

# 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:

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

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

16 The legislature further finds and declares that processing several  
17 substantially similar broadband permit applications at the same time  
18 will not only allow local governments to continue to receive permit  
19 fees, but will also enable their staffs to process broadband permits  
20 more efficiently, as a group, and thus to help bridge the digital divide  
21 and more quickly connect communities to high-speed internet. This will  
22 allow the state to make efficient use of incoming broadband funding  
23 while creating greater broadband equity among communities so more indi-  
24 viduals can have access to high-speed internet access for emergency  
25 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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1 § 3. The general municipal law is amended by adding a new article 13-E  
2 to read as follows:

3 ARTICLE 13-E  
4 BROADBAND

5 Section 300. Definitions.

6 301. Permits for broadband projects.

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

10 1. "Batch broadband permit processing" means the simultaneous process-  
11 ing of more than one substantially similar broadband permit application.

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

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

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

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

43 6. "Substantially similar broadband permit applications" means broad-  
44 band permit applications that share substantial commonalities in terms  
45 of purpose, equipment, location, or general design.

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

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

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

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

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

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

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

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

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

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