broadband providers that do not provide information to OPM and DEEP as required by the bill (see § 2 above and § 4 below).

Reports

Grant Recipients. Starting by January 1, 2023, and annually for five years after receiving a grant, the bill requires a grant recipient to submit a report to the commissioner on the status of its broadband service deployment and other information deemed relevant by the commissioner.

DEEP Annual Report to the Governor. The bill requires DEEP, starting by December 1, 2022, to biennially report to the governor on (1) the broadband deployment grants awarded; (2) the status and progress made towards a state-wide goal of attaining universal access to

broadband download speeds of one gigabit per second and broadband upload speeds of 100 megabits per second; and (3) broadband service adoption rates, the price and non-price barriers to broadband adoption, and digital equity. The report must also include recommendations to overcome those barriers and at least address issues of digital literacy and affordability.

DEEP must prepare the report in consultation with OPM, the Office of State Broadband, the Commission for Educational Technology, and other state agencies deemed appropriate by the DEEP commissioner.

Under the bill, “digital equity” is a condition in which all individuals and communities have the information technology capacity needed to participate in society, democracy, and the state’s economy. “Digital literacy” is the ability to use information and communication technologies to find, evaluate, create, and communicate information, requiring both cognitive and technical skills.

§ 4 — FEDERAL FUNDING OPPORTUNITIES

The bill requires DEEP to maintain on its website a public listing of federal funding opportunities to facilitate deploying broadband service in the state. Then, within 90 days after each opportunity is listed, each broadband provider must notify DEEP whether it applied or intends to apply for the opportunity. The notification must be in a form and manner DEEP prescribes and to the extent allowed under applicable federal law, rules, or guidelines.

If the provider intends to apply for the funding opportunity, the bill also requires it to notify DEEP, in a form and manner that DEEP prescribes, about the municipalities where broadband deployment would be facilitated. Each provider that applies for the funding must also provide DEEP with a copy of the application, to the extent allowed under federal law, rules, or guidelines. The bill deems these applications a trade secret and exempt from public disclosure under FOIA.

If the provider did not apply or does not intend to do so, it must

notify DEEP about the reasons for its determination, to the extent allowed under applicable federal law, rules, or guidelines, in a form and manner that DEEP prescribes.

§ 5 — UNDERGROUND CONDUIT

The bill requires PURA, by January 1, 2022, to initiate an uncontested proceeding to develop a process for constructing facilities in the public highways, streets, or other public rights-of-way to ensure timely and nondiscriminatory procedures that accomplish conduit excavations for telecommunications service providers and broadband providers.

It requires PURA to impose certain requirements on broadband providers when they apply to build underground facilities that will contain conduit for telecommunications service providers or broadband providers (presumably, this must occur as part of the process PURA develops). PURA must condition its approval on meeting the following requirements:

1. the size of the conduit must be consistent with industry best practices and sufficient to accommodate potential demand;
2. handholes and manholes for fiber optic cable access and pulling, respectively, must be placed at intervals consistent with industry best practices;
3. the conduit must be installed with a pull tape and capable of supporting additional fiber optic cable;
4. the applicant must notify telecommunications service providers and broadband providers about the proposed excavation to reduce the potential for future street excavations in the same location;
5. a telecommunications service provider or broadband provider, upon request, must be able to access the conduit on a competitively neutral and nondiscriminatory basis, and for a charge that does not exceed a cost-based rate;

6. the applicant must report to PURA upon completion to verify that it has complied with the above requirements; and
7. any other condition PURA deems prudent and reasonable.

Excavations in State Highway Rights-of-Way

For excavations in the state highway rights-of-way, the bill requires the applicant to comply with the Department of Transportation's (DOT) encroachment permit process, including paying any applicable fees. Under the bill, an application for construction in the public highways, streets, or other public rights-of-way must require the applicant to install a conduit for DOT's benefit, as required by law.

The bill authorizes the DOT commissioner to lease space or enter into a contract or agreement to permit access to the space in any conduit installed by DOT in the public highways, streets, or other public rights-of-way. The lease or contract may be on the terms and conditions, and for any purpose, that the commissioner deems to be in the public interest. The bill specifies that it does not limit DOT's use of conduits on public highways, streets, or other public rights-of-way as otherwise permitted by law.

