

Senate Bill No. 507

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

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

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.

(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.)