

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1872
99TH GENERAL ASSEMBLY

5686S.10T

2018

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:

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

620.2450. 1. A grant program is hereby established under sections 620.2450 to
2 **620.2458 to award grants to applicants who seek to expand access to broadband internet**
3 **service in unserved and underserved areas of the state. The department of economic**
4 **development shall administer and act as the fiscal agent for the grant program and shall**
5 **be responsible for receiving and reviewing grant applications and awarding grants under**
6 **sections 620.2450 to 620.2458. Funding for the grant program established under this**
7 **section shall be subject to appropriation by the general assembly.**

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

9 **(1) "Underserved area", a project area without access to wireline or fixed wireless**
10 **broadband internet service of speeds of at least twenty-five megabits per second download**
11 **and three megabits per second upload;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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

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

 620.2452. Applicants eligible for grants awarded shall include:

- 2 (1) Corporations, or their affiliates, registered in this state;
- 3 (2) Incorporated businesses or partnerships;
- 4 (3) Limited liability companies registered in this state;
- 5 (4) Nonprofit organizations registered in this state;
- 6 (5) Political subdivisions; and
- 7 (6) Rural electric cooperatives organized under chapter 394 and their broadband
8 affiliates.

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

- 4 (1) A description of the project area;
- 5 (2) A description of the kind and amount of broadband internet infrastructure that
6 is proposed to be deployed;
- 7 (3) Evidence demonstrating the unserved or underserved nature of the project
8 area;
- 9 (4) The number of households that would have new access to broadband internet
10 service, or whose broadband internet service would be upgraded, as a result of the grant;
- 11 (5) A list of significant community institutions that would benefit from the
12 proposed grant;
- 13 (6) The total cost of the proposal and the timeframe in which it will be completed;
- 14 (7) A list identifying sources of funding or in-kind contributions, including
15 government funding, that would supplement any awarded grant; and
- 16 (8) Any other information required by the department of economic development.

 620.2454. 1. At least thirty days prior to the first day applications may be
2 submitted each fiscal year, the department of economic development shall publish on its
3 website the specific criteria and any quantitative weighting scheme or scoring system the
4 department will use to evaluate or rank applications and award grants under section

5 **620.2455. Such criteria and quantitative scoring system shall include the criteria set forth**
6 **in section 620.2455.**

7 **2. Within three business days of the close of the grant application process, the**
8 **department of economic development shall publish on its website the proposed unserved**
9 **and underserved areas, and the proposed broadband internet speeds for each application**
10 **submitted. Upon request, the department shall provide a copy of any application to an**
11 **interested party.**

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

17 **(1) The provider currently provides broadband internet service to retail customers**
18 **within the proposed unserved or underserved area;**

19 **(2) The provider has begun construction to provide broadband internet service to**
20 **retail customers within the proposed unserved or underserved area; or**

21 **(3) The provider commits to providing broadband internet service to retail**
22 **customers within the proposed unserved or underserved areas within the timeframe**
23 **proposed by the applicant.**

24 **4. Within three business days of the submission of a written challenge, the**
25 **department of economic development shall notify the applicant of such challenge.**

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

32 **6. If the department of economic development denies funding to an applicant as a**
33 **result of a broadband internet service provider challenge under this section and such**
34 **broadband internet service provider does not fulfill its commitment to provide broadband**
35 **internet service in the unserved or underserved area, the department of economic**
36 **development shall not consider another challenge from such broadband internet service**
37 **provider for the next two grant cycles, unless the department determines the failure to**
38 **fulfill the commitment was due to circumstances beyond the broadband internet service**
39 **provider's control.**

2 **620.2455. 1. The department of economic development shall give first priority to**
3 **grant applications that serve unserved areas.**

4 **2. The department of economic development shall give secondary priority to grant**
5 **applications that demonstrate the ability to receive matching funds that serve unserved**
6 **areas, whether such matching funds are government funds or other funds.**

7 **3. The department shall give third priority to grant applications that serve**
8 **underserved areas.**

9 **4. The department of economic development shall use a quantitative weighing**
10 **scheme or scoring system including, at a minimum, the following elements to rank the**
11 **applications:**

12 **(1) Financial, technical, and legal capability of the applicant to deploy and operate**
13 **broadband internet service;**

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

16 **(3) Available minimum broadband speeds;**

17 **(4) Ability of the infrastructure to be scalable to higher broadband internet speeds;**

18 **(5) Commitment of the applicant to fund at least fifty percent of the project from**
19 **private sources;**

20 **(6) Length of time the provider has been operating broadband internet services in**
21 **the state;**

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

25 **(8) The offering of service to economically distressed areas of the state, as measured**
26 **by indices of unemployment, poverty, or population loss that are significantly greater than**
27 **the statewide average;**

28 **(9) The ability to provide technical support and training to residents, businesses,**
29 **and institutions in the community of the proposed project to utilize broadband internet**
30 **service;**

31 **(10) Plans to actively promote the adoption of the newly available broadband**
32 **internet service in the community; and**

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

620.2456. 1. The department of economic development shall not award any grant
2 **to an otherwise eligible grant applicant where funding from the Connect America Fund**
3 **has been awarded, where high cost support from the federal Universal Service Fund has**

4 been received by rate of return carriers, or where any other federal funding has been
5 awarded which did not require any matching fund component, for any portion of the
6 proposed project area, nor shall any grant money be used to serve any retail end user that
7 already has access to wireline or fixed wireless broadband internet service of speeds of at
8 least twenty-five megabits per second download and three megabits per second upload.

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

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

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

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

16 (1) Require an open access network;

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

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

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

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

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

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

7 (b) The grant amount requested;

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

9 (2) All written challenges.

 620.2458. The department of economic development shall develop administrative
2 rules governing the eligibility, application and grant award process, and to implement the
3 provisions of sections 620.2450 to 620.2458. Any rule or portion of a rule, as that term is
4 defined in section 536.010, that is created under the authority delegated in this section shall
5 become effective only if it complies with and is subject to all of the provisions of chapter
6 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and
7 if any of the powers vested with the general assembly pursuant to chapter 536 to review,
8 to delay the effective date, or to disapprove and annul a rule are subsequently held

9 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**
10 **after August 28, 2018, shall be invalid and void.**

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

2 (1) The provisions of the new program authorized under sections 620.2450, 620.2451,
3 620.2452, 620.2453, 620.2454, 620.2455, 620.2456, 620.2457, and 620.2458 shall sunset
4 automatically three years after the effective date of sections 620.2450, 620.2451, 620.2452,
5 620.2453, 620.2454, 620.2455, 620.2456, 620.2457, and 620.2458 unless reauthorized by an act
6 of the general assembly; and

7 (2) If such program is reauthorized, the program authorized under sections 620.2450,
8 620.2451, 620.2452, 620.2453, 620.2454, 620.2455, 620.2456, 620.2457, and 620.2458 shall
9 sunset automatically six years after the effective date of the reauthorization of sections 620.2450,
10 620.2451, 620.2452, 620.2453, 620.2454, 620.2455, 620.2456, 620.2457, and 620.2458; and

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

✓