



WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

Memo No. 1

TO: MEMBERS OF THE STUDY COMMITTEE ON RURAL BROADBAND

FROM: Zach Ramirez and Julia Norsetter, Staff Attorneys; and Larry Konopacki, Principal Attorney.

RE: Committee Discussion of Legislative Options

DATE: September 1, 2016

The Study Committee on Rural Broadband has been directed to review the Wisconsin Broadband Expansion Grant Program (the "Grant Program") and to consider alternative methods for encouraging construction of broadband infrastructure in Wisconsin.

The goal of any study committee is to compile available information and apply the expertise of committee members in determining whether changes to the law, within the scope of the committee's charge, should be recommended for enactment during the following legislative session. If the committee identifies changes to recommend, committee staff, working at the direction of the chairperson of the committee, prepare draft legislation to accomplish these changes.

Chair Marklein has requested that this Memo be prepared to summarize some of the categories of legislative options that the committee may wish to discuss, and to provide a structure for the committee's discussion of those options and other options that may be identified by committee members.

WISCONSIN BROADBAND EXPANSION GRANT PROGRAM

The committee's scope statement provides, in part, that the committee shall review the Wisconsin Broadband Expansion Grant Program and the extent to which it has encouraged construction of broadband infrastructure in areas of the state with few broadband service providers. In doing so, the committee is directed to consider the criteria used to evaluate applications and award grants and alternatives for determining eligibility and prioritizing proposed projects.

Eligibility Criteria

The current statutory eligibility criteria address the entities that are eligible to receive a grant; the locations that are eligible for grant funding; and the activities for which grant funds may be used.

Entities Eligible to Receive a Grant

To be eligible for a grant, the statutes require that an applicant must be either: (1) an organization operated for profit or not-for-profit, including a cooperative; a telecommunications utility; or (2) a city, village, town, or county that submits an application in partnership with a telecommunications utility or a for profit or not-for-profit organization. [s. 196.504 (1) (a), Stats.]

The committee could consider:

- Whether the requirement that a public entity must partner with a non-public entity to be eligible for a grant may prevent applications from being submitted for projects in situations in which such partnerships cannot be formed.
- Whether to expand the list of entities that are eligible for a grant, such as by including entities such as school districts or cooperative educational service agencies (CESAs).

Locations Eligible for Grant Funding

To be eligible for a grant, a project must be located in an area that the Public Service Commission (PSC) has designated as “underserved,” which statutes define as an area that is served by fewer than two broadband service providers. [s. 196.504 (1) (b), Stats.] The PSC specifies the transmission speed and technology required for a type of service to qualify as “broadband service.” Currently, that speed is 25 Mbps download/3 Mbps upload. Therefore, projects are eligible for grant funding in areas that may have a number of Internet service providers but no more than one provider that offers speeds that meet the PSC standards.

The majority of the state currently qualifies as “underserved,” including areas in which telecommunications providers are eligible to receive federal funding for expanding service. This may allow telecommunications providers to utilize both federal and state funds to deploy service to areas where deployment would not be possible without the combination of funds. However, it may also result in state funds being used for projects that would have already occurred due to the federal funding alone.

If the committee concludes that changes should be made to the criteria for determining whether an area is eligible for state grant funding, the committee could consider the following options:

- Specify that an area is underserved only if it is not served by any broadband service providers.
- Codify the transmission speed and technology that is required for a service to qualify as broadband service. For example, the committee could consider limiting the areas

of the state that may qualify as “underserved” by specifying a transmission speed that is slower than the speed currently set by the PSC.

- Specify that areas of the state that are eligible for federal funding are not eligible to receive Wisconsin Broadband Expansion Grant Program funding.
- Allow applicants to include federal funding in the matching dollars for a proposed project.

Activities for Which Grant Funds May be Used

The committee may also wish to make changes to the types of broadband activities for which grants may be awarded. The PSC has determined that “broadband infrastructure” eligible for grant funding may include any of the following: project planning; obtaining construction permits; construction of facilities, including construction of both “middle mile” and “last mile” infrastructure”; and installation and testing of the broadband service. The statutes prohibit the PSC from awarding grants that have the effect of subsidizing the expenses of a telecommunications service provider or the monthly bills of customers of those providers. [s. 196.504 (2) (c), Stats.] For purposes of this grant program, a “subsidy” means a contribution to the operating costs, including profit, of the telecommunications provider.

