

Senate Bill 943

Sponsored by Senator SMITH DB, Representatives WRIGHT, BOICE; Senator THATCHER, Representatives GOODWIN, LEVY B, OSBORNE

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Establishes Broadband Service Infrastructure Program within Oregon Broadband Office for purpose of offsetting cost of planning and developing high speed broadband service infrastructure in unserved and underserved areas.

Requires eligible applicants that are awarded grant or loan to enter into performance agreement to plan and develop broadband service infrastructure within designated geographic area that reaches 95 percent or more of customers in geographic area and provides broadband service at speed of at least 100 megabits per second for downloads and uploads with capability to provide speeds of one gigabit per second for downloads and uploads.

Requires Oregon Business Development Department to adopt initial rules and standards to carry out Broadband Service Infrastructure Program no later than December 31, 2023.

Clarifies that moneys in Broadband Fund are appropriated to Oregon Business Development Department for purpose of providing grants or loans under program established by rule under section 5, chapter 17, Oregon Laws 2020 (first special session).

Requires Oregon Business Development Department, through Oregon Broadband Office, to establish program to provide grants or loans to eligible applicants to support residents and businesses that are located within high-cost broadband service area having access to broadband services at rates that are reasonably comparable to rates in areas that are outside of high-cost broadband service areas.

Requires Oregon Broadband Advisory Council to include in biennial report evaluation of continuing need for temporary program for providing grants or loans to support projects for planning and development of broadband service infrastructure and digital literacy, inclusion and adoption.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to broadband; creating new provisions; amending sections 4, 5 and 6, chapter 17, Oregon
3 Laws 2020 (first special session); and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. (1) The Broadband Service Infrastructure Program is established within the**
6 **Oregon Broadband Office for the purpose of:**

7 (a) **Offsetting the cost of planning and developing broadband service infrastructure;**

8 (b) **Promoting the development and adoption of high speed broadband in unserved and**
9 **underserved areas; and**

10 (c) **Supporting universal broadband service in this state.**

11 (2) **Under the Broadband Service Infrastructure Program, the office shall use a reverse**
12 **auction model to award grants or loans to eligible applicants to cover the costs for planning**
13 **and developing broadband service infrastructure in designated geographic areas. The office**
14 **shall:**

15 (a) **Designate geographic areas that are unserved or underserved areas and eligible for**
16 **a grant or loan under the program;**

17 (b) **Issue an opportunity announcement inviting eligible applicants to submit a bid to plan**
18 **and develop broadband service infrastructure in a designated geographic area; and**

19 (c) **Award a grant or loan to the eligible applicant that has submitted a bid that is real-**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 istic, feasible and the lowest cost amount.

2 (3) An entity that seeks to qualify as an eligible applicant shall demonstrate, prior to
3 being permitted to submit a bid, that the entity meets good-faith standards and has the fi-
4 nancial and technical capabilities to plan and develop broadband service infrastructure.

5 (4) An eligible applicant that receives a grant or loan under the program shall enter into
6 a performance agreement to plan and develop broadband service infrastructure within the
7 geographic area that:

8 (a) Reaches 95 percent or more of the customers in the geographic area; and

9 (b) Provides broadband service at a speed of at least 100 megabits per second for down-
10 loads and uploads with a capability to provide speeds of one gigabit per second for downloads
11 and uploads.

12 (5) A grant or loan awarded under the program may be used to cover the costs for
13 planning and development of broadband service infrastructure that an eligible applicant in-
14 curred on or after March 15, 2021.

15 (6) The office may issue separate opportunity announcements for bids as funding is
16 available.

17 (7) The Oregon Business Development Department shall adopt rules and standards to
18 carry out the Broadband Service Infrastructure Program.

19 **SECTION 2.** The Oregon Business Development Department shall begin the rulemaking
20 process on the date following the date this 2023 Act takes effect and, no later than December
21 31, 2023, adopt the initial rules and standards to carry out the Broadband Service
22 Infrastructure Program established by section 1 of this 2023 Act.

