

The House Committee on Energy, Utilities and Telecommunications offers the following substitute to HB 336:

A BILL TO BE ENTITLED
AN ACT

1 To amend Titles 36 and 50 of the Official Code of Georgia Annotated, relating to local
2 government and state government, respectively, so as to provide for broadband deployment
3 incentives and planning; to provide for definitions; to establish certification of certain
4 counties and municipal corporations as broadband ready communities; to provide for duties
5 and responsibilities of the Department of Economic Development; to provide methodology
6 for local governments to apply to the department for certification as a broadband ready
7 community; to provide for the promulgation of rules and regulations and a model ordinance
8 by the department; to provide for the Georgia Technology Authority to develop an annual
9 "Broadband Strategy for All of Georgia" report providing guidance for achieving enhanced
10 broadband deployment throughout this state; to provide for a short title; to provide for related
11 matters; to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 style="text-align:center">**SECTION 1.**

14 This Act shall be known and may be cited as the "Broadband Strategy for All of Georgia
15 Act."

16 style="text-align:center">**SECTION 2.**

17 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended
18 by adding a new chapter to read as follows:

19 style="text-align:center">"CHAPTER 66C

20 36-66C-1.

21 As used in this chapter, the term:

22 (1) 'Broadband network project' means any wired or wireless Internet access deployment
23 that has the capability of transmitting data at a rate of at least 10 megabits per second in

24 the downstream direction and at least 1 megabit per second in the upstream direction to
 25 end users.

26 (2) 'Broadband service provider' means any provider of wired or wireless
 27 telecommunications services or a public utility that builds or owns a broadband network
 28 project.

29 (3) 'Department' means the Department of Economic Development.

30 (4) 'Political subdivision' means a county, municipal corporation, or consolidated
 31 government.

32 36-66C-2.

33 (a) A political subdivision may apply to the department for certification as a broadband
 34 ready community. The department shall by rules and regulations prescribe the form and
 35 manner for making an application. The department shall prescribe by rules and regulations
 36 a process for public notice and comment on an application for a period of at least 30 days
 37 after the application is received, except that such process shall not apply to an application
 38 by a political subdivision that enacts a model ordinance developed by the department under
 39 Code Section 36-66C-3.

40 (b) The department shall approve an application and certify a political subdivision as a
 41 broadband ready community if the department determines that the political subdivision has
 42 enacted an ordinance that complies with Code Section 36-66C-3. If the process for public
 43 notice and comment applies to an application, the department shall, before approving the
 44 application, consider any public comments made regarding such application.

45 36-66C-3.

46 (a) A political subdivision shall not be certified as a broadband ready community unless
 47 the political subdivision enacts an ordinance for reviewing applications and issuing permits
 48 related to broadband network projects that provides for all of the following:

49 (1) Appointing a single point of contact for all matters related to a broadband network
 50 project;

51 (2) Requiring the political subdivision to determine whether an application is complete
 52 and notifying the applicant about such determination in writing within ten days of
 53 receiving the application;

54 (3) If the political subdivision receives an application that is incomplete, requiring the
 55 written notification under paragraph (2) of this subsection to specify in detail the required
 56 information that is incomplete;

57 (4) If the political subdivision does not make the written notification required under
 58 paragraph (2) of this subsection, requiring the political subdivision to consider an
 59 application to be complete;

60 (5) Allowing an applicant to resubmit an application as often as necessary until the
 61 application is complete;

62 (6) Within 60 days of receiving an application that is complete, requiring the political
 63 subdivision to approve or deny the application and provide the applicant written
 64 notification of such approval or denial;

65 (7) If the political subdivision denies an application, requiring the political subdivision
 66 to include in the written notification under paragraph (6) of this subsection evidence that
 67 the denial is not arbitrary and capricious;

68 (8) Requiring that an application shall be considered approved and any required permit
 69 shall be issued if the political subdivision does not provide the written notification under
 70 paragraph (6) of this subsection;

71 (9) That any fee imposed by the political subdivision to review an application, issue a
 72 permit, or perform any other activity related to a broadband network project shall be
 73 reasonable and cost based; and

74 (10) Allowing all forms, applications, and documentation related to a broadband network
 75 project to be filed and signed by electronic or other means authorized by the department.

76 (b) The department may develop a model ordinance that complies with subsection (a) of
 77 this Code section for a political subdivision to use to review applications and issue permits
 78 related to broadband network projects.

