

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH LEGISLATURE

S.F. No. 1128

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DATE	D-PG	OFFICIAL STATUS
03/07/2013	678	Introduction and first reading Referred to Jobs, Agriculture and Rural Development
03/14/2013	996a	Comm report: To pass as amended and re-refer to State and Local Government
03/18/2013		Comm report: To pass as amended and re-refer to Finance

A bill for an act

relating to telecommunications; broadband; establishing the Office of Broadband Development in the Department of Employment and Economic Development and assigning it duties; requiring the Department of Transportation to post a database on its Web site; requiring reports; amending Minnesota Statutes 2012, section 237.012, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 116J; 161; 237.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[116J.441] OFFICE OF BROADBAND DEVELOPMENT.**

Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have the meanings given them.

(b) "Broadband" or "broadband service" means any service providing advanced telecommunications capability and Internet access with transmission speeds that, at a minimum, meet the Federal Communications Commission definition for broadband.

(c) "Local unit of government" has the meaning given in section 116G.03, subdivision 3.

(d) "Office" means the Office of Broadband Development established in subdivision 2, paragraph (a).

Subd. 2. **Office established; purpose.** (a) An Office of Broadband Development is established within the Department of Commerce.

(b) The purpose of the office is to encourage, foster, develop, and improve broadband within the state in order to:

(1) drive job creation, promote innovation, expand markets for Minnesota businesses;

2.1 (2) serve the ongoing and growing needs of Minnesota's education systems, health
2.2 care system, public safety system, industries and businesses, governmental operations,
2.3 and citizens; and

2.4 (3) improve accessibility for underserved communities and populations.

2.5 Subd. 3. **Organization.** The office shall consist of a director of the Office of
2.6 Broadband Development, as well as any staff necessary to carry out the office's duties
2.7 under subdivision 4.

2.8 Subd. 4. **Duties.** The office shall have the power and duty to:

2.9 (1) serve as the central broadband planning body for the state of Minnesota;

2.10 (2) coordinate with state, regional, local, and private entities to develop, to the
2.11 maximum extent practicable, a uniform statewide broadband access and usage policy;

2.12 (3) develop, recommend, and implement a statewide plan to encourage cost-effective
2.13 broadband access, and to make recommendations for increased usage, particularly in
2.14 rural and other underserved areas;

2.15 (4) coordinate efforts, in consultation and cooperation with the commissioner of
2.16 commerce, local units of government, and private entities, to meet the state's broadband
2.17 goals in section 237.012;

2.18 (5) develop, coordinate, and implement the state's broadband infrastructure
2.19 development program under section 237.90;

2.20 (6) provide consultation services to local units of government or other project
2.21 sponsors in connection with the planning, acquisition, improvement, construction, or
2.22 development of any broadband deployment project;

2.23 (7) encourage public-private partnerships to increase deployment and adoption
2.24 of broadband services and applications, including recommending funding options and
2.25 possible incentives to encourage investment in broadband expansion;

2.26 (8) monitor the broadband development efforts of other states and nations in areas
2.27 such as business, education, public safety, and health;

2.28 (9) monitor broadband-related activities at the federal level, including regulatory and
2.29 policy changes and the potential impact on broadband deployment and sustainability in
2.30 the state;

2.31 (10) serve as an information clearinghouse for federal programs providing financial
2.32 assistance to institutions located in rural areas seeking to obtain access to high speed
2.33 broadband service, and use this information as an outreach tool to make institutions
2.34 located in rural areas that are unserved or underserved with respect to broadband service
2.35 aware of the existence of federal assistance;

2.36 (11) provide an annual report, as required by subdivision 5; and

3.1 (12) perform any other activities consistent with the office's purpose.

3.2 Subd. 5. **Reporting.** (a) Beginning on January 15, 2014, and each year thereafter,
 3.3 the Office of Broadband Development shall report to the legislative committees with
 3.4 jurisdiction over telecommunications policy and finance on the office's activities during
 3.5 the previous year.

3.6 (b) The report shall contain, at a minimum:

3.7 (1) an analysis of the current availability and use of broadband, including average
 3.8 broadband speeds, within the state;

3.9 (2) information gathered from schools, libraries, hospitals, and public safety
 3.10 facilities across the state, determining the actual speed and capacity of broadband currently
 3.11 in use and the need, if any, for increases in speed and capacity to meet basic needs;

3.12 (3) an analysis of incumbent broadband infrastructure within the state and its ability
 3.13 to spur economic development;

3.14 (4) an analysis of the degree to which new, additional, or improved broadband
 3.15 infrastructure would spur economic development in the state;

3.16 (5) a summary of the office's activities in coordinating broadband infrastructure
 3.17 development under section 237.90;

3.18 (6) any proposed legislative and policy initiatives; and

3.19 (7) any other information requested by the legislative committees having jurisdiction
 3.20 over telecommunications policy and finance, or that the office deems necessary.

3.21 (c) The report may be submitted electronically and is subject to section 3.195,
 3.22 subdivision 1.

3.23 **Sec. 2. [161.462] FIBER COLLABORATION DATABASE.**

3.24 Subdivision 1. **Purpose.** The purpose of the fiber collaboration database is
 3.25 to provide broadband providers with advance notice of upcoming Department of
 3.26 Transportation construction projects, so that they may notify the department of their
 3.27 interest in installing broadband infrastructure within the right-of-way during construction
 3.28 in order to minimize installation costs.

3.29 Subd. 2. **Database.** (a) The Department of Transportation shall post on its Web site,
 3.30 and update annually, the list of upcoming construction projects contained in its statewide
 3.31 transportation improvement program, including, for each project:

3.32 (1) the geographical location where construction will occur;

3.33 (2) the estimated start and end dates of construction; and

3.34 (3) a description of the nature of the construction project.

