

COMMITTEE SUBSTITUTE

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## **Senate Bill No. 110**

(By Senators Unger, Beach and Klempa)

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

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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.