

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO
UNOFFICIAL PREAMENDED VERSION

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.

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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, school district, or board of~~
8 ~~cooperative educational services in an unserved area.~~ OR CITY AND
9 COUNTY GOVERNMENT.

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

12 **40-15-509.5. Broadband service - report - broadband**
13 **deployment board - broadband administrative fund - creation -**
14 **definitions - rules - repeal.** (8) The board shall direct the commission
15 to transfer money, in a manner consistent with this section, from the
16 account for broadband deployment established in the HCSM to approved
17 grant applicants. The board shall develop criteria for awarding money for
18 new projects into TO DEPLOY BROADBAND IN unserved areas, including:

19 (a) (I) Developing a project application process that places the

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

6 (II) To prove that the area to be served is an unserved area, the
7 applicant:

8 (A) 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 to the board; the board of county commissioners,~~
12 ~~city council, or other local entity with authority over the area to be served;~~
13 ~~and all incumbent providers or incumbent broadband providers that~~
14 ~~provide broadband internet service or broadband service in the area~~
15 ~~proposed to be served in the application; AND~~

16 (B) MAY SUBMIT TO THE BOARD THE WRITTEN CERTIFICATION OF
17 A LOCAL ENTITY AS DESCRIBED IN SUBSECTION (8)(a)(III) OF THIS SECTION.

18 (III) AS ADDITIONAL EVIDENCE OF THE INSUFFICIENT
19 AVAILABILITY OF BROADBAND SERVICE IN THE AREA THAT AN APPLICANT
20 PROPOSES TO SERVE, THE APPLICANT MAY REQUEST FROM A LOCAL ENTITY
21 WITH JURISDICTION OVER THE AREA PROPOSED TO BE SERVED A WRITTEN
22 CERTIFICATION THAT THE AREA IS AN UNSERVED AREA. THE LOCAL ENTITY
23 SHALL NOT PROVIDE WRITTEN CERTIFICATION UNTIL AFTER THE LOCAL
24 ENTITY HAS:

25 (A) PROVIDED PUBLIC NOTICE, INCLUDING NOTIFICATION TO ANY
26 INCUMBENT PROVIDER, IF ANY, AND HELD A HEARING ON THE ISSUE; AND

27 (B) COLLECTED, SOLICITED, AND REVIEWED ANY QUANTITATIVE

1 DATA THAT IT DEEMS APPROPRIATE REGARDING THE AVAILABILITY OF
2 BROADBAND SERVICE IN THE AREA THAT THE APPLICANT PROPOSES TO
3 SERVE. A LOCAL ENTITY MUST COLLECT, SOLICIT, AND REVIEW
4 QUANTITATIVE DATA IN ACCORDANCE WITH RULES ADOPTED BY THE
5 EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REGULATORY AGENCIES, IN
6 CONSULTATION WITH THE OFFICE OF INFORMATION TECHNOLOGY CREATED
7 IN SECTION 24-37.5-103 AND THE BROADBAND DEPLOYMENT BOARD
8 CREATED IN SECTION 40-15-509.5, REGARDING STANDARDS CONCERNING
9 QUANTITATIVE DATA.

10 (IV) The board shall establish a notice and comment period of at
11 least sixty days within which the ANY INTERESTED PARTY, INCLUDING A
12 local entity WITH JURISDICTION OVER THE AREA PROPOSED TO BE SERVED,
13 WHETHER OR NOT THE ENTITY PROVIDED A WRITTEN CERTIFICATION AS
14 DESCRIBED IN SUBSECTION (8)(a)(III) OF THIS SECTION, may review and
15 comment on the application.

16 (b) _____ Developing a methodology for determining whether a
17 proposed project will serve unserved areas. THE BOARD'S METHODOLOGY
18 MUST GIVE SUBSTANTIAL WEIGHT TO A LOCAL ENTITY'S WRITTEN
19 CERTIFICATION ON THE ISSUE OF WHETHER THE AREA TO BE SERVED IS AN
20 UNSERVED AREA.

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

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

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