STATE OF NEW YORK

3133

2023-2024 Regular Sessions

IN SENATE

January 27, 2023

Introduced by Sens. MANNION, BORRELLO, HELMING, HINCHEY, STEC -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the highway law, in relation to when surveys may be required for fiber optics by the department of transportation; and to amend the New York state urban development corporation act, in relation to the powers and duties of the division of broadband access

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 10 of the highway law is amended by adding a new subdivision 24-e to read as follows:

24-e. The commissioner shall not require a survey from any fiber optic utility for permitting or continuance of the use and occupancy of a state right of way for the purposes of installing, modifying, relocating, repairing, operating, or maintaining fiber optic facilities where a survey of the state right of way has already been conducted for, received by, or is otherwise accessible to, the state department of transportation provided there have been no material changes to the right of way since such survey, or when such use and occupancy of the state right of way is utilizing existing infrastructure sited in the same location as the existing facilities, including but not limited to aerial pole attachments and underground conduits. Notwithstanding the requirements of this section or any other law, the commissioner may not require any such survey of the state right of way for any fiber optic deployment project receiving funding from the division of broadband access established pursuant to section 16-gg of section 1 of chapter 174 of the laws of 1968, as added by section 2 of part MMM of chapter 58 of the laws of 2022.

§ 2. Subdivision 4, paragraph (f) of subdivision 6, and paragraph (b) of subdivision 13 of section 16-gg of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corpo-

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD05181-01-3

ration act, as added by section 2 of part MMM of chapter 58 of the laws of 2022, are amended to read as follows:

4. Powers and duties of the division of broadband [~~development~~] **access**. The division shall have the power **and duty** to:

(a) Coordinate the activities of all state agencies performing functions affecting access to high-speed, reliable, and affordable broadband.

(b) Conduct research and analyses of matters affecting access to high-speed, reliable, and affordable broadband.

(c) Advise and make recommendations to the commissioner on matters affecting access to high-speed, reliable, and affordable broadband.

(d) Provide advisory assistance to municipalities, state and local authorities, and other entities to expand access to high-speed, reliable, and affordable broadband.

(e) Establish and implement programs, including grant programs, to expand access to high-speed, reliable, and affordable broadband, including but not limited to: programs to improve broadband access at unserved and underserved locations; programs to deploy broadband infrastructure owned or managed by municipalities, state and local authorities, entities established pursuant to section 99-y of the general municipal law, or not-for-profit entities; programs to deploy innovative broadband technologies and means to improve broadband access; including in low-income areas; programs to improve digital equity, digital inclusion, and digital literacy.

(f) Take additional actions the division deems necessary to expand access to high-speed, reliable, and affordable broadband.

(g) Campaign to increase awareness of and enrollment in state or federal internet subsidy programs.

(h) Work with the state education department and internet service providers to ensure schools, libraries and other locations with public and communal internet have access to reliable high-speed broadband, and to assist school districts in ensuring availability of affordable broadband services to students for remote learning.

(f) The committee shall:

(i) advise the director in carrying out the functions, powers and duties of the division, as set forth in this article.

(ii) advise the director, the governor, and the legislature concerning policy changes necessary to promote expansion and development of access to high-speed, reliable, and affordable broadband.

(iii) advise the director, the governor, and the legislature concerning existing policies of state agencies which may be counter-productive or inimical to promote expansion and deployment of high-speed, reliable, and affordable broadband.

(iv) advise the director, the governor, and the legislature concerning the development of inter-governmental cooperation among agencies of the federal, state, and local governments and cooperation between private industry and government so as to promote expansion, deployment and continued provision of high-speed, reliable, and affordable broadband.

(v) advise the director, the governor, and the legislature on issues related to fostering consumer choice, increasing competition in the broadband industry, and promoting open-access infrastructure.

(vi) advise the director, in consultation with the division of broadband access, on potential guidelines or regulations for implementation of broadband-related programs.

(vii) advise the director, the governor, and the legislature on policies related to the deployment of wireless and cellular services, including deployment of small cell networks for access to 5G services.

(viii) advise the director on policies to reduce regulatory obstacles and streamline regulations to promote access to high-speed, reliable, and affordable broadband.

(ix) advise the director on policies to maximize access to high-speed, reliable, and affordable broadband in affordable housing projects.

(x) advise the director on policies relevant to ensuring that senior citizens have access to high-speed, reliable, and affordable broadband.

(xi) make periodic recommendations [~~as to updates to~~] **using** the [~~broadband report~~] **findings of the reports** required by the Comprehensive Broadband Connectivity Act.

(b) every six months, beginning twelve months after the first disbursement to a grant awardee under any program established under this section, until such a time that all funds associated with all programs established under this section have been fully expended, submit a report to the governor, the temporary president of the senate, and the speaker of the assembly setting forth the activities undertaken by the program. Such reports shall include, but need not be limited to, the details of the grants and recipients, locations of the projects, and such other information as the division deems necessary and appropriate[~~, to the extent that the production such reporting is not duplicative of federal reporting requirements associated with broadband expansion in New York state under the Infrastructure Investment and Jobs Act or American Rescue Plan Act~~]. **The division shall maintain, and regularly update, a database of all grants awarded by the division along with information on the awardees, amount of the award, project for which an award was made, and progress on completion of a project. Such database shall be published and made available on the department's website in a downloadable and searchable format.** Such reports shall be included on the department's website and any other publicly accessible state database that list economic development programs as determined by the director.

§ 3. This act shall take effect immediately.