

**SUBSTITUTE FOR
HOUSE BILL NO. 5254**

A bill to amend 2002 PA 49, entitled
"Michigan broadband development authority act,"
by amending section 7 (MCL 484.3207).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7. (1) The powers of the authority shall include all
2 those necessary to carry out and effectuate the purposes of this
3 act, including, but not limited to, all of the following:

4 (a) To borrow money and issue bonds and notes to fund
5 operations of the authority, to finance or refinance part or all
6 of the development costs of the broadband infrastructure, to
7 refinance existing debt for technology that constitutes a part of
8 or is related to the broadband infrastructure, and to secure
9 bonds and notes by mortgage, assignment, or pledge of any of its
10 revenues and assets.

11 (b) To invest any money of the authority at the authority's

1 discretion, in any obligations determined proper by the
2 authority, and name and use depositories for its money.

3 (c) To enter into joint venture and partnership arrangements
4 subject to subsections (2) and (3) with persons that will
5 acquire, construct, develop, maintain, and operate all or
6 portions of the broadband infrastructure.

7 (d) To be designated the state program manager for federal
8 telecommunications assistance, to represent this state in
9 negotiations with the federal government regarding
10 telecommunications assistance, and to receive and distribute
11 federal funding, including loans, grants, and other forms of
12 funding and assistance on this state's behalf.

13 (e) To receive and distribute state or local funding
14 including grants, loans, general appropriations, or an
15 appropriation made for the purposes under subsection (4).

16 (f) To make loans and to enter into any joint venture and
17 partnership arrangements subject to subsections (2) and (3) with
18 broadband developers and broadband operators that will acquire,
19 construct, maintain, and operate all or portions of the broadband
20 infrastructure.

21 (g) To provide operating assistance to make broadband
22 services more affordable to broadband developers, broadband
23 operators, and broadband customers, in conjunction with broadband
24 infrastructure financed by the authority.

25 (h) To impose and collect charges, fees, or rentals for the
26 services furnished by those portions of the broadband
27 infrastructure financed by the authority under this act.

1 (i) To set construction, operation, and financing standards
2 for the broadband infrastructure in connection with authority
3 financing and to provide for inspections to determine compliance
4 with those standards.

5 (j) To acquire from any person interests in real or personal
6 property necessary for the operation of the authority.

7 (k) To procure insurance against any loss in connection with
8 the broadband infrastructure and any other property, assets, or
9 activities of the authority.

10 (l) To sue and be sued, to have a seal, and to make, execute,
11 and deliver contracts, conveyances, and other instruments
12 necessary to the exercise of the authority's powers.

13 (m) To enforce financial, operational, warranty, security,
14 lease, and guaranty terms and conditions established under
15 financings by the authority. The authority may under this
16 subsection acquire, construct, develop, lease, create, and
17 maintain all or portions of the broadband infrastructure and
18 acquire from any person interests in real and personal property.

19 (n) To make and amend bylaws.

20 (o) To indemnify and procure insurance indemnifying any
21 members of the board of the authority from personal liability by
22 reason of their service as a board member.

23 (p) To investigate, evaluate, and assess the current
24 broadband infrastructure and the future broadband infrastructure
25 needs of this state and to encourage and participate in
26 aggregation strategies for the broadband services of all public
27 entities and nonprofit corporations in this state to maximize the

1 interconnectivity and efficiencies of the broadband
2 infrastructure.

3 (2) Notwithstanding any other provision of this act, the
4 authority shall not make loans to, or enter into any joint
5 venture and partnership arrangements or participation with, any
6 governmental entity or nonprofit organization except in
7 connection with the financing or refinancing of development costs
8 for that allocable portion of the broadband infrastructure used
9 or to be used exclusively by governmental entities or nonprofit
10 organizations, including, but not limited to, universities,
11 colleges, hospitals, school districts, public safety agencies,
12 judicial organizations, libraries, cities, townships, and
13 counties. No allocable portion of the broadband infrastructure
14 financed by a loan to a governmental entity or a nonprofit
15 organization shall be used to serve residential, business, or
16 other commercial customers.

17 (3) Notwithstanding any other provision of this act, except
18 in connection with financing or refinancing under subsection (2)
19 or enforcement procedures authorized under subsection (1)(m), the
20 authority shall acquire real or personal property constituting
21 portions of the broadband infrastructure only in connection with
22 the participation of persons other than governmental entities or
23 nonprofit organizations through joint ventures and partnership
24 arrangements, or other co-ownership arrangements and only if the
25 participation is necessary to assure availability of financing or
26 refinancing derived from the issuance by the authority of bonds
27 or notes, the interest on which is exempt from taxation under the

House Bill No. 5254 (H-1) as amended December 10, 2003

1 United States internal revenue code, and the financing derived
2 from the tax-exempt bonds or notes is allocated only to those
3 development costs relating to that portion of the broadband
4 infrastructure that is to be used by governmental bodies or
5 nonprofit organizations.

6 (4) The authority shall establish a seed capital loan program
7 to make capital loans to persons planning to apply to the
8 authority for financing of broadband infrastructure. Priority
9 for the seed capital loan program shall be given for developments
10 targeted to underserved areas [

11]. During the initial 2
12 years of operations, the authority shall designate a minimum of
13 \$500,000.00 to be targeted to rural underserved areas and a
14 minimum of \$500,000.00 targeted to urban underserved areas.
15 Community economic development programs and small providers shall
16 be given a preference to receive loans under this subsection.
17 The terms and conditions for the seed capital loans shall be
18 established by the authority. As used in this act, "underserved
19 areas" means geographical areas of this state identified by the
20 authority as having the greatest need for broadband development.
21 In identifying underserved areas, the authority shall consider
22 the area's economic conditions, including, but not limited to,
23 family income, affordability of access, lack of options
24 available, low percentage of residents subscribing, and any other
25 criteria considered important by the authority in determining
26 whether an area is underserved.

27 (5) As part of an application for financing under this act,

House Bill No. 5254 (H-1) as amended December 9, 2003

1 the broadband developer and broadband operator shall file with
2 the authority a participation plan for small and minority owned
3 businesses and a communitywide outreach plan to educate the
4 public of the availability of broadband services. The authority
5 shall not approve an application unless a plan is submitted under
6 this subsection.

7 [(6) Priority shall be given to the application of any broadband
8 developer who applies to develop broadband capability within a recovery
9 zone as that term is defined in section 8d of the Michigan renaissance
10 zone act, 1996 PA 376, MCL 125.2688d.

11

12

13

Enacting section 1. This amendatory act does not take effect unless
Senate Bill No. 825 of the 92nd Legislature is enacted into law.]