

CHAPTER 82**(HB 267)**

AN ACT relating to providing for the authorization of the Office of Broadband Development to implement the federal Broadband Equity Access and Deployment (BEAD) Program and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and declares that:

- (1) *Pursuant to KRS 224A.1118(1)(f)2., the Office of Broadband Development is established as the single point of contact and liaison between the Commonwealth and federal agencies with regard to programs to expand access to broadband in Kentucky, including the National Telecommunications and Information Administration, which is part of the United States Department of Commerce;*
- (2) *Under the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, the National Telecommunications and Information Administration has allocated significant funding to support broadband deployment throughout Kentucky as part of the Broadband Equity Access and Deployment Program; and*
- (3) *The Office of Broadband Development shall prioritize BEAD Program funds for delivery of service to the last mile of unserved areas consistent with the federal requirements.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 4 of this Act:

- (1) *"Administration" means the National Telecommunications and Information Administration;*
- (2) *"BEAD Program" means the federal Broadband Equity Access and Deployment Program administered by the National Telecommunications and Information Administration;*
- (3) *"Grantee" means the recipient of moneys from the Kentucky BEAD Grant Program; and*
- (4) *"Kentucky BEAD Grant Program" means the program established in Section 3 of this Act.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky BEAD Grant Program is hereby established for the purpose of defraying eligible expenses associated with projects intended to provide broadband service to unserved and underserved areas of the Commonwealth, and, to the extent funding is available, for certain nondeployment purposes allowable under federal law. This program shall be the exclusive means of distributing BEAD Program money to Kentucky applicants.*
- (2) *The office is hereby authorized, consistent with the requirements of this section, to administer the Kentucky BEAD Grant Program. It shall have all power necessary and convenient, not explicitly prohibited or reserved by statute, to carry out and effectuate its purposes, including the powers to:*
 - (a) *Develop and submit BEAD Program funding requests to the administration or other responsible federal entities;*
 - (b) *Conduct a challenge process consistent with federal requirements to identify Kentucky locations eligible for funding;*
 - (c) *Develop an application process for applications for funding from the Kentucky BEAD Grant Program, including the requirements for the applications, in a manner that does not violate the prohibition in KRS 278.5462(1);*
 - (d) *Determine eligibility criteria for prospective subgrantees and projects;*
 - (e) *Create rules governing the review process and timeline for applications and challenges to those applications;*
 - (f) *Make administrative rules necessary for the achievement of the goals of the Kentucky BEAD Grant Program;*

- (g) *Coordinate and partner with local governments or private entities as necessary;*
 - (h) *Determine which grant applications should receive funding and disburse those grants from the BEAD fund established in Section 4 of this Act;*
 - (i) *Enter into contracts or agreements necessary or incidental to the performance of its duties, functions, and responsibilities;*
 - (j) *Notwithstanding KRS 45A.190, require applicants to submit letters of credit, bonds, or other reasonable means of assuring project completion it deems appropriate and necessary, including giving full effect to the guidance from the administration by allowing the office to provide grantees a range of options to satisfy this paragraph;*
 - (k) *If funding is available after identifying and funding BEAD Program deployment projects, identify and fund nondeployment projects consistent with federal law;*
 - (l) *Oversee and administer reporting and compliance under grants made under the Kentucky BEAD Grant Program consistent with federal law; and*
 - (m) *Act as otherwise necessary to pursue the goals of the Kentucky BEAD Grant Program.*
- (3) *Except where explicitly stated otherwise, all terms in this section shall have the same meaning as provided in the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, and in the Notice of Funding Opportunity for the BEAD Program published by the administration on May 13, 2022, including any subsequent guidance issued by the administration with respect to the program after the issuance of the Notice of Funding Opportunity. In the event of any conflict between this section and legal requirements contained in the federal law, the federal law shall take precedence. To the extent this chapter conflicts with any other provision of the Kentucky Revised Statutes, this chapter prevails.*
- (4) *The office shall ensure that applications contain sufficient information to allow the office to reasonably evaluate each grantees' ability to comply with all program requirements, including all grantee qualifications and conditions required under federal law.*
- (5) *KRS 224A.1121 shall not apply to the Kentucky BEAD Grant Program as contained in Sections 1 to 4 of this Act.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO READ AS FOLLOWS:

- (1) *The BEAD fund is hereby established in the State Treasury and shall be administered by the office. All moneys in the fund shall be allocated and dedicated to:*
- (a) *Providing moneys to grantees that comply with federal requirements and the requirements developed by the office in compliance with this section; and*
 - (b) *Administering the federal BEAD Program.*
- (2) *All moneys obtained from the administration shall be deposited into the BEAD fund.*
- (3) *All moneys in the BEAD fund are hereby appropriated for the purposes set forth in Sections 1 to 4 of this Act.*
- (4) *Notwithstanding KRS 45.229, any moneys not expended at the close of a fiscal year shall not lapse but shall be carried forward into the next fiscal year. All funds shall be expended within the five (5) year action plan required by the administration.*

➔Section 5. Whereas the General Assembly finds there is an unmet need to advance the deployment of affordable broadband options to unserved and underserved locations in the Commonwealth which is impeding health, education, and economic development in Kentucky, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 4, 2024.