

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 110**

4 (By Senators Unger, Beach and Klempa)

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6 [Originating in the Committee on Transportation and
7 Infrastructure; reported January 25, 2012.]
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10 A BILL to amend and reenact §31-15C-3 and §31-15C-4 of the Code of
11 West Virginia, 1931, as amended, all relating to modifying the
12 membership of the Broadband Deployment Council; and expanding
13 the powers and duties of the Broadband Deployment Council.

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

15 That §31-15C-3 and §31-15C-4 of the Code of West Virginia,
16 1931, as amended, be amended and reenacted, all to read as follows:

17 **ARTICLE 15C. Broadband Deployment.**

18 **§31-15C-3. Broadband Deployment Council established; members of**
19 **council; administrative support.**

20 (a) The Broadband Deployment Council is continued. The
21 council is a governmental instrumentality of the state. The
22 exercise by the council of the powers conferred by this article and
23 the carrying out of its purpose and duties are considered and held
24 to be, and are hereby determined to be, essential governmental
25 functions and for a public purpose. The council is created under

1 the Department of Commerce for administrative, personnel and
2 technical support services only.

3 (b) The council shall consist of ~~eleven~~twelve voting members,
4 designated as follows:

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

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

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

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

10 (5) ~~Seven~~Eight public members that serve at the will and
11 pleasure of the Governor and are appointed by the Governor with the
12 advice and consent of the Senate, as follows:

13 (I) One member representing employees of communications and
14 cable providers who is a member or representative of a union
15 representing communications workers;

16 (ii) One member representing ~~telecommunications providers~~
17 incumbent local exchange carriers who provide broadband services in
18 this state;

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

21 (iv) One member representing competitive local exchange
22 carriers who provide broadband services in this state;

23 (v) One member representing broadband equipment or device
24 manufacturers;

25 (vi) One member representing higher education or secondary
26 education; and

1 (vii) Two members representing the general public who are
2 residents of the state, one of whom shall represent rural
3 communities, and who may not reside in the same congressional
4 district.

5 (6) In addition to the eleven voting members of the council,
6 the President of the Senate shall name two senators from the West
7 Virginia Senate and the Speaker of the House shall name two
8 delegates from the West Virginia House of Delegates, each to serve
9 in the capacity of an ex officio, nonvoting advisory member of the
10 council.

11 (c) The Secretary of Commerce or his or her designee shall
12 chair the council and appoint one of the other council members to
13 serve as vice chair. In the absence of the Secretary of Commerce
14 or his or her designee, the vice chair shall serve as chair. The
15 council shall appoint a secretary-treasurer who need not be a
16 member of the council and who, among other tasks or functions
17 designated by the council, shall keep records of its proceedings.

18 (d) The council may appoint committees or subcommittees to
19 investigate and make recommendations to the full council. Members
20 of these committees or subcommittees need not be members of the
21 council.

22 (e) Six voting members of the council constitutes a quorum and
23 the affirmative vote of at least the majority of those members
24 present is necessary for any action taken by vote of the council.

25 (f) The council is part-time. Public members appointed by the
26 Governor may pursue and engage in another business or occupation or

1 gainful employment. Any person employed by, owning an interest in
2 or otherwise associated with a broadband deployment project,
3 project sponsor or project participant may serve as a council
4 member and is not disqualified from serving as a council member
5 because of a conflict of interest prohibited under section five,
6 article two, chapter six-b of this code and is not subject to
7 prosecution for violation of said section when the violation is
8 created solely as a result of his or her relationship with the
9 broadband deployment project, project sponsor or project
10 participant so long as the member recuses himself or herself from
11 board participation regarding the conflicting issue in the manner
12 set forth in legislative rules promulgated by the West Virginia
13 Ethics Commission.

14 (g) No member of the council who serves by virtue of his or
15 her office receives any compensation or reimbursement of expenses
16 for serving as a member. The public members and members of any
17 committees or subcommittees are entitled to be reimbursed for
18 actual and necessary expenses incurred for each day or portion
19 thereof engaged in the discharge of his or her official duties in
20 a manner consistent with the guidelines of the Travel Management
21 Office of the Department of Administration.

22 **§31-15C-4. Powers and duties of the council generally.**

23 (a) The council shall:

24 (1) Explore the potential for increased use of broadband
25 service for the purposes of education, career readiness, workforce
26 preparation, and alternative career training;

1 (2) Explore ways for encouraging state and municipal agencies
2 to expand the development and use of broadband services for the
3 purpose of better serving the public, including audio and video
4 streaming, voice-over Internet protocol, teleconferencing, and
5 wireless networking;

6 (3) Cooperate and assist in the expansion of electronic
7 instruction and distance education services by July, 2014;

8 ~~(a)~~ (b) In addition to the powers set forth elsewhere in this
9 article, the council is hereby granted, has and may exercise all
10 powers necessary or appropriate to carry out and effectuate the
11 purpose and intent of this article. The council shall have the
12 power and capacity to:

13 (1) Provide consultation services to project sponsors in
14 connection with the planning, acquisition, improvement,
15 construction or development of any broadband deployment project;

16 (2) Promote awareness of public facilities that have community
17 broadband access that can be used for distance education and
18 workforce development;

19 (3) Advise on deployment of e-government portals such that all
20 public bodies and political subdivisions have homepages, encourage
21 one-stop government access, and that all public entities stream
22 audio and video of all public meetings;

23 ~~(2)~~ (4) To make and execute contracts, commitments and other
24 agreements necessary or convenient for the exercise of its powers,
25 including, but not limited to, the hiring of consultants to assist
26 in the mapping of the state, categorization of areas within the

1 state, and evaluation of project applications: *Provided*, That the
2 provisions of article three, chapter five-a of this code do not
3 apply to the agreements and contracts executed under the provisions
4 of this article;

5 ~~(3)~~ (5) Acquire by gift or purchase, hold or dispose of real
6 property and personal property in the exercise of its powers and
7 performance of its duties as set forth in this article;

8 ~~(4)~~ (6) Receive and dispense funds appropriated for its use by
9 the Legislature or other funding sources or solicit, apply for and
10 receive any funds, property or services from any person,
11 governmental agency or organization to carry out its statutory
12 duties; and

13 ~~(5)~~ (7) Perform any and all other activities in furtherance of
14 its purpose.

15 ~~(b)~~ (c) The council shall exercise its powers and authority to
16 bring broadband service to unserved areas. The council may not
17 duplicate or displace broadband service in areas already served or
18 where private industry feasibly can be expected to offer services
19 in the reasonably foreseeable future.

NOTE: The purpose of this bill is to expand the charge of the
Broadband Deployment Council to compel the study and promotion of
the use of electronic, Internet, and virtual instruction on student
learning, career readiness, workforce preparation and alternative
career training; and to compel the council to implement
e-instruction and distance education services by 2014.

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