

COMMITTEE SUBSTITUTE

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Senate Bill No. 110

(By Senators Unger, Beach and Klempa)

[Originating in the Committee on Government Organization;
reported February 22, 2012.]

A BILL to amend and reenact §31-15C-3 and §31-15C-4 of the Code of West Virginia, 1931, as amended, all relating to modifying and increasing the membership of the Broadband Deployment Council; and expanding the powers and duties of the Broadband Deployment Council.

Be it enacted by the Legislature of West Virginia:

That §31-15C-3 and §31-15C-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 15C. Broadband Deployment.

**§31-15C-3. Broadband Deployment Council established; members
of council; administrative support.**

1 (a) The Broadband Deployment Council is continued. The
2 council is a governmental instrumentality of the state. The
3 exercise by the council of the powers conferred by this
4 article and the carrying out of its purpose and duties are
5 considered and held to be, and are hereby determined to be,
6 essential governmental functions and for a public purpose.
7 The council is created under the Department of Commerce
8 for administrative, personnel and technical support services
9 only.

10 (b) The council shall consist of ~~eleven~~ thirteen voting
11 members, designated as follows:

12 (1) The Governor or his or her designee;

13 (2) The Secretary of Commerce or his or her designee;

14 (3) The Secretary of Administration or his or her
15 designee;

16 (4) The Director of Homeland Security and Emergency
17 Management or his or her designee; and

18 (5) ~~Seven~~ Nine public members that serve at the will and
19 pleasure of the Governor and are appointed by the Governor
20 with the advice and consent of the Senate, as follows:

21 (i) One member representing employees of communica-
22 tions and cable providers who is a member or representative
23 of a union representing communications workers;

24 (ii) One member representing ~~telecommunications~~
25 ~~providers~~ incumbent local exchange carriers who provide
26 broadband services in this state;

27 (iii) One member representing cable operators who
28 provide broadband services in this state;

29 (iv) One member representing competitive local exchange
30 carriers who provide broadband services in this state;

31 (v) One member representing broadband equipment or
32 device manufacturers;

33 ~~(v)~~ (vi) One member representing higher education or
34 secondary education; and

35 ~~(vi)~~ (vii) ~~Two~~ Three members representing the general
36 public who are residents of the state, one of whom shall
37 represent rural communities, and who may not reside in the
38 same congressional district.

39 (6) In addition to the ~~eleven~~ thirteen voting members of
40 the council, the President of the Senate shall name two
41 senators from the West Virginia Senate and the Speaker of
42 the House shall name two delegates from the West Virginia

43 House of Delegates, each to serve in the capacity of an ex
44 officio, nonvoting advisory member of the council.

45 (c) The Secretary of Commerce or his or her designee
46 shall chair the council and appoint one of the other council
47 members to serve as vice chair. In the absence of the Secre-
48 tary of Commerce or his or her designee, the vice chair shall
49 serve as chair. The council shall appoint a secre-
50 tary-treasurer who need not be a member of the council and
51 who, among other tasks or functions designated by the
52 council, shall keep records of its proceedings.

53 (d) The council may appoint committees or subcommit-
54 tees to investigate and make recommendations to the full
55 council. Members of these committees or subcommittees need
56 not be members of the council.

57 (e) ~~Six~~ Seven voting members of the council constitutes
58 a quorum and the affirmative vote of at least the majority of
59 those members present is necessary for any action taken by
60 vote of the council.

61 (f) The council is part time. Public members appointed by
62 the Governor may pursue and engage in another business or
63 occupation or gainful employment. Any person employed by,
64 owning an interest in or otherwise associated with a broad-

65 band deployment project, project sponsor or project partici-
66 pant may serve as a council member and is not disqualified
67 from serving as a council member because of a conflict of
68 interest prohibited under section five, article two, chapter
69 six-b of this code and is not subject to prosecution for
70 violation of said section when the violation is created solely
71 as a result of his or her relationship with the broadband
72 deployment project, project sponsor or project participant so
73 long as the member recuses himself or herself from board
74 participation regarding the conflicting issue in the manner
75 set forth in legislative rules promulgated by the West
76 Virginia Ethics Commission.

77 (g) No member of the council who serves by virtue of his
78 or her office receives any compensation or reimbursement of
79 expenses for serving as a member. The public members and
80 members of any committees or subcommittees are entitled to
81 be reimbursed for actual and necessary expenses incurred for
82 each day or portion thereof engaged in the discharge of his
83 or her official duties in a manner consistent with the guide-
84 lines of the Travel Management Office of the Department of
85 Administration.

§31-15C-4. Powers and duties of the council generally.

1 (a) The council shall:

2 (1) Explore the potential for increased use of broadband
3 service for the purposes of education, career readiness,
4 workforce preparation and alternative career training;

5 (2) Explore ways for encouraging state and municipal
6 agencies to expand the development and use of broadband
7 services for the purpose of better serving the public, includ-
8 ing audio and video streaming, voice-over Internet protocol,
9 teleconferencing and wireless networking; and

10 (3) Cooperate and assist in the expansion of electronic
11 instruction and distance education services by July, 2014.

12 ~~(a)~~ (b) In addition to the powers set forth elsewhere in
13 this article, the council is hereby granted, has and may
14 exercise all powers necessary or appropriate to carry out and
15 effectuate the purpose and intent of this article. The council
16 shall have the power and capacity to:

17 (1) Provide consultation services to project sponsors in
18 connection with the planning, acquisition, improvement,
19 construction or development of any broadband deployment
20 project;

21 (2) Promote awareness of public facilities that have
22 community broadband access that can be used for distance
23 education and workforce development;

24 (3) Advise on deployment of e-government portals such
25 that all public bodies and political subdivisions have
26 homepages, encourage one-stop government access, and that
27 all public entities stream audio and video of all public
28 meetings;

29 ~~(2)~~ (4) To make and execute contracts, commitments and
30 other agreements necessary or convenient for the exercise of
31 its powers, including, but not limited to, the hiring of
32 consultants to assist in the mapping of the state, categoriza-
33 tion of areas within the state and evaluation of project
34 applications: *Provided*, That the provisions of article three,
35 chapter five-a of this code do not apply to the agreements
36 and contracts executed under the provisions of this article;

37 ~~(3)~~ (5) Acquire by gift or purchase, hold or dispose of real
38 property and personal property in the exercise of its powers
39 and performance of its duties as set forth in this article;

40 ~~(4)~~ (6) Receive and dispense funds appropriated for its
41 use by the Legislature or other funding sources or solicit,
42 apply for and receive any funds, property or services from

43 any person, governmental agency or organization to carry
44 out its statutory duties; and

45 ~~(5)~~ (7) Perform any and all other activities in furtherance
46 of its purpose.

47 ~~(b)~~ (c) The council shall exercise its powers and authority
48 to bring broadband service to unserved areas. The council
49 may not duplicate or displace broadband service in areas
50 already served or where private industry feasibly can be
51 expected to offer services in the reasonably foreseeable
52 future.