Priority Criteria

In selecting among eligible projects, the statutes require the PSC to give priority to projects that: (1) include matching funds; (2) involve public-private partnerships; (3) affect areas with no broadband service providers; (4) are “scalable,” which means that the broadband network has the ability to maintain the quality of its services while increasing its number of users, its geographic area, or its number of services provided; (5) promote economic development; (6) affect a large geographic area; and (7) affect a large number of underserved individuals or communities. [s. 196.504 (2) (c), Stats.] The statutes do not prescribe the relative weight to be given to each of the priorities. This allows the PSC to exercise discretion by applying the priorities on a case-by-case basis.

If the committee concludes that changes should be made to the priority criteria, the committee could consider the following options:

- Clarify how each of the existing priorities should be applied. For example, the committee could consider whether to specify a minimum match ratio that is needed to meet the priority criteria that a project involve matching funds.
- Add requirements to prioritize certain projects, such as projects that serve the educational or medical needs of a community, or projects in communities that have been certified as Broadband Forward! Communities.
- Specify the relative weight to be given to each of the priorities.

Funding

Under current law, funding for the Broadband Expansion Grant Program is limited to the unspent funds remaining from a total of \$6.0 million that was transferred from the Wisconsin Universal Service Fund (USF) in 2015 Act 55. [s. 196.504 (2) (a), Stats.] A total of approximately \$3 million remains for grants in FY 2017-18 and FY 2018-19. The PSC is not authorized to raise additional funding for the program through the assessments paid into the USF by telecommunications providers. [s. 196.218 (3) (a) 3., Stats.]

If the committee concludes that changes should be made to the funding of the Broadband Expansion Grant Program, the committee could consider the following options:

- Authorize the PSC to raise funds for the program in future years through the USF assessment.
- Identify a different existing source of funding or the creation of a new source of funding for the program.
- Specify a smaller or larger funding level for the program in future years.

Developing Local Capacity for Broadband Development

The committee may wish to evaluate ways to remove obstacles that may prevent potential applicants from learning about this program and applying for grants. One of the ways that the state currently seeks to remove these obstacles is through educational outreach about the Broadband Expansion Grant Program conducted by the University of Wisconsin (UW)-Extension Broadband & E-Commerce Education Center under a contract with the PSC. UW-Extension organizes and facilitates grant-writing workshops, which in 2016 were hosted by community development educators in six counties¹ and in an online webinar. The PSC estimates that 277 people took advantage of the workshops, including 108 on-demand views of the online webinar. The PSC estimates that people associated with 22 grant applications in FY 2017 attended the workshops (out of 37 applications received).

If the committee concludes that greater assistance should be provided to entities that have not developed the capacity to apply for a grant, the committee could consider the following options:

- Allocating funding to PSC to expand the existing workshops provided through UW-Extension.
- Developing a program to provide technical assistance for broadband development projects in areas that do not have the capacity to prepare a Broadband Expansion Grant application. The technical assistance could come in the form of planning,

¹ In 2016, workshops took place in Richland Center, Eagle River, Hayward, Eau Claire, Suring, Dodgeville and Mauston.

managing, and executing services, and could be independent of or within the Broadband Expansion Grant Program.

- Creation of a system by which an entity, such as a state agency, UW-Extension, or the Wisconsin Economic Development Corporation, is assigned to identify potential projects that could be eligible for grant funding and reach out to local entities, such as potential providers, to facilitate the preparation of a grant application.

ALTERNATIVES FOR DEVELOPMENT OF BROADBAND INFRASTRUCTURE

The committee's scope statement also requires that the committee consider alternative methods for encouraging construction of broadband infrastructure. Performance of this portion of the committee's task may include evaluation of other efforts that the state currently undertakes in support of broadband infrastructure development, including as outlined below.

The statutes currently require the PSC to encourage the development of broadband infrastructure in underserved areas of the state and do all of the following: (1) provide comprehensive information concerning permits required for broadband networks projects and related business activities in the state and make this information available to any person; (2) 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; and (3) encourage local and federal government agencies to coordinate activities related to approving application and issuing permits related to broadband network projects. [s. 196.504 (3), Stats.] The committee may wish to consider whether these tasks appropriately direct the PSC to encourage broadband development, or whether changes should be recommended.

OTHER OPTIONS

The committee may also consider other options not listed above, such as evaluating which agency or entity should administer the Broadband Expansion Grant Program or recommending that the grant program be eliminated or replaced with a different broadband deployment expansion program.

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