79 (c) If the department develops a model ordinance under subsection (b) of this Code section
 80 and a political subdivision enacts a different ordinance that complies with subsection (a)
 81 of this Code section, the political subdivision shall, when applying for certification under
 82 Code Section 36-66C-2, provide the department with a written statement that describes the
 83 ordinance and how the ordinance differs from the model ordinance.

84 36-66C-4.

85 A political subdivision that the department has certified as a broadband ready community
 86 under Code Section 36-66C-2 shall not:

87 (1) Require an applicant to designate a final contractor to complete a broadband network
 88 project;

89 (2) Impose an unreasonable or noncost based fee to review an application or issue a
 90 permit for a broadband network project. Any application fee that exceeds \$100.00 shall
 91 be considered unreasonable;

92 (3) Impose a moratorium of any kind on the approval of applications or issuance of
 93 permits for broadband network projects or on construction related to broadband network
 94 projects;

95 (4) Discriminate among providers of telecommunications services or public utilities with
 96 respect to any action described in this chapter or otherwise related to a broadband
 97 network project, including granting access to public rights of way, infrastructure and
 98 poles, river and bridge crossings, or any other physical assets owned or controlled by the
 99 political subdivision; or

100 (5) As a condition for approving an application or issuing a permit for a broadband
 101 network project or for any other purpose, require the applicant to:

102 (A) Provide any service or make available any part of the broadband network project
 103 to the political subdivision; or

104 (B) Except for reasonable and cost based fees allowed, make any payment to or on
 105 behalf of the political subdivision.

106 36-66C-5.

107 (a) Upon the request of a broadband service provider, the department may decertify a
 108 political subdivision as a broadband ready community if the political subdivision fails to
 109 comply with or modifies the ordinance required for certification under Code
 110 Section 36-66C-3 or violates Code Section 36-66C-4.

111 (b) Upon a complaint that an application fee under an ordinance required for certification
 112 under Code Section 36-66C-3 is unreasonable, the department shall determine whether or
 113 not such fee is reasonable. In the proceeding for making such determination, the political
 114 subdivision shall have the burden of proving the reasonableness of any function undertaken
 115 by the political subdivision as part of the application process and the reasonableness of the
 116 costs of such functions.

117 36-66C-6.

118 The department shall promulgate any reasonable and necessary rules and regulations to
 119 effectuate the provisions of this chapter."

120 **SECTION 3.**

121 Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended
 122 by adding a new Code section to read as follows:

123 "50-25-17.

124 (a) The authority shall develop an annual report to be entitled, 'Broadband Strategy for All
 125 of Georgia,' that provides guidance for achieving enhanced broadband deployment

126 throughout the state such that access to broadband speeds of at least 25 megabits per
127 second in the downstream direction and at least 3 megabits per second in the upstream
128 direction is readily available to 99.5 percent of all households and 99.8 percent of all
129 businesses in this state by 2024. Such annual report shall include:

130 (1) An assessment of the current status of broadband deployment and utilization
131 throughout this state;

132 (2) An analysis of funding currently available from the federal government and any other
133 sources to either the state or private entities that provide broadband service in this state.

134 Such analysis shall include guidelines and requirements established by any federal
135 agencies or other entities overseeing such funding sources on how such funds must be
136 spent;

137 (3) Any changes to or new rulings under Federal Communications Commission rules and
138 regulations, including, but not limited to, rules and regulations relating to state regulation
139 of broadband;

140 (4) The role that this state and any of its agencies, departments, authorities, boards, and
141 commissions play in broadband deployment and accessibility throughout this state;

142 (5) A list of private companies providing broadband services in this state;

143 (6) An analysis of how current technology trends and advancements will enhance the
144 deployment of broadband throughout this state;

145 (7) An assessment of the advantages of broadband deployment for individuals and
146 businesses to rural Georgia, including, but not limited to, education, telemedicine, and
147 economic development;

148 (8) An assessment of unique challenges for deployment of broadband in sparsely
149 populated areas of this state and suggested solutions to meet such challenges; and

150 (9) An analysis of options based on current data regarding the most effectual approaches
151 to further facilitate the deployment and utilization of enhanced broadband throughout this
152 state.

153 (b) The report created pursuant to subsection (a) of this Code section shall be submitted
154 to the Governor and the General Assembly on or before November 1 of each year and
155 made available to the public on the same date by posting a copy of the report on the
156 website of the authority. The authority shall not be required to distribute copies of the
157 annual report to members of the General Assembly, but shall notify the members of the
158 availability of the report in the manner in which it deems to be the most effective and
159 efficient."

160 **SECTION 4.**

161 All laws and parts of laws in conflict with this Act are repealed.