2015 ASSEMBLY BILL 820

1 AN ACT *to amend* 196.504 (title), 196.504 (1) (a) 3., 196.504 (2) (c) and 196.85

2 (1m) (b); and *to create* 196.504 (1) (ae), 196.504 (3), 196.504 (4), 196.504 (5),

3 196.504 (6), 196.504 (7), 196.504 (8) and 196.504 (9) of the statutes; **relating**

4 **to:** duties of the Public Service Commission under the broadband expansion

5 grant program and certification of political subdivisions under that program.

Analysis by the Legislative Reference Bureau

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

6 SECTION 1. 196.504 (title) of the statutes is amended to read:

7 **196.504** (title) **Broadband expansion grant program; Broadband**

8 **Forward! community certification.**

9 SECTION 2. 196.504 (1) (a) 3. of the statutes is amended to read:

10 196.504 **(1)** (a) 3. A ~~city, village, town, or county~~ political subdivision that

11 submits an application in partnership with an eligible applicant under subd. 1. or 2.

1   SECTION 3. 196.504 (1) (ae) of the statutes is created to read:

2   196.504 **(1)** (ae) "Political subdivision" means a city, village, town, or county.

3   SECTION 4. 196.504 (2) (c) of the statutes, as affected by 2015 Wisconsin Act 55,

4   is amended to read:

5   196.504 **(2)** (c) To establish criteria for evaluating applications and awarding

6   grants under this section. The criteria shall prohibit grants that have the effect of

7   subsidizing   the   expenses   of   a   <u>provider of</u>   ~~telecommunication   provider~~

8   <u>telecommunications service, as defined in s. 182.017 (1g) (cq),</u> or the monthly bills of

9   ~~telecommunications~~ customers <u>of those providers</u>. The criteria shall give priority to

10   projects that include matching funds, that involve public–private partnerships, that

11   affect areas with no broadband service providers, that are scalable, <u>that promote</u>

12   <u>economic development,</u> or that affect a large geographic area or a large number of

13   underserved individuals or communities.

14   SECTION 5. 196.504 (3) of the statutes is created to read:

15   196.504 **(3)** The commission shall encourage the development of broadband

16   infrastructure in underserved areas of the state and do all of the following:

17   (a)   Provide comprehensive information concerning permits required for

18   broadband network projects and related business activities in the state and make

19   this information available to any person.

20   (b)   Work with other state and local government offices, departments, and

21   administrative entities to encourage timely and efficient issuance of permits and

22   resolution of related issues.

23   (c) Encourage local and federal government agencies to coordinate activities

24   related to approving applications and issuing permits related to broadband network

25   projects.

1   SECTION 6. 196.504 (4) of the statutes is created to read:

2   196.504 **(4)** A political subdivision may apply to the commission for

3   certification as a Broadband Forward! community. The commission shall prescribe

4   the form and manner for making an application. The commission shall prescribe a

5   process for public notice and comment on an application for a period of at least 30

6   days after the application is received, except that the process does not apply to an

7   application by a political subdivision that enacts a model ordinance developed under

8   sub. (9) (a) or submits a written statement under sub. (9) (b). The commission shall

9   approve an application and certify a political subdivision as a Broadband Forward!

10   community if the commission determines that the political subdivision has enacted

11   an ordinance that complies with sub. (5). If the process for public notice and comment

12   applies to an application, the commission shall, before approving the application,

13   consider any public comments made regarding the application.

14   SECTION 7. 196.504 (5) of the statutes is created to read:

15   196.504 **(5)** A political subdivision may not be certified as a Broadband

16   Forward! community under sub. (4) unless the political subdivision enacts an

17   ordinance for reviewing applications and issuing permits related to broadband

18   network projects that provides for all of the following:

19   (a) Appointing a single point of contact for all matters related to a broadband

20   network project.

21   (b) Requiring the political subdivision to determine whether an application is

22   complete and notifying the applicant about the determination in writing within 10

23   days of receiving the application.