Provision Coverage & Penalties

Under the bill, all telecommunications service providers and broadband providers that PURA authorizes to install facilities in, under, or over the public highways, streets, or other public rights-of-way must obey, observe, and comply with these provisions on underground conduits and PURA's applicable orders about them. Failure to comply may result in a civil penalty levied by PURA as allowed under existing law. Under the bill, these fines cannot be recovered in any rate proceeding conducted by PURA.

§ 6 — ACCESS TO OCCUPIED BUILDINGS

The bill gives each broadband provider the same right of access to an "occupied building" as telecommunications service providers have under current law. Under the bill, an "occupied building" is a building

or a part of a building that is rented, leased, hired out, arranged or designed to be occupied, or is occupied (1) as the home or residence of at least three families living independently of each other; (2) as the place of business of at least three businesses conducting business independently of each other; or (3) by any combination of at least three independent families and businesses. It includes trailer parks, mobile manufactured home parks, nursing homes, hospitals, and condominium associations.

In effect this requires, among other things, an occupied building's owner to allow wiring to provide broadband service in the building if: (1) a tenant requests services from the broadband provider; (2) the entire cost of the wiring is assumed by the provider; and (3) the provider indemnifies and holds the owner harmless for any damages caused by the wiring.

§ 7 — STATE BUILDING CODE

The bill requires the state building inspector and the Codes and Standards Committee to revise the State Building Code so that it requires buildings that qualify as a new construction or a major alteration of a commercial or multi-family building to include a minimum infrastructure requirement to support broadband service. The inspector and committee must define these requirements in the revisions. (The bill does not establish a deadline for this revision.)

§ 8 — PUBLIC UTILITY CONTROL FUND

Under current law, the administrative costs of PURA, the Office of Consumer Counsel (OCC), and DEEP's Bureau of Energy and Technology are funded through assessments on public service companies, telephone companies, certified telecommunications providers, retail electric suppliers, and certified competitive video service providers that had more than \$100,000 in gross revenues in the state in the preceding calendar year. PURA annually assesses each company for its share of expenses for OCC, DEEP's energy bureau, and PURA.

The bill expands the assessment to also cover OPM's expenses related to the bill's provisions on broadband mapping and the broadband deployment grant program (see §§ 2 & 3).

BACKGROUND

Certified Competitive Video Service Provider

By law, a certified competitive video service provider is an entity providing video service under a PURA-issued certificate of video franchise authority (e.g., AT&T's U-Verse service) (CGS § 16-1(a)(41)). A certificate of video franchise authority grants the right to own, lease, maintain, operate, manage, or control facilities in, under or over any public highway to offer video service to any subscribers in the state (CGS § 16-1(a)(42)).

Certificate of Cable Franchise Authority

By law, a certificate of cable franchise authority is a PURA-issued authorization giving a cable-TV company the right to own, lease, maintain, operate, manage or control a cable-TV system in, under or over any public highway to (a) offer cable-TV service in its designated franchise area, or (b) use the public rights-of-way to offer video service in a designated franchise area (CGS § 16-1(a)(43)).

Certified Telecommunications Provider

By law, a certified telecommunications provider is an entity certified by PURA to provide intrastate telecommunications services (CGS § 16-1(a)(32)).

Distressed Municipalities

By law, the Department of Economic and Community Development commissioner must annually designate distressed municipalities based on a combination of economic, education, demographic, and housing criteria. In 2020, she designated the following 25 municipalities as distressed: Ansonia, Bridgeport, Bristol, Chaplin, Derby, East Hartford, East Haven, Griswold, Hartford, Meriden, Montville, New Britain, New Haven, New London, Norwich, Preston, Putnam, Sprague, Stratford, Torrington, Voluntown, Waterbury, West Haven, Winchester, and

Windham.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable

Yea 19 Nay 7 (03/18/2021)

Appropriations Committee

Joint Favorable

Yea 30 Nay 18 (05/03/2021)