

1 COMMITTEE SUBSTITUTE

2 FOR

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4 FOR

5 **Senate Bill No. 110**

6 (By Senators Unger, Beach and Klempa)

7 _____
8 [Originating in the Committee on Government Organization;
9 reported February 22, 2012.]
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11
12 A BILL to amend and reenact §31-15C-3 and §31-15C-4 of the Code of
13 West Virginia, 1931, as amended, all relating to modifying and
14 increasing the membership of the Broadband Deployment Council;
15 and expanding the powers and duties of the Broadband
16 Deployment Council.

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

18 That §31-15C-3 and §31-15C-4 of the Code of West Virginia,
19 1931, as amended, be amended and reenacted, all to read as follows:

20 **ARTICLE 15C. Broadband Deployment.**

21 **§31-15C-3. Broadband Deployment Council established; members of**
22 **council; administrative support.**

23 (a) The Broadband Deployment Council is continued. The
24 council is a governmental instrumentality of the state. The
25 exercise by the council of the powers conferred by this article and

1 the carrying out of its purpose and duties are considered and held
2 to be, and are hereby determined to be, essential governmental
3 functions and for a public purpose. The council is created under
4 the Department of Commerce for administrative, personnel and
5 technical support services only.

6 (b) The council shall consist of ~~eleven~~ thirteen voting
7 members, designated as follows:

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

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

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

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

13 (5) ~~Seven~~ Nine public members that serve at the will and
14 pleasure of the Governor and are appointed by the Governor with the
15 advice and consent of the Senate, as follows:

16 (I) One member representing employees of communications and
17 cable providers who is a member or representative of a union
18 representing communications workers;

19 (ii) One member representing ~~telecommunications providers~~
20 incumbent local exchange carriers who provide broadband services in
21 this state;

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

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

26 (v) One member representing broadband equipment or device

1 manufacturers;

2 ~~(v)~~ (vi) One member representing higher education or secondary
3 education; and

4 ~~(vi)~~ (vii) ~~Two~~ Three members representing the general public
5 who are residents of the state, one of whom shall represent rural
6 communities, and who may not reside in the same congressional
7 district.

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

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

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

25 (e) ~~Six~~ Seven voting members of the council constitutes a
26 quorum and the affirmative vote of at least the majority of those

1 members present is necessary for any action taken by vote of the
2 council.

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

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

26 **§31-15C-4. Powers and duties of the council generally.**

1 (a) The council shall:

2 (1) Explore the potential for increased use of broadband
3 service for the purposes of education, career readiness, workforce
4 preparation and alternative career training;

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

10 (3) Cooperate and assist in the expansion of electronic
11 instruction and distance education services by July, 2014.

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

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

20 (2) Promote awareness of public facilities that have community
21 broadband access that can be used for distance education and
22 workforce development;

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

1 ~~(2)~~ (4) To make and execute contracts, commitments and other
2 agreements necessary or convenient for the exercise of its powers,
3 including, but not limited to, the hiring of consultants to assist
4 in the mapping of the state, categorization of areas within the
5 state and evaluation of project applications: *Provided*, That the
6 provisions of article three, chapter five-a of this code do not
7 apply to the agreements and contracts executed under the provisions
8 of this article;

9 ~~(3)~~ (5) Acquire by gift or purchase, hold or dispose of real
10 property and personal property in the exercise of its powers and
11 performance of its duties as set forth in this article;

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

17 ~~(5)~~ (7) Perform any and all other activities in furtherance of
18 its purpose.

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