1   (c) If the political subdivision does not believe that an application is complete,

2   requiring the written notification under par. (b) to specify in detail the required

3   information that is incomplete.

4   (d) If the political subdivision does not make the written notification required

5   under par. (b), requiring the political subdivision to consider an application to be

6   complete.

7   (e) Allowing an applicant to resubmit an application as often as necessary until

8   the application is complete.

9   (f) Within 60 days of receiving an application that is complete, requiring the

10   political subdivision to approve or deny the application and provide the applicant

11   written notification of the approval or denial.

12   (g) If the political subdivision denies an application, requiring the political

13   subdivision to include in the written notification under par. (f) evidence that the

14   denial is not arbitrary and capricious.

15   (h) Requiring that an application is considered approved and any required

16   permit is issued if the political subdivision does not provide the written notification

17   under par. (f).

18   (i) Providing that any fee imposed by the political subdivision to review an

19   application, issue a permit, or perform any other activity related to a broadband

20   network project is reasonable.

21   (k) Allowing all forms, applications, and documentation related to a broadband

22   network project to be filed and signed by electronic or another means authorized by

23   the commission.

24   SECTION 8. 196.504 (6) of the statutes is created to read:

1   196.504 **(6)** A political subdivision that the commission has certified as a

2   Broadband Forward! community under sub. (4) may not do any of the following:

3   (a)   Require an applicant to designate a final contractor to complete a

4   broadband network project.

5   (b) Impose an unreasonable fee to review an application or issue a permit for

6   a broadband network project application. Any application fee that exceeds $100 is

7   considered unreasonable.

8   (c) Impose a moratorium of any kind on the approval of applications and

9   issuance of permits for broadband network projects or on construction related to

10 broadband network projects.

11   (d) Discriminate among providers of telecommunications service, as defined in

12 s. 182.017 (1g) (cq), or public utilities with respect to any action described in this

13 section or otherwise related to a broadband network project, including granting

14 access to public rights–of–way, infrastructure and poles, river and bridge crossings,

15 or any other physical assets owned or controlled by the political subdivision.

16   (e)   As a condition for approving an application or issuing a permit for a

17 broadband network project or for any other purpose, require the applicant to do any

18 of the following:

19   1. Provide any service or make available any part of the broadband network

20 project to the political subdivision.

21   2. Except for reasonable fees allowed under sub. (5) (i), make any payment to

22 or on behalf of the political subdivision.

23   **SECTION 9.** 196.504 (7) of the statutes is created to read:

24   196.504 **(7)** Upon the request of a broadband service provider, the commission

25 may decertify a political subdivision as a Broadband Forward! community if the

1   political subdivision fails to comply with or modifies the ordinance required for

2   certification under sub. (4) or violates sub. (6).

3   SECTION 10. 196.504 (8) of the statutes is created to read:

4   196.504 **(8)** Upon a complaint that an application fee under an ordinance

5   required for certification under sub. (4) is unreasonable, the commission shall

6   determine whether the fee is reasonable. In the proceeding for making that

7   determination, the political subdivision has the burden of proving the

8   reasonableness of any function undertaken by the political subdivision as part of the

9   application process and the reasonableness of the costs of those functions.

10   SECTION 11. 196.504 (9) of the statutes is created to read:

11   196.504 **(9)** (a) The commission may develop a model ordinance that complies

12   with sub. (5) for a political subdivision to review applications and issue permits

13   related to broadband network projects.

14   (b) If the commission develops a model ordinance under par. (a) and a political

15   subdivision enacts a different ordinance that complies with sub. (5), the political

16   subdivision shall, when applying for certification under sub. (4), provide the

17   commission with a written statement that describes the ordinance and how the

18   ordinance differs from the model ordinance.

19   SECTION 12. 196.85 (1m) (b) of the statutes is amended to read:

20   196.85 **(1m)** (b) For the purpose of direct assessment under sub. (1) of expenses

21   incurred by the commission in connection with its activities under s. 196.04 <u>(2) or</u> (4),

22   the term "public utility" includes a video service provider.

23   **(END)**