WEST VIRGINIA LEGISLATURE
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REGULAR SESSION, 2012

ENROLLED

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FOR

Senate Bill No. 110

(Senators Unger, Beach and Klempa, original sponsors)

[Passed March 10, 2012; in effect ninety days from passage.]
AN ACT to amend and reenact §31-15C-3 and §31-15C-4 of the Code of West Virginia, 1931, as amended, all relating to modifying and increasing the membership of the Broadband Deployment Council; increasing the number of members required for a quorum; and expanding the powers and duties of the Broadband Deployment Council.

Be it enacted by the Legislature of West Virginia:

That §31-15C-3 and §31-15C-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 15C. BROADBAND DEPLOYMENT.

§31-15C-3. Broadband Deployment Council established; members of council; administrative support.
(a) The Broadband Deployment Council is continued. The council is a governmental instrumentality of the state. The exercise by the council of the powers conferred by this article and the carrying out of its purpose and duties are considered and held to be, and are hereby determined to be, essential governmental functions and for a public purpose. The council is created under the Department of Commerce for administrative, personnel and technical support services only.

(b) The council shall consist of fifteen voting members, designated as follows:

1. The Governor or his or her designee;
2. The Secretary of Commerce or his or her designee;
3. The Secretary of Administration or his or her designee;
4. The Director of Homeland Security and Emergency Management or his or her designee;
5. The State Superintendent of Schools or his or her designee; and
6. Ten public members that serve at the will and pleasure of the Governor and are appointed by the Governor with the advice and consent of the Senate, as follows:
   i. One member representing employees of communications and cable providers who is a member or representative of a union representing communications workers;
   ii. One member representing the interests of the business community in this state;
   iii. One member representing incumbent local exchange carriers who provide broadband services in this state;
   iv. One member representing cable operators who provide broadband services in this state;
(v) One member representing competitive local exchange carriers who provide broadband services in this state;

(vi) One member representing broadband equipment or device manufacturers;

(vii) One member representing higher education or secondary education; and

(viii) Three members representing the general public who are residents of the state, one of whom shall represent rural communities, and who may not reside in the same congressional district.

(7) In addition to the fifteen voting members of the council, the President of the Senate shall name two senators from the West Virginia Senate and the Speaker of the House shall name two delegates from the West Virginia House of Delegates, each to serve in the capacity of an ex officio, nonvoting advisory member of the council.

(c) The Secretary of Commerce or his or her designee shall chair the council and appoint one of the other council members to serve as vice chair. In the absence of the Secretary of Commerce or his or her designee, the vice chair shall serve as chair. The council shall appoint a secretary-treasurer who need not be a member of the council and who, among other tasks or functions designated by the council, shall keep records of its proceedings.

(d) The council may appoint committees or subcommittees to investigate and make recommendations to the full council. Members of these committees or subcommittees need not be members of the council.

(e) Eight voting members of the council constitute a quorum and the affirmative vote of at least the majority of those members present is necessary for any action taken by vote of the council.

(f) The council is part time. Public members appointed by the Governor may pursue and engage in another business or
occupation or gainful employment. Any person employed by, owning an interest in or otherwise associated with a broadband deployment project, project sponsor or project participant may serve as a council member and is not disqualified from serving as a council member because of a conflict of interest prohibited under section five, article two, chapter six-b of this code and is not subject to prosecution for violation of said section when the violation is created solely as a result of his or her relationship with the broadband deployment project, project sponsor or project participant so long as the member recuses himself or herself from board participation regarding the conflicting issue in the manner set forth in legislative rules promulgated by the West Virginia Ethics Commission.

(g) No member of the council who serves by virtue of his or her office receives any compensation or reimbursement of expenses for serving as a member. The public members and members of any committees or subcommittees are entitled to be reimbursed for actual and necessary expenses incurred for each day or portion thereof engaged in the discharge of his or her official duties in a manner consistent with the guidelines of the Travel Management Office of the Department of Administration.

§31-15C-4. Powers and duties of the council generally.

(a) The council shall:

1. (1) Explore the potential for increased use of broadband service for the purposes of education, career readiness, workforce preparation and alternative career training;

2. (2) Explore ways for encouraging state and municipal agencies to expand the development and use of broadband services for the purpose of better serving the public, including audio and video streaming, voice-over Internet protocol, teleconferencing and wireless networking; and

(b) In addition to the powers set forth elsewhere in this article, the council is hereby granted, has and may exercise all powers necessary or appropriate to carry out and effectuate the purpose and intent of this article. The council shall have the power and capacity to:

1. Provide consultation services to project sponsors in connection with the planning, acquisition, improvement, construction or development of any broadband deployment project;

2. Promote awareness of public facilities that have community broadband access that can be used for distance education and workforce development;

3. Advise on deployment of e-government portals such that all public bodies and political subdivisions have homepages, encourage one-stop government access, and that all public entities stream audio and video of all public meetings;

4. To make and execute contracts, commitments and other agreements necessary or convenient for the exercise of its powers, including, but not limited to, the hiring of consultants to assist in the mapping of the state, categorization of areas within the state and evaluation of project applications: Provided, That the provisions of article three, chapter five-a of this code do not apply to the agreements and contracts executed under the provisions of this article;

5. Acquire by gift or purchase, hold or dispose of real property and personal property in the exercise of its powers and performance of its duties as set forth in this article;

6. Receive and dispense funds appropriated for its use by the Legislature or other funding sources or solicit, apply for and receive any funds, property or services from any person, governmental agency or organization to carry out its statutory duties; and

7. Perform any and all other activities in furtherance of its purpose.
(c) The council shall exercise its powers and authority to bring broadband service to unserved areas. The council may not duplicate or displace broadband service in areas already served or where private industry feasibly can be expected to offer services in the reasonably foreseeable future.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within we approve this the 2nd Day of April, 2012.

Governor
PRESENTED TO THE GOVERNOR

March 2, 2012

Time 4:25 pm