

# Public Service Commission

## Broadband Provisions

(LFB Budget Summary Document: Page 515)

### LFB Summary Item for Which an Issue Paper Has Been Prepared

<u>Item #</u>	<u>Title</u>
1	Broadband Expansion Grant Program (Paper #660)

### LFB Summary Items Removed From Budget Consideration

<u>Item #</u>	<u>Title</u>
2	Changes to the Broadband Expansion Grant Program
3	Broadband Line Extension Grants
4	Digital Equity Program
5	Municipal Broadband Facilities in Unserved Areas
6	Broadband Consumer Protections





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June 1, 2023

Joint Committee on Finance

Paper #660

### **Broadband Expansion Grant Program (Public Service Commission -- Broadband Provisions)**

[LFB 2023-25 Budget Summary: Page 515, #1]

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#### **CURRENT LAW**

The Wisconsin Public Service Commission (PSC) is responsible for managing state broadband expansion efforts. Expansion efforts are the responsibility of the Bureau of Broadband, Digital and Telecommunications Access, also known as the Wisconsin Broadband Office, within the Division of Digital Access, Consumer and Environmental Affairs. The Office administers programs to advance the availability, affordability, and use of broadband technology, including the state broadband expansion grant program that has awarded approximately \$320 million in grants since the inception of the program in 2013-14.

Broadband expansion grants are available to profit and not-for-profit organizations, telecommunications utilities, and municipalities partnering with organizations and utilities. For current grant cycles, areas eligible are those that are "underserved," or lacking access to at least two providers of broadband service, with priority given to areas that are "unserved," or lacking access to at least one provider with service of one-fifth the Federal Communications Commission (FCC) broadband speed benchmark. The particular thresholds for underserved and unserved have varied over time as technology has evolved.

Allocation of state grants is subject to a variety of prioritization criteria, which include those that: (a) offer matching funds; (b) involve public-private partnerships; (c) affect areas with no broadband service providers; (d) are scalable; (e) promote economic development; (f) will not delay broadband deployment to neighboring areas; or (g) affect a large geographic area or a large number of underserved individuals or communities.

Funding for the program has come from a variety of state and federal sources including: (a)

transfers of program revenue (PR) from the Department of Administration's appropriation for information technology and communications services to non-state entities; (b) state segregated (SEG) universal service fund annual sweeps; (c) federal universal service fund e-rate program transfers; (d) federal coronavirus relief funding; and (e) general obligation bonding supported by general purpose revenues (GPR). In 2021-22, approximately \$225,000,000 was expended for broadband expansion grants from FED, SEG, and GPR-supported sources. Additional funding from the federal Broadband, Equity, Access and Deployment (BEAD) program will be available beginning in the 2023-25 biennium, as addressed in a later section.

As of May 1, 2023, the Wisconsin Broadband Office maintains 7.75 full-time staff, including 2.75 funded by agency program revenue (PR) and 5.0 federally-funded (FED) project positions. PR-funded positions include: (a) 0.75 bureau director, whose other time is dedicated to non-broadband supervisory duties; (b) 1.0 section chief overseeing the office; (c) 1.0 program and policy analyst administering the state broadband expansion grant program; (d) 1.0 program and policy analyst leading stakeholder engagement; (e) 2.0 broadband data and mapping staff; and (f) 2.0 broadband grant specialists. There are also fiscal, information technology, legal, and management staff in other areas of the Division of Digital Access, Consumer and Environmental Affairs, as well as throughout the Division of Business Operations and Office Management that dedicate time to supporting the broadband program.

## **DISCUSSION POINTS**

### **Broadband Expansion Progress**

1. Under current law, the statutes define "underserved" areas as areas of the state that are served by fewer than two broadband service providers and "unserved" as areas not served by an internet service provider (ISP) that is a fixed wireless service or wired service and that provides service at actual speeds of at least 20% of the upload and download speeds for advanced telecommunications capability as designated by the FCC. Using the current FCC definition of broadband speed of 25 megabits per second [Mbps] download speed and 3 Mbps upload speed (25/3), the minimum speed under the unserved definition for state purposes is 5 Mbps download/0.6 Mbps upload (5/0.6). PSC operates its grant program based on speed thresholds set by the FCC and provides grants to unserved and underserved locations.

