Broadband Institute

This Act creates an institute to work to ensure all businesses and citizens of the state can get affordable high-speed Internet access.

Submitted as:
Massachusetts
Chapter 231, Acts of 2008

Suggested State Legislation

(Title, enacting clause, etc.)

Section 1. [Short Title.] This Act shall be cited as “An Act to Establish a Broadband Institute.”

Section 2. [Definitions.] As used in this Act, “Broadband” means high-speed Internet access, including wireless Internet access, and as may be further defined by the governing board of the Broadband Institute established by this Act.

Section 3. [Broadband Institute Established.]
(A) There is created a Broadband Institute (institute) as a [unit/division/department] of the [agency/corporation]. The purpose of the institute shall be to achieve the deployment of affordable and ubiquitous broadband access across the state. The objectives of the institute shall include assessing and improving broadband access conditions in communities which do not have or have limited or insufficient access to broadband; promoting robust broadband access for essential state and local governmental services including, without limitation, public safety, health and education; promoting increased availability of, and competition for, broadband access and related services; and creating conditions that will encourage economic competitiveness and growth. The first priority of the institute shall be to assess and improve conditions in communities which do not have broadband access.

Section 4. [Broadband Institute Board of Directors.]
(A) The Broadband Institute shall be governed and its corporate powers exercised by a board of directors (board), which shall consist of the following [nine] members: [insert members]; and [four] members to be appointed by the [governor], all of whom shall have knowledge and experience in [one] or more of the following areas: telecommunications, broadband infrastructure, public-private partnership development, information technology or other fields of experience consistent with the mission of the institute. The [governor] shall, from time to time, designate [one] member to chair the board. Each member appointed by the [governor] shall serve a term of [four] years and thereafter until their successor is appointed. However, notwithstanding any general or special law to the contrary, in making the initial appointments pursuant to this section, the [governor] shall appoint [one] member to serve for a term of [one] year, [one] member to serve for a term of [two] years, [one] member to serve for a term of [three] years, and [one] member to serve for a term of [four] years. Any person appointed to fill a vacancy on the board shall be appointed in a like manner and shall serve for only the unexpired term of such member. Any appointed member shall be eligible for reappointment. An appointed member may be removed by the [governor] for cause. [Five] members of the board
shall constitute a quorum, and the affirmative vote of a majority of the members present and eligible to vote at a meeting shall be necessary for any action to be taken by the board. The members shall serve without compensation, but each member shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of their official duties. The board shall meet at least [four] times annually. The [executive director of the parent agency/corporation of the institute] shall appoint the executive director of the institute, subject to the approval of the institute’s board.

(B) The board shall leverage private sector and federal investment by financing the construction and acquisition of broadband infrastructure to promote the development of broadband access. This broadband infrastructure shall include, but not be limited to, conduit, fiber and towers. Any equipment or other property financed by the institute shall be owned by the [parent agency/corporation of the institute], the state or [one] or more other public entities, but may be leased or licensed by the institute, for a fee or otherwise, for use by nonprofit or for-profit private-sector entities. Any such transaction shall constitute a transaction with the state for the purpose of [insert citation]. The lessee or licensee shall pay any lease or license fees to the institute, which shall credit such payments to the Broadband Incentive Fund established in Section 5 of this Act. The institute may provide and pay for advisory services and technical assistance as may be necessary or desired to carry out its purposes. The board may work in collaboration with other quasi-public and nonprofit entities and state agencies, and may provide advisory assistance to local entities, local authorities, public bodies and private corporations for the purposes of maximizing opportunities for the expansion of broadband access in the state and fostering innovative approaches to broadband access in the state.

(C) The board shall collect information from reasonably available sources including, but not limited to municipalities and other public entities and agencies of the state, local and regional nonprofit entities and telecommunications and broadband service providers to develop and maintain an inventory of:

(1) locations where telecommunications and broadband services are not available in the state;

(2) locations where telecommunications and broadband infrastructure is available or is likely to be available to support the provision of services to unserved and underserved areas;

(3) locations where new infrastructure may be necessary to support the provision of services to unserved and underserved areas;

(4) the quality of such services, including, but not limited to, speed of data transmission and cost of such services; and

(5) any other relevant information as the board may deem necessary.

