

State of Wisconsin



2021 Senate Bill 365

Date of enactment:
Date of publication*:

2021 WISCONSIN ACT

AN ACT *to repeal* 196.504 (1) (b) and 196.504 (2) (d); *to renumber and amend* 196.504 (2) (c); *to amend* 24.40 (3), 86.16 (6), 196.504 (1) (c) 2., 196.504 (2) (a) and 196.504 (3) (intro.); and *to create* 196.504 (2) (c) 1. b. and 196.504 (2t) of the statutes; **relating to:** the broadband expansion grant program.

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

SECTION 1. 24.40 (3) of the statutes is amended to read:

24.40 (3) Notwithstanding s. 28.02 (5) or any contrary rule promulgated by the department, if the department grants an easement under sub. (1r) for the construction of broadband infrastructure in ~~underserved~~ unserved areas, as designated under s. 196.504 (2) (d) (e), the department may not require any appraisal or the payment of any fee to grant the easement.

SECTION 2. 86.16 (6) of the statutes is amended to read:

86.16 (6) If the department consents under sub. (1) to the construction of broadband infrastructure in ~~underserved~~ unserved areas, as designated under s. 196.504 (2) (d) (e), the department may not charge any fee for the initial issuance of any permit necessary to construct broadband infrastructure along, across, or within the limits of a highway.

SECTION 3. 196.504 (1) (b) of the statutes is repealed.

SECTION 4. 196.504 (1) (c) 2. of the statutes is amended to read:

196.504 (1) (c) 2. Provided at actual speeds of at least 20 percent of the upload and download speeds for advanced telecommunications capability as designated

~~by the federal communications commission in its inquiries regarding advanced telecommunications capability under 47 USC 1302 (b) download speeds of 100 megabits per second or greater and upload speeds of 20 megabits per second or greater.~~

SECTION 5. 196.504 (2) (a) of the statutes, as affected by 2021 Wisconsin Act 58, is amended to read:

196.504 (2) (a) To make broadband expansion grants to eligible applicants for the purpose of constructing broadband infrastructure in ~~underserved~~ unserved areas designated under par. (d) (e). Grants awarded under this section shall be paid from the appropriations under ss. 20.155 (3) (r) and (rm) and 20.866 (2) (z), in the amount allocated under s. 20.866 (2) (z) 5.

SECTION 6. 196.504 (2) (c) of the statutes is renumbered 196.504 (2) (c) 1. (intro.) and amended to read:

196.504 (2) (c) 1. (intro.) To establish criteria for evaluating applications and awarding grants under this section. The criteria shall ~~prohibit~~ do all of the following:

a. Prohibit grants that have the effect of subsidizing the expenses of a provider of telecommunications service, as defined in s. 182.017 (1g) (cq), or the monthly bills of customers of those providers. ~~The criteria shall give~~

c. Give priority to projects that include at least 50 percent matching funds; that involve public-private partnerships, that affect ~~unserved areas;~~ that are scalable;

* 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."

that promote economic development; that will not result in delaying the provision of broadband service to areas neighboring areas to be served by the proposed project; or that affect a large geographic area or a large number of underserved unserved individuals or communities; or that are capable of offering service with either combined download speeds and upload speeds of 900 megabits per second or greater, or download speeds of 450 megabits per second or greater and upload speeds of 450 megabits per second or greater.

2. When evaluating grant applications under this section, the commission shall consider the degree to which the proposed projects would duplicate existing broadband infrastructure, information about the presence of which is provided to the commission by the applicant or another person within a time period designated by the commission; the impacts of the proposed projects on the ability of individuals to access health care services from home and the cost of those services; and the impacts of the proposed projects on the ability of students to access educational opportunities from home; and all federal broadband grant program project areas related to the proposed project.

SECTION 7. 196.504 (2) (c) 1. b. of the statutes is created to read:

196.504 (2) (c) 1. b. Require that projects serve unserved areas.

SECTION 8. 196.504 (2) (d) of the statutes is repealed.

SECTION 9. 196.504 (2t) of the statutes is created to read:

196.504 (2t) (a) Within 3 days of the close of the broadband expansion grant application process, the commission shall publish on its Internet site the proposed geographic broadband service area and the proposed broadband service speeds for each application for a broadband expansion grant submitted.

(b) An Internet service provider in or proximate to the proposed project area may, within 30 days of publication of the information under par. (a), submit in writing to the commission a challenge to an application. A challenge must contain information demonstrating one of the following:

1. The provider currently provides broadband service to the proposed project area at download speeds of 100

megabits per second or greater and upload speeds of 20 megabits per second or greater.

2. The provider commits to complete construction of broadband infrastructure and to provide broadband service in the proposed project area at speeds equal to or greater than the speeds described under subd. 1. no later than 24 months after the date broadband expansion grants are made for the grant cycle under which the application was submitted. The provider shall submit documentation showing this commitment, including engineering plans, invoices related to project materials, permit applications, and a project timeline.

(c) The commission shall evaluate the information submitted in an Internet service provider's challenge under this subsection, and is prohibited from funding a project if the commission determines that the challenger's commitment to provide broadband service that meets the requirements of par. (b) in the proposed project area is credible.

(d) If the commission denies funding to an applicant as a result of an Internet service provider's challenge made under this subsection, and the Internet service provider does not fulfill its commitment to provide broadband service in the project area, the commission is prohibited from denying funding to an applicant as a result of a challenge by the same Internet service provider for the following 2 grant cycles, unless the commission determines that the Internet service provider's failure to fulfill its commitment was the result of factors beyond the Internet service provider's control. The commission shall give priority scoring treatment to an application targeting a grant project area that remains unserved as a result of a successful challenge and an unfulfilled commitment.

SECTION 10. 196.504 (3) (intro.) of the statutes is amended to read:

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

SECTION 11. Initial applicability.

(1) This act first applies to an application for a broadband expansion grant submitted pursuant to s. 196.504 during the grant application period that begins after March 17, 2022.