4.1 (b) The department shall post this information as far in advance of the beginning of
 4.2 construction as is feasible.

4.3 (c) Local units of government, utilities, and other entities that frequently undertake
 4.4 construction projects that allow for the installation of broadband infrastructure may
 4.5 voluntarily forward construction schedules to the department for posting on the
 4.6 department's Web site.

4.7 (d) The department's Web site shall allow a provider of broadband service to register
 4.8 to receive from the department electronic information on proposed construction projects
 4.9 added to the database in specific geographical areas of the state as soon as it is updated.

4.10 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.11 Sec. 3. Minnesota Statutes 2012, section 237.012, subdivision 3, is amended to read:

4.12 Subd. 3. **Annual reports.** The commissioner of commerce must annually by
 4.13 February 10 report on the achievement of the goals under subdivisions 1 and 2 to the chairs
 4.14 and ranking minority members of the legislative committees with primary jurisdiction
 4.15 over telecommunication issues. The report must also suggest policies, incentives, and
 4.16 legislation designed to accelerate the achievement of the goals. The report on goals under
 4.17 subdivision 1 must be made through 2015.

4.18 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.19 Sec. 4. **[237.90] COORDINATION OF BROADBAND INFRASTRUCTURE**
 4.20 **DEVELOPMENT.**

4.21 Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms
 4.22 have the meanings given them.

4.23 (b) "Broadband" or "broadband service" has the meaning given in section 116J.441,
 4.24 subdivision 1, paragraph (b).

4.25 (c) "Broadband conduit" means a conduit, pipe, innerduct, or microduct for fiber
 4.26 optic or other cables that support broadband and wireless facilities for broadband service.

4.27 (d) "Local unit of government" has the meaning given in section 116G.03,
 4.28 subdivision 3.

4.29 (e) "Office" means the Office of Broadband Development established in section
 4.30 116J.441, subdivision 2, paragraph (a).

4.31 Subd. 2. **Broadband infrastructure development.** (a) The office shall, in
 4.32 collaboration with the Departments of Commerce and Transportation and private entities,
 4.33 encourage and coordinate "dig once" efforts for the planning, relocation, installation,

5.1 or improvement of broadband conduit within or near the right-of-way in conjunction
5.2 with any current or planned construction or improvement that opens, bores, or trenches
5.3 alongside state-owned infrastructure, including, but not limited to, trunk highways,
5.4 roads, and bridges. To the extent necessary, the office shall, in collaboration with the
5.5 Departments of Commerce and Transportation, develop engineering and design standards,
5.6 procedures and criteria for contracts or lease agreements with private entities, and pricing
5.7 requirements, and provide for allocation of risk, costs, and any revenue generated.

5.8 (b) The office shall, in collaboration with other state departments and agencies as the
5.9 office deems necessary, develop a strategy to facilitate the timely and efficient deployment
5.10 of broadband conduit or other broadband facilities on state-owned lands and buildings.

5.11 (c) To the extent practicable, the office shall encourage and assist local units of
5.12 government to adopt and implement policies similar to those under paragraphs (a) and (b)
5.13 for construction or other improvements to county state-aid highways, municipal state-aid
5.14 roads, and any other rights-of-way under the local unit of government's jurisdiction, and to
5.15 other lands or buildings owned by the local unit of government.

5.16 (d) Special consideration must be paid to projects under this subdivision that will
5.17 likely improve access to broadband by rural or underserved communities.

5.18 Subd. 3. **Reporting.** As part of its annual report under section 116J.441, subdivision
5.19 5, the office shall report on activities taken under this section, including, but not limited to,
5.20 the number of current and planned projects using the "dig once" approach, any gains in
5.21 broadband speed or access associated with the project, and any costs or cost savings to
5.22 the state, private entity, or end user of broadband services.

5.23 Subd. 4. **No right of action.** Nothing in this section shall be construed to create
5.24 any right or benefit, substantive or procedural, enforceable at law or in equity by any
5.25 party against the state of Minnesota, its departments, agencies, or entities, its officers,
5.26 employees, or agents, or any other person.

5.27 **Sec. 5. STATE BROADBAND STRATEGY; REPORT.**

5.28 The Office of Broadband Development shall conduct research and produce a report
5.29 recommending a set of programs and strategies the state can pursue to promote the
5.30 improvement, more efficient and effective use, and expansion of broadband services in
5.31 ways that will have the greatest impact on the state's economic development, by which is
5.32 meant enhancing the ability of Minnesota citizens and businesses to develop their skills,
5.33 to expand businesses to new markets, develop new products, reach more customers, and
5.34 lower costs. While the state's broadband goals in section 237.012 address the universal

6.1 provision of greater broadband access and speed statewide, this report must consider
6.2 broadband as an economic development tool and must examine and analyze:

6.3 (1) how the state can best use its limited resources to adopt strategies and make
6.4 investments to improve the use of broadband services by subgroups of broadband users,
6.5 including mobile broadband users, that promise to deliver the greatest economic impact
6.6 per dollar of state investment;

6.7 (2) roles the state can play in addition to financial assistance for broadband
6.8 infrastructure, including supporting education and training for Minnesotans to enable
6.9 them to use broadband more effectively; and

6.10 (3) strategies and opportunities for state investment to leverage additional amounts
6.11 of private capital and financial assistance from the federal government in order to achieve
6.12 these goals.

6.13 By January 15, 2014, the office shall submit the report to the chairs and ranking minority
6.14 members of the senate and house committees with jurisdiction over telecommunications
6.15 issues.