2. FCC defines 25 Mbps download/3 Mbps upload service as the minimum benchmark for internet service to be considered as "advanced telecommunications capability," that is, broadband service. The speed was raised from 4/1 beginning in 2015, and FCC is required to adjust accordingly as new technologies and use behaviors change. 25/3 can support two to three users, one of which is using a high-demand service such as video conferencing. If more than one user is using a high-demand service, speeds faster than 25/3 are typically required. In response to changing internet use behaviors, recent federal funding allocations have begun to require that broadband infrastructure built with federal grants provide service of at least 100/20, with preference for symmetrical 100/100 speeds.

3. In general, state broadband grants have supported the construction of infrastructure that provides speeds of 25/3 or greater. Beginning in the 2020-21 grant round and continuing to subsequent grant rounds, PSC reported all awarded projects support service of at least 25/3. The

statutes do not directly impose a speed requirement. However, PSC states that the evolution of broadband infrastructure and the increasing competition for grants has resulted in most projects with capacity to support at least 25/3, and perhaps 100/20 or faster.

4. Based on FCC data as of June, 30, 2022, approximately 460,000 locations (21% of total Wisconsin locations) are underserved under the current statutory definition. Of these 460,000 locations, 59,000 (2.6% of total Wisconsin locations), are unserved and are considered highest priority.

5. Since the first state grant round in 2014, approximately \$320 million supporting 454 projects has been awarded from state and federal sources for broadband expansion grants statewide. Of these projects, 151 projects with awards totaling approximately \$154 million are ongoing, the last of which is scheduled to be completed by November 20, 2024.

### Current Funding and Funding Opportunities

6. The broadband expansion grant program was initially funded by an allocation of \$4.3 million PR transferred from the Department of Administration's information technology and communications services PR appropriation, which supported the first two grant rounds in 2013-14 and 2014-15. Funding was also provided in previous biennia through the federal e-rate program, with funds accumulated by the Technology for Educational Achievement (TEACH) program and transferred to the broadband expansion grant program. Grants were provided \$11 million in 2017-18 under the 2017-19 biennial budget, and \$22 million each year under the 2019-21 biennial budget. Transfers in previous years exhausted available balances, and no additional funding was allocated to support broadband expansion grants during the 2021-23 biennium. The table shows total funding for broadband expansion grants from state and major federal sources since the inception of the program in 2013-14 through the 2021-23 biennium.

#### Total State Broadband Funding

<u>Year</u>	<u>Program Revenue</u>	<u>Universal Service Fund SEG</u>	<u>Federal-E Rate Program Transfers</u>	<u>Federal Coronavirus Relief Funding</u>	<u>General Fund-Supported Bonding</u>	<u>Total</u>
2013-14	\$4,300,000					\$4,300,000
2014-15						-
2015-16	-3,347,400	\$6,000,000				2,652,600
2016-17						-
2017-18			\$11,000,000			11,000,000
2018-19		2,242,600				2,242,600
2019-20		3,075,700	22,000,000			25,075,700
2020-21		3,392,500	22,000,000	\$5,378,500		30,771,000
2021-22		9,632,800		99,932,500	\$125,000,000	234,565,300
2022-23		<u>3,450,500</u>	<u>40,000,000</u>			<u>43,450,500</u>
Total	\$952,600	\$27,794,100	\$55,000,000	\$145,311,000	\$125,000,000	\$354,057,700

7. Broadband expansion grants are currently in part supported by the segregated state universal service fund (USF). The USF supports programs to ensure all state residents receive essential telecommunications services, funded through assessments on telecommunications companies providing services. Allocations for the broadband expansion grant program are not determined by the Legislature as other appropriations supported by USF are, but instead the program receives transfers, or "sweeps," from other appropriations' unexpended or unencumbered amounts at the end of a fiscal year. If swept amounts do not total \$2 million, PSC is authorized to assess contributing telecommunications providers the difference to ensure the broadband expansion program receives at least \$2 million each year. Sweep amounts in 2021-22 totaled \$9.6 million. PSC opened a grant round in December, 2022, for \$14.1 million, fully funded by USF sweeps from the 2021-23 biennium and any remaining unspent funds from sweeps in previous biennia. PSC announced grants of \$16.6 million on May 18, 2023, from the combined available sweep amounts and other unspent amounts from earlier grants.

