

1 **ENROLLED**

2 **Senate Bill No. 507**

3 (BY SENATORS KESSLER (ACTING PRESIDENT), UNGER, BROWNING, FOSTER, PLYMALE,
4 STOLLINGS, KLEMPA AND WILLIAMS)

5 _____
6 [Passed February 25, 2011; in effect ninety days from passage.]
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11 AN ACT to amend and reenact §31-15C-3 and §31-15C-14 of the Code of
12 West Virginia, 1931, as amended, all relating to the
13 continuation of the Broadband Deployment Council.

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

15 That §31-15C-3 and §31-15C-14 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

1 functions and for a public purpose. The council is created under
2 the Department of Commerce for administrative, personnel and
3 technical support services only.

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

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

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

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

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

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

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

17 (ii) One member representing telecommunications providers who
18 provide broadband services in this state;

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

21 (iv) One member representing broadband equipment or device
22 manufacturers;

23 (v) One member representing higher education or secondary
24 education; and

1 (vi) 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.

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

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

24 **§31-15C-14. Expiration of council.**

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