

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2085

By Delegate Walker

[Introduced January 11, 2023; Referred to the
Committee on Technology and Infrastructure then
Finance]

1 A BILL to amend and reenact §31G-1A-2 of the Code of West Virginia, 1931, as amended, relating
 2 to powers and duties of the Office of Broadband; and requiring broadband operators to
 3 offer reduced rates to persons receiving social security supplemental security income
 4 (SSI), aid to families with dependent children (AFDC), aid to families with dependent
 5 children-- unemployed (AFDC-U), or food stamps, if such food stamp recipients are 60
 6 years of age or older.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1A. OFFICE OF BROADBAND.

§31G-1A-2. Powers and duties of the Office of Broadband generally.

1 (a) The Office of Broadband shall have the following duties:

2 (1) Explore any and all ways to expand access to broadband services, including, but not
 3 limited to, middle mile, last mile, and wireless applications;

4 (2) Gather data regarding the various speeds provided to consumers in comparison to
 5 what is advertised. The office may request the assistance of the Legislative Auditor in gathering
 6 this data;

7 (3) Cooperate and assist in the expansion of electronic instruction and distance education
 8 services;

9 (4) Gather and report data regarding the adoption by broadband services, by speed, and
 10 by community, separately for residential and non-residential consumers;

11 (5) Gather and report data regarding prices charged for broadband services to residential
 12 and non-residential consumers, including, but not limited to one-time fees, monthly fees,
 13 termination fees, equipment fees, and other fees;

14 (6) Incorporate the goal of digital equality in its fulfillment of responsibilities, which is a
 15 condition where all individuals and communities have the information technology capacity needed
 16 for full participation in our society, democracy, and economy;

17 (7) Provide for the increased public awareness of issues concerning broadband services;

18 and

19 (8) Report to the Joint Committee on Government and Finance of the West Virginia
20 Legislature on or before December 30 of each year.

21 (b) In addition to the powers set forth elsewhere in this article, the Office of Broadband is
22 hereby granted the authority necessary and appropriate to carry out and effectuate the purpose
23 and intent of this article, including, but not limited to, the authority to:

24 (1) Make and execute contracts, commitments, and other agreements necessary or
25 convenient for the exercise of its powers, including, but not limited to, the hiring of consultants to
26 assist in the mapping of the state and categorization of areas within the state;

27 (2) Acquire by gift or purchase, hold, or dispose of real or personal property in the exercise
28 of its powers and performance of its duties as set forth in this article;

29 (3) Receive and dispense funds appropriated for its use by the Legislature or other funding
30 sources or solicit, apply for, and receive any funds, property, or services from any person,
31 governmental agency, or organization to carry out its statutory duties;

32 (4) To oversee the use of conduit installed pursuant to §31G-3-2 of this code;

33 (5) Make recommendations to the Legislature on bringing broadband service to areas of
34 the state;

35 (6) Contract with and retain outside expert consultants to assist in the purposes of this
36 article;

37 (7) Create guidelines for, and recommend to the Legislature, a means of implementing a
38 voluntary donation program to allow for pipeline, railroad, and other similar structures and rights-
39 of-way in the state to be donated to the state for use by public or private entities to facilitate
40 broadband service and availability through placement of fiber;

41 (8) Create guidelines for, and recommend to the Legislature, a means of implementing a
42 program to allow for an easement program to be established to allow public or private entities to
43 facilitate broadband service and availability through placement of fiber;

44 (9) Coordinate with the Consumer Protection Division of the Office of the Attorney General
45 to provide for the following consumer protections:

46 (A) If a broadband service to a subscriber is interrupted for more than 24 continuous
47 hours, such subscriber shall, upon request, receive a credit or refund from the broadband operator
48 in an amount that represents the proportionate share of such service not received in a billing
49 period, provided such interruption is not caused by the subscriber;

50 (B) A broadband operator may not deny service, deny access, or otherwise discriminate
51 against subscribers, channel users, or any other citizens on the basis of age, race, religion, sex,
52 physical handicap, political affiliation, political views, or exercise of other speech protected by the
53 1st Amendment to the United States Constitution, or country of natural origin;

54 (C) A broadband operator shall provide subscribers 30 days advance written notice of any
55 changes to rates or charges, including the expiration of any promotion or special pricing that would
56 result in an increase in the subscribers billing or cost of service; ~~and~~

57 (D) A broadband operator shall inform subscribers and provide written notice to
58 subscribers that disputes regarding interrupted or substandard service or billing issues, which are
59 unresolved to satisfaction of the subscriber; and

60 (E) Offer special reduced affordable broadband rates and access subject to its jurisdiction,
61 who are customers receiving (a) social security supplemental security income (SSI), (b) aid to
62 families with dependent children (AFDC), (c) aid to families with dependent children-- unemployed
63 (AFDC-U), or (d) food stamps, if such food stamp recipients are 60 years of age or older. The
64 special reduced rate offered by each broadband operator to its eligible customers shall be 20
65 percent less than the rate which would be applicable to such customers if they were not receiving
66 any of the four forms of assistance which confer eligibility for the special reduced rates.

67 (i) The special reduced rates shall apply only to current customers or to those persons who
68 subsequently become customers in their own right. If an SSI, AFDC, AFDC- U or food stamp
69 recipient is living in a household which is served under the name of a person who is not an SSI,

70 AFDC, AFDC-U or food stamp recipient, that service may not be changed to the name of the SSI,
71 AFDC, AFDC-U or food stamp recipient in order to qualify for service under the special reduced
72 rates.

73 (ii) The burden of proving eligibility for the special reduced rates shall be on the customer
74 requesting such rates. The Office of Broadband shall establish by rules procedures (I) to inform
75 persons receiving any of the four forms of assistance which confer eligibility for the special
76 reduced rates about the availability of the special reduced rates, (II) to assist applicants for the
77 special reduced rates in proving their eligibility therefor, and (III) to assist broadband operators
78 offering the special reduced rates in determining on a continuing basis the eligibility therefor of
79 persons receiving or applying for such rates.

80 (10) Perform any and all other activities in furtherance of the purposes of this article; and

81 (c) In furtherance of the purposes of this article, the Office of Broadband is permitted to
82 seek non-state funding and grants. The Office of Broadband may utilize funding and grants to
83 support the responsibilities, initiatives, and projects set forth in this article. The Office of
84 Broadband may additionally disburse such moneys to fund projects and initiatives in furtherance
85 of the enhancement and expansion of broadband services in this state, and the other purposes of
86 this article.

NOTE: The purpose of this bill is to require broadband operators to offer reduced rates to persons receiving social security supplemental security income (SSI), aid to families with dependent children (AFDC), aid to families with dependent children-- unemployed (AFDC-U), or food stamps, if such food stamp recipients are 60 years of age or older.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.