23 **SECTION 3.** Section 4, chapter 17, Oregon Laws 2020 (first special session), as amended by
24 section 1, chapter 76, Oregon Laws 2022, is amended to read:

25 **Sec. 4.** (1) The Broadband Fund is established, separate and distinct from the General Fund.
26 Interest earned by the Broadband Fund shall be credited to the fund. [*Moneys in the Broadband*
27 *Fund are continuously appropriated to the Oregon Business Development Department the program es-*
28 *tablished by rule under section 5, chapter 17, Oregon Laws 2020 (first special session).] The fund shall*
29 *consist of moneys deposited in the fund pursuant to ORS 759.425 and moneys appropriated or*
30 *transferred to the fund by the Legislative Assembly.*

31 (2) **Moneys in the Broadband Fund are continuously appropriated to the Oregon Business**
32 **Development Department for the purpose of providing grants or loans under the program**
33 **established by rule under section 5, chapter 17, Oregon Laws 2020 (first special session).**

34 (3) **The department may use reasonable amounts from the fund necessary to administer**
35 **the program established by rule under section 5, chapter 17, Oregon Laws 2020 (first special**
36 **session).**

37 **SECTION 4.** Section 5, chapter 17, Oregon Laws 2020 (first special session), is amended to read:

38 **Sec. 5.** [(1) *As used in this section:*]

39 [(a) *“Underserved area” means, based on the most recent broadband deployment data published*
40 *by the Federal Communications Commission, other federal agencies or the State of Oregon, a ge-*
41 *ographic area within one or more census blocks, within which there is no service provider offering*
42 *residential wireline or wireless broadband service at a speed of at least 25 megabits per second for*
43 *downloads and three megabits per second for uploads.]*

44 [(b) *“Unservd area” means, based on the most recent broadband deployment data published by the*
45 *Federal Communications Commission, other federal agencies or the State of Oregon, a geographic area*

1 *within one or more census blocks, within which there is no service provider offering residential wireline*
2 *or wireless broadband service at a speed of at least 10 megabits per second for downloads and one*
3 *megabit per second for uploads.]*

4 [(2)(a) *The Oregon Business Development Department shall establish by rule a program for pro-*
5 *viding grants or loans to assist eligible applicants with projects for:]*

6 [(A) *The planning and development of broadband service infrastructure;]*

7 [(B) *Digital literacy including cybersecurity;]*

8 [(C) *Digital inclusion; and]*

9 [(D) *Digital adoption.*]

10 [(b) *In establishing the program required by this section, the department shall take into consider-*
11 *ation all federal funding opportunities for the planning and development of broadband service*
12 *infrastructure and shall endeavor to administer the program in a manner that serves to maximize the*
13 *total available state and federal support for broadband development and related planning.]*

14 [(3) *Rules adopted under this section shall include but need not be limited to rules establishing:]*

15 [(a) *Criteria for applications and for establishing the eligibility of applicants and proposed projects*
16 *for a grant or loan under the program;]*

17 [(b) *A process for:]*

18 [(A) *Identifying broadband service providers that provide service within or near the geographic*
19 *area that would be benefited by a project proposed by an eligible applicant; and]*

20 [(B) *Notifying the identified broadband service providers of the pending application;]*

21 [(c) *Standards for the department to evaluate applications from eligible applicants;]*

22 [(d) *Criteria and procedures for broadband service providers to engage in a competitive bidding*
23 *process for contracts to complete projects pursuant to a grant or loan awarded under the program;]*

24 [(e) *Reporting requirements by grant or loan award recipients on the broadband service*
25 *infrastructure developed or planned for using grant or loan moneys and the locations served or that*
26 *will be served by the broadband service infrastructure;]*

27 [(f) *A public process for interested persons to submit comments on pending applications;]*

28 [(g) *A process for appealing grant or loan decisions by the department; and]*

29 [(h) *Procedures to ensure that any records or data submitted to the department pursuant to ad-*
30 *ministration of the program that relate to broadband, voice connections or subscriptions and that are*
31 *confidential, privileged or otherwise protected from disclosure are not disclosed, except as permitted by*
32 *state and federal law.*]

33 [(4) *In making broadband service infrastructure grant or loan award decisions under the program,*
34 *the department shall apply the following preferences:]*

35 [(a) *Regarding the geographic area that a proposed project will serve, the department shall:]*

36 [(A) *Give first preference to proposed projects that will serve unserved areas; and]*

37 [(B) *Give second preference to proposed projects that will serve underserved areas.*]

38 [(b) *Regarding the customers that a proposed project will serve, the department shall:]*

39 [(A) *Give first preference to proposed projects that are eligible to receive funds from the Connecting*
40 *Oregon Schools Fund established under ORS 276A.424;]*

41 [(B) *Give second preference to proposed projects that will provide broadband service access to*
42 *public libraries; and]*

43 [(C) *Give third preference to proposed projects that will provide broadband service access to resi-*
44 *dential customers.*]

45 [(5) *The department shall, as part of the program, establish procedures for distributing grant or*

1 loan funds awarded for the purpose of providing broadband access to schools. Procedures established
 2 under this subsection shall include procedures for transferring not more than 20 percent of the moneys
 3 deposited in the Broadband Fund established under section 4 of this 2020 special session Act each
 4 biennium from the Broadband Fund to the Connecting Oregon Schools Fund established under ORS
 5 276A.424.]