8. 2021 Act 58, the biennial budget act, provided \$125 million in state general fund-supported general obligation bonds to support broadband expansion grants. To ensure compliance with state constitutional requirements related to bonding, recipient telecommunications providers are required to accept a lien on the property built with grant funding until bonds have been repaid. PSC received 194 applications requesting a total of \$495 million in March, 2022. In June, 2022, PSC awarded applicants \$124,967,392 for 71 broadband expansion projects statewide.

9. Broadband expansion grants have also received funding from federal coronavirus relief programs. Funding was provided through the Coronavirus Aid, Relief, and Economic Security Act (CARES) and the American Rescue Plan Act (ARPA). In 2020-21, CARES provided \$5.7 million and in 2021-22, ARPA provided \$100 million for broadband expansion grants. Grants were provided under special one-time grant rounds held in fall 2020 and summer 2021, respectively, and all funds were expended. ARPA also created the Capital Projects Fund (CPF), which allocated approximately \$189 million to Wisconsin for broadband expansion and other digital equity goals. In October, 2022, the U.S. Department of Treasury approved Wisconsin's plan and request for \$40 million from the fund to support broadband infrastructure projects serving an estimated 8,000 locations and providing service of 100/20 Mbps. The approval of the \$40 million plan represents 21% of Wisconsin's total allocation. PSC has not opened any application rounds funded by CPF as of May, 2023.

10. In September, 2022, the Legislative Audit Bureau (LAB) analyzed PSC's distribution of CARES and ARPA funds and identified concerns regarding PSC's administration and documentation of the program. LAB provided eight recommendations to PSC for improving the disbursement of broadband expansion funds, including the establishment of written policies describing grant review processes, project reimbursement, and program oversight. In November, 2022, in response to the LAB report's recommendations, PSC reported that staff are actively working to establish comprehensive written policies describing grant review and award processes. In addition, PSC says it will continue to require and review project reports for reimbursement and improve overall program oversight through selected desk reviews and site visits for ongoing ARPA-funded projects.

11. Wisconsin has also received funds from a variety of federal sources and programs since 2014. PSC has identified the following as major broadband funding initiatives: (a) the Connect

America Fund (CAF) Phase II; (b) CAF Phase II Auction; (c) CAF Broadband Loop Support (BLS); (d) the Alternative Connect America Cost Model (ACAM); (e) ACAM II; (f) the Rural Digital Opportunity Fund (RDOF); (g) the U.S. Department of Agriculture (USDA) Broadband Reconnect Program; and (h) the Tribal Broadband Connectivity Program (TBCP). Funds allocated for these programs to date total approximately \$1.37 billion, with \$1.17 billion disbursed through February, 2023. It should be noted the state does not administer these funds.

12. Assembly Bill 43/Senate Bill 70 would provide one-time funding of \$750,000,000 GPR in 2023-24 for the broadband expansion grant program in a new, continuing appropriation. Combined with base funding through USF SEG budgeted at \$2,000,000 each year, the total amount budgeted for broadband expansion grants from state sources in the 2023-25 biennium would be \$754,000,000. The bill would require PSC to award no less than 10% of the 2023-24 appropriation amount (\$75 million) in each fiscal year beginning in 2023-24. The bill specifies that if PSC does not receive sufficient applications to meet the minimum required allocation, the Commission must award the maximum amount possible in that fiscal year based upon grant applications received. PSC contends that awarding funding in excess of \$75 million may be considered in a given year if there are enough high-quality project applications.

13. The bill would also provide \$80,300 PR in 2023-24 and \$102,900 PR in 2024-25 with 1.0 grant specialist position to support administration of the program. Intended position duties include: (a) preparing and executing grant agreements and amendments; (b) reviewing grant reimbursements; (c) collecting status reports for ongoing projects; and (d) monitoring grant compliance requirements. PSC contends that an additional position would increase the broadband expansion program's capacity to manage grant awards. Additional staff would be anticipated to process the increasing number of applications being submitted and to ensure appropriate use of funding, maximize the impact of grant funds, and avoid delays in disbursing funding to providers to begin projects.

