LEGISLATIVE BILL 916

Introduced by Wayne, 13.

Read first time January 10, 2022

Committee: Transportation and Telecommunications

A BILL FOR AN ACT relating to municipalities; to amend section 86-594, Revised Statutes Supplement, 2021; to adopt the Rural Municipal Broadband Access Act; to harmonize provisions; to provide a duty for the Revisor of Statutes; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,
Section 1. Sections 1 to 9 of this act shall be known and may be cited as the Rural Municipal Broadband Access Act.

Sec. 2. The Legislature finds that many rural municipalities lack access to quality broadband services and Internet services, despite significant private, local, state, and federal investment in the development of broadband in Nebraska.

Sec. 3. For purposes of the Rural Municipal Broadband Access Act:

(1) Broadband services has the same meaning as in section 86-593;

(2) Existing provider means a broadband Internet service provider, including any telecommunications company, cable television company, or wireless network provider that provides broadband services or Internet services within the corporate limits and extraterritorial zoning jurisdiction of a municipality;

(3) Governing body means the city council of a city of the first class or city of the second class or the board of trustees of a village;

(4) Internet services has the same meaning as in section 86-593;

(5) Municipality means any city of the first class, city of the second class, or village;

(6) Underserved area means a geographical area of the state which lacks broadband Internet service providing access to the Internet at speeds of at least one hundred megabits per second for downloading and twenty megabits per second for uploading; and

(7) Unserved area means a geographical area of the state which lacks broadband Internet service providing access to the Internet at speeds of at least twenty-five megabits per second for downloading and three megabits per second for uploading.

Sec. 4. (1) Beginning January 1, 2024, a municipality may provide broadband services or Internet services on a retail or wholesale basis within the corporate limits and extraterritorial zoning jurisdiction of such municipality if such municipality is located in an underserved area or unserved area and meets the requirements of the Rural Municipal...
Broadband Access Act.

(2) A municipality may initiate the process of developing a broadband network by conducting a feasibility study and ordering the preparation of a resolution of intent to develop such broadband network in accordance with section 5 of this act by a vote of the majority of the members of the governing body of the municipality.

Sec. 5. (1) The proposed resolution of intent to develop a broadband network described in section 4 of this act shall contain and set forth the following:

(a) A declaration that the municipality is located in either an underserved area or unserved area;

(b) A list of all existing providers that currently provide broadband services or Internet services within the corporate limits and extraterritorial zoning jurisdiction of the municipality;

(c) A description of any acts or omissions of any existing provider that have resulted in the municipality being located in an underserved area or unserved area;

(d) A comparison of the rates charged by existing providers for broadband services or Internet services within the corporate limits or extraterritorial zoning jurisdiction of the municipality to rates charged in comparably sized municipalities in Nebraska and neighboring states; and

(e) A description of any local, state, or federal funds known by the municipality to have been received by any existing provider to expand or supplement the provision of broadband services or Internet services, including funds from the Nebraska Telecommunications Universal Service Fund and funds under the Nebraska Broadband Bridge Act.

(2) If the resolution of intent contains any description as set forth in subdivision (1)(c) of this section, the resolution of intent shall describe the efforts by the municipality to inform any such existing provider of the existing provider's acts and omissions and shall
describe the opportunities afforded the existing provider to remedy the stated defects.

Sec. 6. (1) The feasibility study and proposed resolution of intent to develop a broadband network shall be presented to the governing body of the municipality at a regular meeting of such governing body. At that meeting, the governing body may adopt the resolution of intent and, if it does so, shall set a date for holding a public hearing, which shall be at least forty-five days after the date of the meeting at which the resolution of intent was adopted.

(2) Upon the adoption of a resolution of intent, the city clerk or village clerk of the municipality shall transmit a copy of the feasibility study and resolution of intent and notice of the date and time of the public hearing to any existing providers by certified mail, return receipt requested, within seven days after the meeting at which the resolution of intent was adopted.

(3) At least thirty days prior to the public hearing, the municipality shall publish notice of the time and place of the public hearing and a summary of the resolution of intent in a legal newspaper published in or of general circulation in the municipality.

(4) At the public hearing, any existing provider shall be permitted to respond to the contents of the feasibility study, the statements set out in the resolution of intent, and any comments made at the public hearing.

Sec. 7. After the public hearing held pursuant to section 6 of this act, the governing body of the municipality may:

(1) By a two-thirds vote of its members, vote to develop a broadband network within the corporate limits and extraterritorial zoning jurisdiction of the municipality; or

(2) By a majority vote of its members, submit the question of whether to develop a broadband network within the corporate limits and extraterritorial zoning jurisdiction of the municipality to the
registered voters of the municipality as provided in section 8 of this act.

Sec. 8. (1) After conducting a feasibility study and holding a public hearing on a resolution of intent as provided in the Rural Municipal Broadband Access Act, the governing body of a municipality may submit to the registered voters of the municipality at any general or special municipal election the question of whether the municipality should develop a broadband network under the act. The ballot language shall be in the following form:

Shall the city or village of (name of city or village) develop a broadband network under the Rural Municipal Broadband Access Act to provide broadband services or Internet services on a retail or wholesale basis within the corporate limits and extraterritorial zoning jurisdiction of the city or village?

(2) The municipality shall submit the question to the registered voters in the manner prescribed in the Election Act. The question may be placed before the registered voters of the municipality at any general or special municipal election called for the purpose and may be submitted in connection with any municipal special election called for any other purpose. The votes cast on the question shall be canvassed and the result found and declared as prescribed in the Election Act.

(3) If a majority of the votes cast upon the question are in favor, then the municipality shall be authorized to provide broadband services or Internet services on a retail or wholesale basis within the corporate limits and extraterritorial zoning jurisdiction of such municipality.

Sec. 9. (1) A municipality which develops a broadband network under the Rural Municipal Broadband Access Act shall ensure that such broadband network provides access to the Internet at speeds of one hundred megabits per second or greater for downloading and one hundred megabits per second or greater for uploading.

(2) A municipality shall not develop a broadband network under the
Rural Municipal Broadband Access Act on or after January 1, 2034, except that a municipality may continue to provide broadband services or Internet services after such date using any broadband network developed by such municipality prior to January 1, 2034.

Sec. 10. Section 86-594, Revised Statutes Supplement, 2021, is amended to read:

86-594 (1) Except as provided in the Educational Service Units Act, the Rural Municipal Broadband Access Act, and sections 79-1319, 81-1120.01 to 81-1120.28, 85-401 to 85-411, 85-1501 to 85-1542, and 86-575, an agency or political subdivision of the state that is not a public power supplier shall not provide on a retail or wholesale basis any broadband services, Internet services, telecommunications services, or video services.

(2) The provisions of subsection (1) of this section shall not apply to services which an agency or political subdivision of the state was authorized to provide and was providing prior to January 1, 2005.

Sec. 11. The Revisor of Statutes shall assign sections 1 to 9 of this act to Chapter 19.

Sec. 12. Original section 86-594, Revised Statutes Supplement, 2021, is repealed.