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## DIGEST

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HB 648 Reengrossed

2021 Regular Session

Deshotel

**Abstract:** Creates a grant program to allow municipalities to expand broadband.

Proposed law establishes the "Granting Unserved Municipalities Broadband Opportunities" (GUMBO) program.

Proposed law provides that the office of broadband development and connectivity within the division of administration (office) shall administer the GUMBO program.

Proposed law defines "agriculture", "broadband service", "cooperative", "director", "economically distressed parish", "eligible parishes", "eligible project", "eligible grant recipient", "household", "infrastructure", "infrastructure costs", "office", "prospective broadband recipient", "shapefile", and "unserved".

Proposed law allows a private provider receiving certain types of funds to deploy broadband access to qualify the area for protection by submitting a report of census blocks, shapefile areas, addresses, and portions thereof comprising the funded area. The report is to be submitted within 60 days of the close of the application period.

Proposed law allows the office to set a different deadline for submission of the report in future program years.

Proposed law limits the office on how it uses the information submitted pursuant to proposed law and limits the information that the office can require an applicant to submit.

Proposed law provides that a provider who fails to submit the report before the deadline shall be ineligible for participation in the GUMBO program, but allows for the provider to contest the exclusion in certain situations.

Proposed law provides a listing of 14 items, required to be addressed in the application, and delegates the office with the responsibility of creating the application.

Proposed law provides that the burden of proof is on the applicant and describes sufficient evidence.

Proposed law requires the office to treat information submitted with a protest that is not publicly available as confidential and subject to trade secrets protections of state law if requested.

Proposed law requires applications to be made public, and allows a 30-day period for interested parties to submit public comment and protest where applicable. Proposed law provides the procedure to be followed in case of a protest, including the burden of proof and the evidentiary requirements.

Proposed law allows for amendments to an application and provides a procedure for amending.

Proposed law allows the office to deny an application or protest that contains inaccurate information.

Proposed law allows the office to utilize speed tests to settle protests and provides the necessary requirements for implementation.

Proposed law provides a procedure for judicial review including the steps necessary for a mutual agreement, a settlement by the director, a report from the director, an appeal with the commissioner of administration, an appeal to the 19th Judicial District Court, a review from the 1st Circuit Court of Appeal, and a review by the Louisiana Supreme Court, and civil proceedings.

Proposed law allows the office to consult with the La. Dept. of Economic Development regarding the GUMBO program.

Proposed law requires the office to consult with the legislative auditor.

Proposed law requires the office to create a procedure for point scoring of applications and determining which applicants receive grants, and additionally provides that the office shall award points based upon experience, technical ability, financial wherewithal, fund matching, access to infrastructure, the estimated number of unserved households that will be affected, the percentage of unserved homes in the parish to be served, the number of unserved businesses to be affected, and the estimated price to the consumer.

Proposed law requires fund matching and provides details for how the funds can be acquired.

Proposed law requires grant recipients to offer the speed and cost, as indicated in the application, for five years.

Proposed law requires an applicant to provide evidence of compliance annually.

Proposed law requires an applicant to notify the office of any change in data caps.

Proposed law provides that a grant recipient who fails to perform is required to forfeit all matching funds and pay interest. The number of subscribers is not to be considered in a determination of failure to perform.

Proposed law makes an exception for certain occurrences.

Proposed law designates the office as the agency for receipt and distribution of state and federal grant

funds.

Proposed law requires grant recipients to provide an annual report to the office and provides the information to be included in the report.

Proposed law requires the office to submit a report to various House and Senate committees and provides the information to be included in the report.

Proposed law allows the office an administrative fee of 1% of the federal funds.

Proposed law requires the legislative auditor to review the plan submitted by the office and make recommendations before the office can begin administering the GUMBO program.

Proposed law outlines the information the office is to include in the plan.

Proposed law requires the office to promulgate rules to carry out proposed law.

Proposed law prohibits the office from considering any new or additional regulations in awarding grants or administering the program.

Proposed law prohibits a municipality from operating as an internet service provider or participating in revenue sharing.

Proposed law provides for reimbursement for grantees.

Proposed law provides for at least 25% of the funds to be provided to minority-owned grantees.

Proposed law requires the office to award additional points to projects that engage in certain minority-owned business activities.

Proposed law specifies that notwithstanding any provision of proposed law to the contrary, all records related to the GUMBO program shall be public records as provided by the Public Records Law, except (a) a provider's trade secret and proprietary information, including coverage data, maps, and shapefiles; (b) information regarding unserved coverage areas not yet awarded or announced; and (c) applications pending evaluation

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 44:4.1(B)(25); Adds R.S. 51:2370.1-2370.19)

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Commerce to the original bill:

1. Revise the definition of "household".

2. Specify that for the purposes of the definition of "infrastructure" an entity refers to an internet service provider.
3. Remove the definition and other references to "partnership".
4. Add definitions for "shapefile" and "economically distressed parishes".
5. Remove provision relative to the GUMBO fund.
6. Add language to require submission of shapefile areas in addition to census blocks and addresses.
7. Provide that for purposes of the application, the cost and construction time line disclosures are to be the estimated cost and construction time line.
8. Remove a requirement that the applicant provide justification that the proposed data caps are in the public interest and consistent with industry standards.
9. Remove the requirement that the submitted plan incorporate community education forums.
10. Remove the condition that certain information be considered satisfactory.
11. Place confidentiality requirements on the office.
12. Change the period the application shall be public from thirty days to sixty days.
13. Change the speed tests conditions.
14. Provide a procedure for judicial review.
15. Make changes to the scoring systems.
16. Require fund matching from municipalities.
17. Add requirements of disclosure and compliance with projected connection speed and cost.
18. Add an exemption for forfeiture of funds for certain occurrences.
19. Add a requirement that the report indicate both residential and commercial locations that have gained broadband access from the GUMBO program.
20. Prohibit the office from making certain considerations in awarding grants.

21. Prohibit any municipality from being an internet service provider or participating in profit sharing.
22. Move provisions relative to reimbursement for grantees.
23. Add provisions relative to minority-owned business.
24. Change the requirements of the legislative auditor's involvement with the GUMBO program.
25. Make technical changes.

The Committee Amendments Proposed by House Committee on House and Governmental Affairs to the engrossed bill:

1. Remove provision regarding the office treating non-publicly available information with an application as confidential.
2. Remove provision specifying that information released to an applicant regarding locations or areas that are ineligible as confidential and not a public record.
3. Specify that all records related to the GUMBO program are public records as provided by the Public Records Law, except a provider's trade secret and proprietary information; information regarding unserved coverage areas not yet awarded or announced; and applications pending evaluation and recognize the limitation in the Public Records Law.