14. PSC has not been provided position authority directly for the broadband expansion grant program since the program's inception. However, as broadband expansion grant program funding and awards have increased each biennium, the number of open grant awards at any time has also generally increased. As of April 4, 2023, there are 151 open state broadband grant projects with awards totaling \$154 million. The number of open grants was typically below 100 from 2014 through 2019, but totaled 175 in March 2021. The current total of 151 grants would be anticipated to increase following the recent awards of state funding. PSC reports that workload for broadband staff has increased notably since the program was provided an additional \$125 million in 2021-23. PSC contends that more staff is required to meet existing program demands from the 2021-23 grant rounds and will be even more pertinent in the event of additional state funding in 2023-25.

15. Additional funding in the 2023-25 biennium is expected from the federal Infrastructure Investment and Jobs Act (IIJA), which created the Broadband, Equity, Access and Deployment (BEAD) Program. Nationwide, \$42.5 billion is provided for broadband deployment under BEAD, consisting of a minimum of \$100 million for each state, with the remainder allocated based on the state's proportion of unserved locations, determined by maps created by the FCC, and 10% set aside for certain high-cost unserved locations. The National Telecommunications and Information Administration (NTIA), the administrator for BEAD, has indicated BEAD's first allocations to states

will be made by June 30, 2023. PSC is anticipating a total allocation of approximately \$700 million to \$1.1 billion for Wisconsin.

16. IJA also funds the Digital Equity program, which was created to target broadband adoption efforts towards specific communities. Targeted communities include households with low income or low literacy, the elderly, residents of rural areas, people of color, individuals with disabilities, English-language learners, veterans, and incarcerated individuals. The populations covered under DEA account for 79% of Wisconsin's total population. Funding for DEA will be distributed through three programs over five years: (a) planning grants for states to create digital equity plans that promote broadband availability and access by targeted groups, as well as digital literacy and privacy awareness; (b) capacity grants for states to implement digital equity plans; and (c) competitive grants to units of government and nonprofit or community institutions to increase broadband access and availability among targeted populations. PSC anticipates an allocation of approximately \$24 to \$30 million over five years. Award amounts will be determined following PSC's submittal of its digital equity plan in September, 2023.

17. In October, 2022, 14.0 FED positions were approved to support administration of CPF, BEAD, and DEA funds. PSC reports that 4.0 positions are filled, 3.0 are in the selection process and nearing completion, 5.0 are not yet filled, and 2.0 are being covered using limited-term employees. 10.0 of the positions are four-year project positions and 4.0 are two-year project positions. PSC is reportedly hiring an average of one individual each month. PSC notes that state and federal law require that funding staff time related to state grant reimbursements must come from state sources, and federally-funded staff time related to ARPA, CPF, or BEAD cannot supplement the administrative needs for the state program.

18. PSC contends that despite significant federal investment in state broadband efforts, state funding is still necessary to maximize Wisconsin broadband deployment and replace aging technology. PSC argues that federal funding is being disbursed comparatively slowly and state funding would help meet current demand. In addition, BEAD allocations will be based on the number of locations with advertised speeds of less than 25/3, which is the BEAD program threshold for a location being unserved. PSC staff notes there is typically a difference between advertised speeds and actual, reliable speeds, and Wisconsin has large amounts of old technology nominally capable of 25/3 speeds but in practice delivering slower actual service. This causes many locations to be excluded despite potential need. PSC expects that NTIA will remove at least 300,000 Wisconsin locations without access to reliable 100/20 speeds from consideration when determining Wisconsin's allocation of funding. PSC contends that the state program is equipped to fill this gap.

