

# Senate Bill No. 507

(By Senators Kessler (Acting President), Unger, Browning,  
Foster, Plymale, Stollings, Klempa and Williams)

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[Introduced February 14, 2011; referred to  
the Committee on Government Organization.]

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A BILL to amend and reenact §31-15C-3 and §31-15C-14 of the  
Code of West Virginia, 1931, as amended, all relating to the  
continuation of the Broadband Deployment Council.

*Be it enacted by the Legislature of West Virginia:*

That §31-15C-3 and §31-15C-14 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.**

- 1 (a) The Broadband Deployment Council is ~~hereby estab-~~
- 2 ~~lished.~~ continued. The council is a governmental instrumen-

3 tality of the state. The exercise by the council of the powers  
4 conferred by this article and the carrying out of its purpose  
5 and duties ~~shall be~~ are considered and held to be, and are  
6 hereby determined to be, essential governmental functions  
7 and for a public purpose. The council is created under the  
8 Department of Commerce for administrative, personnel and  
9 technical support services only.

10 (b) The council shall consist of eleven voting members,  
11 designated as follows:

12 (1) The Governor or his or her designee;

13 (2) The Secretary of Commerce or his or her designee;

14 (3) The Secretary of Administration or his or her designee;

15 (4) The Director of Homeland Security and Emergency  
16 Management or his or her designee; and

17 (5) Seven public members that serve at the will and  
18 pleasure of the Governor and are appointed by the Governor  
19 with the advice and consent of the Senate, as follows:

20 (i) One member representing employees of communications  
21 and cable providers who ~~shall be~~ is a member or representa-  
22 tive of a union representing communications workers;

23 (ii) One member representing telecommunications provid-  
24 ers who provide broadband services in this state;

25 (iii) One member representing cable operators who provide  
26 broadband services in this state;

27 (iv) One member representing broadband equipment or  
28 device manufacturers;

29 (v) One member representing higher education or second-  
30 ary education; and

31 (vi) Two members representing the general public who are  
32 residents of the state, *Provided*, ~~That one member represent~~  
33 ~~rural communities: *Provided, however*, That both members~~  
34 ~~may not reside in the same congressional district. one of~~  
35 ~~whom shall represent rural communities, and who may not~~  
36 ~~reside in the same congressional district.~~

37 (6) In addition to the eleven voting members of the council,  
38 the President of the Senate shall name two senators from the  
39 West Virginia Senate and the Speaker of the House shall  
40 name two delegates from the West Virginia House of Dele-  
41 gates, each to serve in the capacity of an ex officio, nonvot-  
42 ing advisory member of the council.

43 (c) The Secretary of Commerce or his or her designee shall  
44 chair the council and appoint one of the other council  
45 members to serve as vice chair. In the absence of the Secre-  
46 tary of Commerce or his or her designee, the vice chair shall

47 serve as chair. The council shall appoint a secre-  
48 tary-treasurer who need not be a member of the council and  
49 who, among other tasks or functions designated by the  
50 council, shall keep records of its proceedings.

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

55 (e) Six voting members of the council ~~shall constitute~~  
56 constitutes a quorum and the affirmative vote of at least the  
57 majority of those members present ~~shall be~~ is necessary for  
58 any action taken by vote of the council.

59 (f) The council is part-time. Public members appointed by  
60 the Governor may pursue and engage in another business or  
61 occupation or gainful employment. Any person employed by,  
62 owning an interest in or otherwise associated with a broad-  
63 band deployment project, project sponsor or project partici-  
64 pant may serve as a council member and ~~shall not be~~ is not  
65 disqualified from serving as a council member because of a  
66 conflict of interest prohibited under section five, article two,  
67 chapter six-b of this code and ~~shall not be~~ is not subject to  
68 prosecution for violation of said section when the violation

69 is created solely as a result of his or her relationship with the  
70 broadband deployment project, project sponsor or project  
71 participant ~~Provided, That~~ so long as the member recuses  
72 himself or herself from board participation regarding the  
73 conflicting issue in the manner set forth in legislative rules  
74 promulgated by the West Virginia Ethics Commission.

75 (g) No member of the council who serves by virtue of his or  
76 her office ~~shall receive~~ receives any compensation or reim-  
77 bursement of expenses for serving as a member. The public  
78 members and members of any committees or subcommittees  
79 are entitled to be reimbursed for actual and necessary  
80 expenses incurred for each day or portion thereof engaged in  
81 the discharge of his or her official duties in a manner  
82 consistent with the guidelines of the Travel Management  
83 Office of the Department of Administration.

**§31-15C-14. Expiration of council.**

1 The council shall continue to exist until December 31,  
2 ~~2011~~, 2014, unless sooner terminated, continued or reestab-  
3 lished pursuant to an act of the Legislature.

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(NOTE: The purpose of this bill is to continue the Broadband Deployment Council.

Strike-throughs indicate language that would be stricken from the present law and underscoring indicates new language that would be added.)