6 [(6) The department may not award a grant or loan under the program for a proposed project
 7 to:]

8 [(a) Develop broadband service infrastructure to serve residential locations that, at the time the
 9 application for the proposed project is received by the department, have access to terrestrial wireline
 10 or wireless broadband service at a speed of at least 25 megabits per second for downloads and three
 11 megabits per second for uploads; or]

12 [(b) Develop broadband service infrastructure that will serve two or fewer residential locations.]

13 [(7)(a) If the department awards a grant or loan for a proposed project to develop broadband ser-
 14 vice infrastructure that will serve nonresidential locations that, at the time the application for the pro-
 15 posed project was received by the department, were served by terrestrial wireline or wireless broadband
 16 service at a speed of at least 25 megabits per second for downloads and three megabits per second for
 17 uploads, the broadband service providers identified pursuant to rules adopted under subsection (3)(b)
 18 of this section shall be afforded a right of first refusal to contract for the development of broadband
 19 service infrastructure as part of the project. If a broadband service provider exercises the right of first
 20 refusal, the provider shall be awarded the contract to develop broadband service infrastructure as part
 21 of the project, subject to the requirement that the provider must offer access to the completed broadband
 22 service infrastructure:]

23 [(A) Beginning no later than one year after the date that the department awards the grant or loan
 24 to develop the proposed project;]

25 [(B) At demonstrated download and upload speeds equal to or faster than the speeds indicated in
 26 the application for the proposed project; and]

27 [(C) At a cost that is equal to or less than the cost indicated in the application for the proposed
 28 project.]

29 [(b) This subsection does not apply to a grant or loan award for a proposed project described in
 30 subsection (4)(b) of this section.]

31 **(1) As used in this section, “high-cost broadband service area” means an area where the**
 32 **cost to provide broadband services is higher than the average cost to provide broadband**
 33 **services as a result of the following factors:**

- 34 **(a) The remote location of the area;**
- 35 **(b) The lack of population density of the area;**
- 36 **(c) The unique topography of the area; or**
- 37 **(d) A high rate of poverty in the area.**

38 **(2) The Oregon Business Development Department, through the Oregon Broadband Of-**
 39 **ice, shall establish a program to provide grants or loans to eligible applicants to support:**

40 **(a) Residents and businesses that are located within a high-cost broadband service area**
 41 **having access to broadband services at rates that are reasonably comparable to the rates in**
 42 **areas that are outside of high-cost broadband service areas;**

- 43 **(b) Digital and cybersecurity literacy;**
- 44 **(c) Digital inclusion; and**
- 45 **(d) Digital adoption.**

1 **(3) The program shall be funded by moneys in the Broadband Fund established under**
2 **section 4, chapter 17, Oregon Laws 2020 (first special session).**

3 **(4) As part of program, the department shall establish:**

4 **(a) Eligibility criteria;**

5 **(b) Application procedures;**

6 **(c) Criteria for assessing applications and awarding grants or loans; and**

7 **(d) Reporting requirements.**

8 **SECTION 5.** Section 6, chapter 17, Oregon Laws 2020 (first special session), is amended to read:

9 **Sec. 6.** *[(1) Not later than September 15 of each year, the Oregon Business Development Depart-*
10 *ment shall report, in the manner provided in ORS 192.245, to an interim committee of the Legislative*
11 *Assembly related to telecommunications on the status of the Broadband Fund established under section*
12 *4 of this 2020 special session Act. The report required by this section shall include a description of:]*

13 *[(a) All loans and grants provided through the program adopted under section 5 of this 2020 spe-*
14 *cial session Act; and]*

15 *[(b) The status of the projects funded by the loans and grants.]*

16 *[(2) In addition to the information required in the report under subsection (1) of this section, the*
17 *report submitted on or before September 15, 2024, by the department pursuant to this section shall in-*
18 *clude an evaluation of the continuing need for the Broadband Fund, including but not limited to rec-*
19 *ommendations regarding the repeal, by section 9 of this 2020 special session Act, of the Broadband*
20 *Fund and the program adopted under section 5 of this 2020 special session Act.]*

21 **The Oregon Broadband Advisory Council shall include in the biennial report required**
22 **under ORS 285A.160 an evaluation of the continuing need for the program established by rule**
23 **under section 5, chapter 17, Oregon Laws 2020 (first special session), including any recom-**
24 **mendations regarding the repeal, by section 9, chapter 17, Oregon Laws 2020 (first special**
25 **session), of the program established by rule under section 5, chapter 17, Oregon Laws 2020**
26 **(first special session).**

27 **SECTION 6.** This 2023 Act being necessary for the immediate preservation of the public
28 **peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect**
29 **on its passage.**

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