

1 **Senate Bill No. 507**

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

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5 [Introduced February 14, 2011; referred to the Committee on
6 Government Organization.]
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11 A BILL 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 ~~hereby established.~~
21 continued. The council is a governmental instrumentality of the
22 state. The exercise by the council of the powers conferred by this
23 article and the carrying out of its purpose and duties ~~shall be~~ are
24 considered and held to be, and are hereby determined to be,

1 essential governmental functions and for a public purpose. The
2 council is created under the Department of Commerce for
3 administrative, personnel and 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 ~~shall be~~ is a member or representative of a
16 union 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, ~~Provided, That one member represent rural~~
3 ~~communities: Provided, however, That both members may not reside~~
4 ~~in the same congressional district.~~ one of whom shall represent
5 rural communities, and who may not reside in the same congressional
6 district.

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

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

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

24 (e) Six voting members of the council ~~shall constitute~~

1 constitutes a quorum and the affirmative vote of at least the
2 majority of those members present ~~shall be~~ is necessary for any
3 action taken by vote of the council.

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

19 (g) No member of the council who serves by virtue of his or
20 her office ~~shall receive~~ receives any compensation or reimbursement
21 of expenses for serving as a member. The public members and
22 members of any committees or subcommittees are entitled to be
23 reimbursed for actual and necessary expenses incurred for each day
24 or portion thereof engaged in the discharge of his or her official

1 duties in a manner consistent with the guidelines of the Travel
2 Management Office of the Department of Administration.

3 **§31-15C-14. Expiration of council.**

4 The council shall continue to exist until December 31, ~~2011~~
5 2014, unless sooner terminated, continued or reestablished pursuant
6 to an act of the Legislature.

(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.)