

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 20-0288.01 Jennifer Berman x3286

HOUSE BILL 20-1137

HOUSE SPONSORSHIP

McCluskie and Soper,

SENATE SPONSORSHIP

Donovan,

House Committees
Business Affairs & Labor

Senate Committees

A BILL FOR AN ACT

101 CONCERNING A REQUIREMENT THAT THE BROADBAND DEPLOYMENT
102 BOARD GIVE SUBSTANTIAL WEIGHT TO A LOCAL ENTITY'S
103 WRITTEN CERTIFICATION THAT AN AREA WITHIN THE ENTITY'S
104 JURISDICTION IS AN UNSERVED AREA WHEN CONSIDERING AN
105 APPLICATION FOR GRANT MONEY FOR THE PROVISION OF
106 BROADBAND SERVICE TO THAT UNSERVED AREA.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The broadband deployment board (board) awards grants for the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

provision of broadband service in unserved areas of the state, which are areas deemed to have insufficient broadband service. The bill requires that an applicant for grant money from the board submit to the board a written certification from the local entity with jurisdiction over the area that the applicant proposes to serve certifying that the area is an unserved area. The board is required, both when initially considering the application and on appeal, to give substantial weight to a local entity's written certification that an area is an unserved area and, after reviewing all of the evidence regarding an application, may reject the conclusion of the written certification only upon the vote of at least 10 of the 15 voting members of the board.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 40-15-102, **amend**
3 (17.5) as follows:

4 **40-15-102. Definitions.** As used in this article 15, unless the
5 context otherwise requires:

6 (17.5) "Local entity" means elected members of a county,
7 ~~government~~, municipal, ~~government~~ OR CITY AND COUNTY GOVERNMENT,
8 A school district, A METROPOLITAN DISTRICT AS DEFINED IN SECTION
9 32-1-103 (10), A SPECIAL DISTRICT AS DEFINED IN SECTION 32-1-103 (20),
10 or A board of cooperative educational services. ~~in an unserved area.~~

11 **SECTION 2.** In Colorado Revised Statutes, 40-15-509.5, **amend**
12 (8) introductory portion, (8)(a), and (8)(b) as follows:

13 **40-15-509.5. Broadband service - report - broadband**
14 **deployment board - broadband administrative fund - creation -**
15 **definitions - repeal.** (8) The board shall direct the commission to
16 transfer money, in a manner consistent with this section, from the account
17 for broadband deployment established in the HCSM to approved grant
18 applicants. The board shall develop criteria for awarding money for new
19 projects ~~into~~ TO DEPLOY BROADBAND IN unserved areas, including:

1 (a) (I) Developing a project application process that places the
2 burden on an eligible applicant to demonstrate that its proposed project
3 meets the project eligibility criteria established in this subsection (8),
4 including a requirement that the proposal concern a new project, and not
5 a project already in progress, and a requirement to prove that the area to
6 be served by the proposed project is an unserved area.

7 (II) To prove that the area to be served is an unserved area, the
8 applicant must submit a map, ~~and~~ a list of household addresses
9 demonstrating the insufficient availability of broadband service in the
10 area, ~~The applicant must submit the application, map, and list of~~
11 ~~household addresses~~ AND WRITTEN CERTIFICATION OF A LOCAL ENTITY AS
12 DESCRIBED IN SUBSECTION (8)(a)(III) OF THIS SECTION to the board ~~the~~
13 ~~board of county commissioners, city council,~~ or TO ANY other local entity
14 with authority over the area to be served and all incumbent providers or
15 incumbent broadband providers that provide broadband internet service
16 or broadband service in the area proposed to be served in the application.

17 (III) TO DEMONSTRATE THE INSUFFICIENT AVAILABILITY OF
18 BROADBAND SERVICE IN THE AREA THAT AN APPLICANT PROPOSES TO
19 SERVE, THE APPLICANT MUST SUBMIT WITH THE APPLICATION WRITTEN
20 CERTIFICATION PROVIDED BY A LOCAL ENTITY WITH JURISDICTION OVER
21 THE AREA PROPOSED TO BE SERVED CERTIFYING THAT THE AREA IS AN
22 UNSERVED AREA. THE LOCAL ENTITY SHALL NOT PROVIDE WRITTEN
23 CERTIFICATION UNTIL AFTER THE LOCAL ENTITY HAS:

24 (A) PROVIDED PUBLIC NOTICE AND HELD A HEARING ON THE ISSUE;
25 AND

26 (B) COLLECTED, SOLICITED, AND REVIEWED ANY QUANTITATIVE
27 DATA THAT IT DEEMS APPROPRIATE REGARDING THE AVAILABILITY OF

1 BROADBAND SERVICE IN THE AREA THAT THE APPLICANT PROPOSES TO
2 SERVE.

3 (IV) The board shall establish a notice and comment period of at
4 least sixty days within which ANY INTERESTED PARTY MAY REVIEW AND
5 COMMENT ON THE APPLICATION AND the local entity may FURTHER review
6 and comment on the application.

7 (b) (I) Developing a methodology for determining whether a
8 proposed project will serve unserved areas. THE BOARD'S METHODOLOGY
9 MUST GIVE SUBSTANTIAL WEIGHT TO A LOCAL ENTITY'S WRITTEN
10 CERTIFICATION THAT THE AREA THAT AN APPLICANT PROPOSES TO SERVE
11 IS AN UNSERVED AREA. THE BOARD, UPON REVIEW OF ALL OF THE
12 EVIDENCE PROVIDED BY AN APPLICANT, A LOCAL ENTITY, AN INCUMBENT
13 PROVIDER, AND ANY OTHER INTERESTED PARTY TO THE APPLICATION, MAY
14 REJECT THE LOCAL ENTITY'S WRITTEN CERTIFICATION THAT THE AREA IS
15 AN UNSERVED AREA ONLY IF AT LEAST TEN OF THE FIFTEEN VOTING
16 MEMBERS OF THE BOARD DETERMINE THAT THE AREA IS NOT AN UNSERVED
17 AREA.

18 (II) IN AN APPEAL FILED PURSUANT TO SUBSECTIONS (8)(j)(III)
19 AND (8)(j)(IV) OF THIS SECTION OR SUBSECTION (8.5)(a) OF THIS SECTION,
20 THE BOARD MAY GRANT THE APPEAL ON THE BASIS THAT AN APPLICATION
21 AREA FOR ANY REASON IS NO LONGER UNSERVED IF AT LEAST TEN OF THE
22 FIFTEEN VOTING MEMBERS OF THE BOARD SO DETERMINE.

23 **SECTION 3. Act subject to petition - effective date -**
24 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
25 the expiration of the ninety-day period after final adjournment of the
26 general assembly (August 5, 2020, if adjournment sine die is on May 6,
27 2020); except that, if a referendum petition is filed pursuant to section 1

1 (3) of article V of the state constitution against this act or an item, section,
2 or part of this act within such period, then the act, item, section, or part
3 will not take effect unless approved by the people at the general election
4 to be held in November 2020 and, in such case, will take effect on the
5 date of the official declaration of the vote thereon by the governor.

6 (2) This act applies to applications submitted on or after the
7 applicable effective date of this act.