19. Due to the scale and complexity of such a goal, it is difficult to estimate the cost of providing service at speeds of 100/20 to all residents of Wisconsin. However, PSC staff estimate that the total cost could be perhaps \$1.8 billion, the state share of which could be perhaps \$800 million after assuming an allocation of \$1 billion from BEAD. It should be noted this estimate reflects only the capital costs of broadband expansion, and does not include ongoing operational or maintenance costs. The wide range of the estimate reflects uncertainty and assumptions regarding a number of issues, including: (a) reliability of mapping data and estimates of access to broadband service; (b) increasing costs of expanding broadband service as overall access increases; and (c) availability and



timing of federal funding provided for broadband expansion. Additionally, as stated above, BEAD criteria regarding 25/3 may assign lower priority to some areas that PSC determines as in need.

20. PSC also states that state funding would be helpful to supplement federal funding in Wisconsin's high-cost broadband deployment areas, including forests, granite bluffs and other undulating terrain. In areas where it may be particularly challenging to build necessary infrastructure, federal funding may not be sufficient, and a state contribution could leverage or match federal funding to complete difficult projects. Given the estimated capital costs needed to reach universal broadband access statewide, other state funding sources may not be sufficient to meet the policy goals of broadband expansion. The Committee could consider providing GPR for broadband expansion grants. Given the available balance of the state's general fund, construction of broadband infrastructure could be considered a viable use for GPR on a one-time basis. The Committee could consider providing the amount proposed in the bill of \$750 million [Alternative 1].

21. Given that PSC plans to award \$75 million annually for grants, it could be considered appropriate to instead provide \$150 million GPR on a one-time basis in the 2023-25 biennium for broadband expansion grants [Alternative 2]. The state is expecting an influx of federal funding in 2023-25 and due to the uncertainty in amount and timing of funding, it may be more appropriate to await incoming federal funds to better determine the state's capacity for providing grants and building infrastructure before providing multiple biennia of state funding. The Committee could also consider providing funding under the Committee's supplemental appropriation, and requiring PSC to request release of broadband expansion grant funding if federal funding for broadband expansion grants were unavailable or delayed [Alternative 3].

22. Given broadband expansion state investment in the 2021-23 biennium and proposed funding in the 2023-25 biennium, the Committee could additionally consider providing \$80,300 PR in 2023-24 and \$102,900 PR in 2024-25 with 1.0 additional staff member for the Wisconsin Broadband Office to support administration of the state grant program [Alternative 4]. The Committee could also create the position on a project basis for any state funding that may be provided on a one-time basis [Alternative 5].

## **ALTERNATIVES**

1. Create a continuing GPR appropriation and provide \$750 million one-time GPR in 2023-24 to support the state broadband expansion grant program. Specify that PSC must award no less than 10% of the 2023-24 appropriation amount (\$75 million) in each fiscal year beginning in 2023-24. Specify that if PSC does not receive sufficient applications to meet the minimum required allocation, the Commission must award the maximum amount possible in that fiscal year based upon grant applications received.

<b>ALT 1</b>	<b>Change to Base</b>
GPR	\$750,000,000

2. Create a continuing GPR appropriation and provide \$150 million one-time GPR in 2023-24 to support the state broadband expansion grant program. Specify that PSC must award no less than 50% of the 2023-24 appropriation amount (\$75 million) in each fiscal year beginning in 2023-24.

<b>ALT 2</b>	<b>Change to Base</b>
GPR	\$150,000,000

3. Specify that funding be provided under the Committee's supplemental appropriation, and direct PSC to request release of broadband expansion grant funding if federal funding for broadband expansion grants were unavailable or delayed. (This alternative may be selected in conjunction with Alternatives 1 or 2.)

4. Provide \$80,300 PR in 2023-24 and \$102,900 PR in 2024-25 with 1.0 position to support administration of the state broadband expansion grant program. (This alternative could be selected in addition to Alternatives 1 and 2.)

<b>ALT 3</b>	<b>Change to Base</b>	
	<b>Funding</b>	<b>Positions</b>
PR	\$183,200	1.00

5. Provide the position under Alternative 4 as a project position lasting one of the following:

- a. Four years; or
- b. Two years.

6. Take no action. (The broadband expansion grant program would be supported by unencumbered transfer amounts of at least \$2,000,000 SEG each year from universal service fund appropriations, as well as other federal funding.)

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