STATE OF NEW YORK

9134

IN SENATE

April 30, 2024

Introduced by Sen. COONEY -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to amend the general municipal law, in relation to requiring substantially similar permits for broadband deployment to be processed together at the same time and on an expedited basis

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

Section 1. This act shall be known and may be cited as the "broadband deployment assistance act of 2024".

§ 2. Legislative intent. The legislature finds and declares that the public's increased reliance on high-speed internet access for work, telehealth, emergency response, education and commerce demonstrates the need for legislation to accelerate the deployment of broadband infrastructure. The length of time it takes for a local jurisdiction to process permits for broadband projects directly impacts the length of time it takes before a project can provide high-speed internet service to a local community and get people connected. The State's Broadband Equity, Access, and Deployment Program proposal identified streamlining the permitting process as a critical component in the program's success. Consistent with these findings, the measures set forth in this legislation will accelerate broadband deployment, to the benefit of the people of the state.

The legislature further finds and declares that processing several substantially similar broadband permit applications at the same time will not only allow local governments to continue to receive permit fees, but will also enable their staffs to process broadband permits more efficiently, as a group, and thus to help bridge the digital divide and more quickly connect communities to high-speed internet. This will allow the state to make efficient use of incoming broadband funding while creating greater broadband equity among communities so more individuals can have access to high-speed internet access for emergency response, remote work, telehealth, education and commerce.

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

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§ 3. The general municipal law is amended by adding a new article 13-E to read as follows:

ARTICLE 13-E
BROADBAND

Section 300. Definitions.
301. Permits for broadband projects.

§ 300. Definitions. For the purposes of this article, the following terms shall have the following meanings unless the context indicates otherwise:

1. "Batch broadband permit processing" means the simultaneous processing of more than one substantially similar broadband permit application.

2. "Broadband permit application" means an application or other request for approval submitted for review to a municipality in order to authorize the construction or any portion or stage of the construction of a facility, including multiple applications or permits required and associated with the same facility.

3. "Facility" means, but shall not be limited to, cable of any type, including associated electronics, wireless transmission or reception equipment, or any other type of equipment used in whole or in part for the transport of data, video or voice communications or services by wire or radio.

4. "Initial application requirement" means the first step required by a municipality for an applicant to initiate a broadband permit application, which may be, but shall not be limited to, the filing of a permit application or the scheduling of a pre-application meeting, whichever occurs earlier.

5. "Presumptively reasonable time" means sixty days for attaching facilities to existing structures or ninety days for attaching facilities to new structures, in either case following the applicant's completion of the initial application requirement, except as modified by a mutual, written agreement between the municipality and the applicant; provided, however, that if the municipality provides a determination backed by substantial written evidence that more time for review of the broadband permit application is needed, the minimum needed time, as set forth in the determination, shall apply. If an applicant believes that such a determination is insufficiently supported, the applicant may seek review of the determination in a proceeding pursuant to article seventy-eight of the civil practice law and rules. The proceeding shall be given preference and shall be brought on for argument on such terms and conditions as the presiding justice may direct, not to exceed forty-five days. In any such proceeding, the municipality shall bear the burden of proof.

6. "Substantially similar broadband permit applications" means broadband permit applications that share substantial commonalities in terms of purpose, equipment, location, or general design.

§ 301. Permits for broadband projects. 1. Upon receipt of up to thirty substantially similar broadband permit applications from a single applicant, the municipality shall process such applications at the same time and on an expedited basis within a presumptively reasonable time. The applicant shall explicitly identify the applications for which such batch broadband permit processing is requested. The applicant shall have the discretion to file a consolidated application. The municipality may not refuse to accept such applications in order to defer the start of the presumptively reasonable time period.

2. Once a broadband permit application is submitted, either at the time of the initial application requirement or subsequently, the munici-

pality shall notify the applicant in writing within ten days of such application submission if the application is materially incomplete. Such notice shall clearly and specifically identify all documents or information alleged to be missing from the application, and shall specify the related code provision, ordinance, application instruction or otherwise publicly-stated procedures related to the alleged missing information. The issuance of such a notice shall not toll or otherwise affect the running of the presumptively reasonable time, unless such time is measured from the filing of the permit application, in which case the sixty- or ninety-day period shall restart at the time that the applicant submits the complete application.

3. If a municipality does not approve such substantially similar broadband permit applications submitted for batch broadband permit processing, or issue permits or other required authorizations pursuant to such applications, within the presumptively reasonable time, all the permits in the batch shall be deemed approved.

4. If a municipality determines that one or more of the permits submitted for batch broadband permit processing are not approved, such denial shall not affect the timely and expedited processing of the remaining permits. If the final decision is to deny the application, the final decision document shall state the basis for such denial, including specific code provisions on which the denial was based, and send the decision document to the applicant on or before the day of denial.

5. A permit for construction granted pursuant to this section shall be valid for a period of one year after issuance unless the jurisdiction and applicant agree to extend the one-year period or delay is caused by events outside of the reasonable control of the applicant.

6. Where limited resources affect a municipality's ability to process batched broadband permit applications, a municipality shall work with the applicant in good faith to resolve those resource limitations, which may include, but is not limited to, provision by the applicant of supplemental resources.

7. For the purposes of this article, a period of time expressed as a number of days shall be computed in accordance with section twenty of the general construction law.

8. This article shall not apply to cities with a population of one million or greater.

§ 4. This act shall take effect on the ninetieth day after it shall have become a law.