

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

Status: Enacted into law in 2008.

Suggested State Legislation

(Title, enacting clause, etc.)

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

3
4 Section 2. [*Definitions.*] As used in this Act, “Broadband” means high-speed Internet
5 access, including wireless Internet access, and as may be further defined by the governing board
6 of the Broadband Institute established by this Act.

7
8 Section 3. [*Broadband Institute Established.*]

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

19
20 Section 4. [*Broadband Institute Board of Directors.*]

21 (A) The Broadband Institute shall be governed and its corporate powers exercised by a
22 board of directors (board), which shall consist of the following [nine] members: [insert
23 members]; and [four] members to be appointed by the [governor], all of whom shall have
24 knowledge and experience in [one] or more of the following areas: telecommunications,
25 broadband infrastructure, public-private partnership development, information technology or
26 other fields of experience consistent with the mission of the institute. The [governor] shall, from
27 time to time, designate [one] member to chair the board. Each member appointed by the
28 [governor] shall serve a term of [four] years and thereafter until their successor is appointed.
29 However, notwithstanding any general or special law to the contrary, in making the initial
30 appointments pursuant to this section, the [governor] shall appoint [one] member to serve for a
31 term of [one] year, [one] member to serve for a term of [two] years, [one] member to serve for a
32 term of [three] years, and [one] member to serve for a term of [four] years. Any person appointed
33 to fill a vacancy on the board shall be appointed in a like manner and shall serve for only the
34 unexpired term of such member. Any appointed member shall be eligible for reappointment. An
35 appointed member may be removed by the [governor] for cause. [Five] members of the board

36 shall constitute a quorum, and the affirmative vote of a majority of the members present and
37 eligible to vote at a meeting shall be necessary for any action to be taken by the board. The
38 members shall serve without compensation, but each member shall be entitled to reimbursement
39 for actual and necessary expenses incurred in the performance of their official duties. The board
40 shall meet at least [four] times annually. The [executive director of the parent agency/corporation
41 of the institute] shall appoint the executive director of the institute, subject to the approval of the
42 institute's board.

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

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

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

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

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

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

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

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

81 (E) The board shall annually adopt an operating plan governing disbursements from the
82 fund and, to the extent the plan provides for disbursement of appropriations or other moneys
83 authorized by the [legislature], the plan shall be subject to the approval of the [secretary of

84 housing and economic development] and the [secretary of administration and finance]. The
85 board shall file the plan, and any amendments thereto, with the [clerks of the house of
86 representatives and the senate] who shall forward the same to the [house and senate committees
87 on ways and means], the [joint committee on telecommunications, utilities and energy] and the
88 [joint committee on economic development and emerging technologies].

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

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

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

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

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

107
108 Section 5. [*Broadband Incentive Fund.*] There is created a Broadband Incentive Fund
109 (fund) to be held by the [parent agency/corporation of the institute]. The [parent
110 agency/corporation of the institute] shall hold the fund separate and apart from its other funds, to
111 finance the activities of the institute. The [parent/corporation agency of the institute] shall credit
112 to the fund any appropriations, bond proceeds or other money authorized by the [legislature] and
113 specifically designated to be credited to the fund, and any other money legally available to the
114 [parent agency/corporation of the institute] which the [board of the parent agency/corporation of
115 the institute] may determine to deposit in the fund.
116

117 Section 6. [*Broadband Institute Bonds.*] Notwithstanding any general or special law to
118 the contrary, the [state treasurer] shall, upon request of the [governor], issue and sell bonds of the
119 [state] in an amount to be specified by the [governor] from time to time, but not exceeding, in the
120 aggregate, [\$40,000,000]. All bonds issued by the [state] as aforesaid shall be designated on their
121 face, [Broadband Incentive Fund Loan Act of 2008], and shall be issued for a maximum term of
122 years, not exceeding [thirty] years, as the [governor] may recommend to the [legislature]
123 pursuant to [insert citation]. All such bonds shall be payable not later than [June 30, 2043]. No
124 authorization shall be expended unless expressly authorized by the [secretary of administration
125 and finance]. All interest and payments on account of principal of such obligations shall be
126 payable from the [General Fund]. Bonds issued under the authority of this section shall be
127 general obligations of the [state].
128

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

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

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