

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021**

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HOUSE BILL 950

Short Title: Expand Broadband-Unserved/Underserved Areas. (Public)

Sponsors: Representatives Gillespie, Saine, Farkas, and Wray (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Energy and Public Utilities, if favorable, Appropriations, if favorable, Rules, Calendar, and Operations of the House

May 12, 2021

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A BROADBAND DEPLOYMENT BID PROCESS TO CONNECT
UNSERVED AND UNDERSERVED HOUSEHOLDS IN AREAS OF A COUNTY THAT
ARE WITHIN ONE MILE OF EXISTING BROADBAND INFRASTRUCTURE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Definitions. – The following definitions apply in this act:

- (1) Broadband service. – As defined in G.S. 143B-1374(a)(1).
- (2) Department. – The Department of Information Technology.
- (3) Eligible area. – A discrete area within a county that does not have access to broadband service and that borders an area within the county that presently has access to broadband service. An eligible area, or some portion of the eligible area, must be within 1 mile of existing broadband infrastructure. The term includes areas that have internet access that does not meet the definition of broadband service. The term does not include any area where a provider has been designated to receive funds through other State- or federally funded programs designed specifically for broadband service deployment if the funding is for deployment of terrestrial broadband service and the recipient of that funding is in good standing with the grantor agency's requirements regarding construction build-out and time lines as to project areas in this State.
- (4) Qualified private provider. – A private provider of broadband service in this State.
- (5) Underserved households. – A household within an eligible area that has access to internet service that does not meet the definition of broadband service.
- (6) Unserved households. – A household within an eligible area that is presently without access to broadband service.

SECTION 1.(b) Broadband Deployment Bid Proposals. – Counties may identify eligible areas within the county to coordinate with a qualified private provider to expand broadband service to unserved households. A county may initiate a bid process under G.S. 143-129.8 with a qualified private provider to provide broadband service to an eligible area. An award provided under Section 2 of this act shall apply to fifty percent (50%) of the total bid amount. A county shall provide matching funds in accordance with subsection (d) of this section. A qualified private provider shall, by application, provide at least the following information to the county:



- 1 (1) Describe in detail the type and specifications for technology being proposed
2 for the project, including minimum download and minimum upload speeds
3 and the service delivery method.
- 4 (2) Describe the infrastructure that will be used to provide services and whether
5 that infrastructure is owned by the provider or whether the infrastructure
6 would be leased or otherwise procured from another owner.
- 7 (3) An outline of the project time line, design, construction process, operations,
8 customer support services, and expansion potential of broadband and other
9 services, as well as any proposed data caps and justification that the data caps
10 are in the public interest and consistent with industry standards.
- 11 (4) Any other information the county deems relevant to evaluate bid proposals.

12 **SECTION 1.(c) Broadband Deployment Agreements.** – A county may select from
13 among bid proposals received a bid and enter into agreements with one or more qualified private
14 providers. An agreement under this section shall contain at least the following:

- 15 (1) Provider agrees to meet the minimum Federal Communications Commission
16 benchmarks for broadband service in the eligible area, as defined in this act.
- 17 (2) Provider agrees to a minimum ninety-nine percent (99%) network uptime for
18 broadband service.
- 19 (3) Provider agrees to maintain service in the eligible area for at least 10 years
20 from project completion.
- 21 (4) Provider agrees to provide broadband service, at a speed equal to or greater
22 than the speeds offered in the project area, for all county-owned facilities
23 within the project area, including any emergency services facilities at no
24 charge for a period of at least 10 years.

25 **SECTION 1.(d) Bid Awards; County Infrastructure; Matching Requirements.** – In
26 selecting among multiple bidders, a county shall prioritize bids where an eligible provider agrees
27 to provide a minimum of 1 gigabyte per second, symmetrical, within 48 months of project
28 completion and to projects that will provide higher broadband speeds to households in the project
29 area. A county shall provide colocation with its existing infrastructure for a project under this
30 section at no cost to the provider. Bid awards may be structured to allow for progress payments
31 to be made to a provider upon completion of benchmarks identified in the agreement. A county
32 awarding funds pursuant to this section shall be subject to a matching requirement, based upon
33 the most recent development tier rankings pursuant to G.S. 143B-437.08 and the most recent
34 audited financial report submitted to the Local Government Commission. The amount of county
35 match is as follows:

- 36 (1) Tier three counties. – A county that is a development tier three area shall
37 provide matching funds as follows:
 - 38 a. Fifty percent (50%) of the bid amount if the fund balance is greater
39 than forty percent (40%) of the county budget.
 - 40 b. Forty percent (40%) of the bid amount if the fund balance is greater
41 than thirty percent (30%) but no more than forty percent (40%) of the
42 county budget.
 - 43 c. Thirty percent (30%) of the bid amount if the fund balance is greater
44 than twenty percent (20%) but no more than thirty percent (30%) of
45 the county budget.
 - 46 d. Twenty percent (20%) of the bid amount if the fund balance is no more
47 than twenty percent (20%) of the county budget.
- 48 (2) Tier two counties. – A county that is a development tier two area shall provide
49 matching funds as follows:
 - 50 a. Forty percent (40%) of the bid amount if the fund balance is greater
51 than forty percent (40%) of the county budget.

- 1 b. Thirty percent (30%) of the bid amount if the fund balance is greater
2 than thirty percent (30%) but no more than forty percent (40%) of the
3 county budget.
4 c. Twenty percent (20%) of the bid amount if the fund balance is greater
5 than twenty percent (20%) but no more than thirty percent (30%) of
6 the county budget.
7 d. Ten percent (10%) of the bid amount if the fund balance is no more
8 than twenty percent (20%) of the county budget.
9 (3) Tier one counties. – A county that is a development tier one area shall provide
10 matching funds as follows:
11 a. Thirty percent (30%) of the bid amount if the fund balance is greater
12 than forty percent (40%) of the county budget.
13 b. Twenty percent (20%) of the bid amount if the fund balance is greater
14 than thirty percent (30%) but no more than forty percent (40%) of the
15 county budget.
16 c. Ten percent (10%) of the bid amount if the fund balance is greater than
17 twenty percent (20%) but no more than thirty percent (30%) of the
18 county budget.
19 d. No match is required if the fund balance is no more than twenty
20 percent (20%) of the county budget.

21 **SECTION 2.(a)** County Broadband Deployment Fund. – The County Broadband
22 Deployment Fund (Fund) is established as a special revenue fund in the Office of State Budget
23 and Management. Moneys in the Fund may only be allocated pursuant to this subsection for use
24 in connection with bid award agreements entered into between a county and a qualified private
25 provider pursuant to Section 1 of this act. If the Office of State Budget and Management finds
26 that the criteria established in Section 1 of this act have been met, the Office shall allocate funds
27 to the county, minus the county matching requirement provided in Section 1(d) of this act. No
28 county may receive more than two million dollars (\$2,000,000) in monies from the Fund.

29 **SECTION 2.(b)** There is appropriated from the General Fund to the County
30 Broadband Deployment Fund, established in this section, the sum of twenty-five million dollars
31 (\$25,000,000) in nonrecurring funds for the 2021-2022 fiscal year to be allocated to counties in
32 accordance with this act.

33 **SECTION 3.** This act becomes effective July 1, 2021.