(D) The board shall establish a detailed long-term plan for the operation of the institute and the administration of the Broadband Incentive Fund created under Section 5 of this Act and shall consult with the [joint committee on telecommunications, utilities and energy] and the [joint committee on economic development and emerging technologies] on the plan. The plan, and any amendments thereto, shall be subject to the approval of the [secretary of housing and economic development] and the [secretary of administration and finance] and shall be filed with the [clerks of the house of representatives and the senate] who shall forward the same to the [house and senate committees on ways and means], the [joint committee on telecommunications, utilities and energy] and the [joint committee on economic development and emerging technologies].

(E) The board shall annually adopt an operating plan governing disbursements from the fund and, to the extent the plan provides for disbursement of appropriations or other moneys authorized by the [legislature], the plan shall be subject to the approval of the [secretary of
housing and economic development] and the [secretary of administration and finance]. The board shall file the plan, and any amendments thereto, with the [clerks of the house of representatives and the senate] who shall forward the same to the [house and senate committees on ways and means], the [joint committee on telecommunications, utilities and energy] and the [joint committee on economic development and emerging technologies].

(F) The board shall promulgate rules and regulations for the administration and enforcement of this section and Section 5 of this Act.

(G) The board shall review and recommend changes in laws, rules, programs and policies of the state and its agencies and subdivisions to further financing, infrastructure and development for broadband access throughout the state.

(H) The board shall prepare, publish and distribute, with or without charge, as the institute may determine, any studies, reports and bulletins and other material as the institute deems appropriate.

(I) The institute shall file an annual report of its activities with the [governor] and the [clerks of the house of representatives and the senate] who shall forward the same to the [joint committee on telecommunications, utilities and energy], the [joint committee on economic development and emerging technologies], and the [house and senate committees on ways and means].

(J) Actions of the board may take effect immediately and notice thereof shall be published and posted. Meetings of the board shall be subject to [insert citation]. Records pertaining to the activities of the institute shall be subject to [insert citation]. The operations of the institute shall be subject to [insert citation], provided however, that the members of the board shall be considered directors for the purposes of [insert citation].

Section 5. [Broadband Incentive Fund.] There is created a Broadband Incentive Fund (fund) to be held by the [parent agency/corporation of the institute]. The [parent agency/corporation of the institute] shall hold the fund separate and apart from its other funds, to finance the activities of the institute. The [parent/corporation agency of the institute] shall credit to the fund any appropriations, bond proceeds or other money authorized by the [legislature] and specifically designated to be credited to the fund, and any other money legally available to the [parent agency/corporation of the institute] which the [board of the parent agency/corporation of the institute] may determine to deposit in the fund.

Section 6. [Broadband Institute Bonds.] Notwithstanding any general or special law to the contrary, the [state treasurer] shall, upon request of the [governor], issue and sell bonds of the [state] in an amount to be specified by the [governor] from time to time, but not exceeding, in the aggregate, [$40,000,000]. All bonds issued by the [state] as aforesaid shall be designated on their face, [Broadband Incentive Fund Loan Act of 2008], and shall be issued for a maximum term of years, not exceeding [thirty] years, as the [governor] may recommend to the [legislature] pursuant to [insert citation]. All such bonds shall be payable not later than [June 30, 2043]. No authorization shall be expended unless expressly authorized by the [secretary of administration and finance]. All interest and payments on account of principal of such obligations shall be payable from the [General Fund]. Bonds issued under the authority of this section shall be general obligations of the [state].

Section 7. [Severability.] [Insert severability clause.]

Section 8. [Repealer.] [Insert repealer clause.]

Section 9. [Effective Date.] [Insert effective date.]