

# State of Wisconsin



2015 Assembly Bill 820

Date of enactment: **March 24, 2016**

Date of publication\*: **March 25, 2016**

## 2015 WISCONSIN ACT 278

AN ACT *to amend* 196.504 (title), 196.504 (1) (a) 3., 196.504 (2) (c) and 196.85 (1m) (b); and *to create* 196.504 (1) (ae), 196.504 (3), 196.504 (4), 196.504 (5), 196.504 (6), 196.504 (7), 196.504 (8) and 196.504 (9) of the statutes; **relating to:** duties of the Public Service Commission under the broadband expansion grant program and certification of political subdivisions under that program.

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

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

**196.504 (title) Broadband expansion grant program; Broadband Forward! community certification.**

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

196.504 (1) (a) 3. A ~~city, village, town, or county political subdivision~~ that submits an application in partnership with an eligible applicant under subd. 1. or 2.

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

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

**SECTION 4.** 196.504 (2) (c) of the statutes, as affected by 2015 Wisconsin Act 55, is amended to read:

196.504 (2) (c) To establish criteria for evaluating applications and awarding grants under this section. The criteria shall prohibit grants that have the effect of subsidizing the expenses of a ~~provider of telecommunication provider~~ telecommunications service, as defined in s. 182.017 (1g) (cq), or the monthly bills of telecommunications customers of those providers. The criteria shall

give priority to projects that include matching funds, that involve public-private partnerships, that affect areas with no broadband service providers, that are scalable, that promote economic development, or that affect a large geographic area or a large number of underserved individuals or communities.

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

196.504 (3) The commission shall encourage the development of broadband infrastructure in underserved areas of the state and do all of the following:

(a) Provide comprehensive information concerning permits required for broadband network projects and related business activities in the state and make this information available to any person.

(b) Work with other state and local government offices, departments, and administrative entities to encourage timely and efficient issuance of permits and resolution of related issues.

(c) Encourage local and federal government agencies to coordinate activities related to approving applications and issuing permits related to broadband network projects.

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

\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

196.504 (4) A political subdivision may apply to the commission for certification as a Broadband Forward! community. The commission shall prescribe the form and manner for making an application. The commission shall prescribe a process for public notice and comment on an application for a period of at least 30 days after the application is received, except that the process does not apply to an application by a political subdivision that enacts a model ordinance developed under sub. (9) (a) or submits a written statement under sub. (9) (b). The commission shall approve an application and certify a political subdivision as a Broadband Forward! community if the commission determines that the political subdivision has enacted an ordinance that complies with sub. (5). If the process for public notice and comment applies to an application, the commission shall, before approving the application, consider any public comments made regarding the application.

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

196.504 (5) A political subdivision may not be certified as a Broadband Forward! community under sub. (4) unless the political subdivision enacts an ordinance for reviewing applications and issuing permits related to broadband network projects that provides for all of the following:

(a) Appointing a single point of contact for all matters related to a broadband network project.

(b) Requiring the political subdivision to determine whether an application is complete and notifying the applicant about the determination in writing within 10 days of receiving the application.

(c) If the political subdivision does not believe that an application is complete, requiring the written notification under par. (b) to specify in detail the required information that is incomplete.

(d) If the political subdivision does not make the written notification required under par. (b), requiring the political subdivision to consider an application to be complete.

(e) Allowing an applicant to resubmit an application as often as necessary until the application is complete.

(f) Within 60 days of receiving an application that is complete, requiring the political subdivision to approve or deny the application and provide the applicant written notification of the approval or denial.

(g) If the political subdivision denies an application, requiring the political subdivision to include in the written notification under par. (f) evidence that the denial is not arbitrary and capricious.

(h) Requiring that an application is considered approved and any required permit is issued if the political subdivision does not provide the written notification under par. (f).

(i) Providing that any fee imposed by the political subdivision to review an application, issue a permit, or

perform any other activity related to a broadband network project is reasonable.

(k) Allowing all forms, applications, and documentation related to a broadband network project to be filed and signed by electronic or another means authorized by the commission.

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

196.504 (6) A political subdivision that the commission has certified as a Broadband Forward! community under sub. (4) may not do any of the following:

(a) Require an applicant to designate a final contractor to complete a broadband network project.

(b) Impose an unreasonable fee to review an application or issue a permit for a broadband network project application. Any application fee that exceeds \$100 is considered unreasonable.

(c) Impose a moratorium of any kind on the approval of applications and issuance of permits for broadband network projects or on construction related to broadband network projects.

(d) Discriminate among providers of telecommunications service, as defined in s. 182.017 (1g) (cq), or public utilities with respect to any action described in this section or otherwise related to a broadband network project, including granting access to public rights-of-way, infrastructure and poles, river and bridge crossings, or any other physical assets owned or controlled by the political subdivision.

(e) As a condition for approving an application or issuing a permit for a broadband network project or for any other purpose, require the applicant to do any of the following:

1. Provide any service or make available any part of the broadband network project to the political subdivision.

2. Except for reasonable fees allowed under sub. (5) (i), make any payment to or on behalf of the political subdivision.

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

196.504 (7) Upon the request of a broadband service provider, the commission may decertify a political subdivision as a Broadband Forward! community if the political subdivision fails to comply with or modifies the ordinance required for certification under sub. (4) or violates sub. (6).

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

196.504 (8) Upon a complaint that an application fee under an ordinance required for certification under sub. (4) is unreasonable, the commission shall determine whether the fee is reasonable. In the proceeding for making that determination, the political subdivision has the burden of proving the reasonableness of any function undertaken by the political subdivision as part of the

## 2015 Assembly Bill 820

– 3 –

## 2015 Wisconsin Act 278

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

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

196.504 (9) (a) The commission may develop a model ordinance that complies with sub. (5) for a political subdivision to review applications and issue permits related to broadband network projects.

(b) If the commission develops a model ordinance under par. (a) and a political subdivision enacts a different ordinance that complies with sub. (5), the political

subdivision shall, when applying for certification under sub. (4), provide the commission with a written statement that describes the ordinance and how the ordinance differs from the model ordinance.

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

196.85 (1m) (b) For the purpose of direct assessment under sub. (1) of expenses incurred by the commission in connection with its activities under s. 196.04 (2) or (4), the term “public utility” includes a video service provider.

---