

Senate Bill 402

By: Senators Gooch of the 51st, Cowser of the 46th, Kennedy of the 18th, Miller of the 49th, Ginn of the 47th and others

**AS PASSED**

**A BILL TO BE ENTITLED  
AN ACT**

1 To enact the "Achieving Connectivity Everywhere (ACE) Act"; to amend Titles 32, 36, and  
2 50 of the Official Code of Georgia Annotated, relating to highways, bridges, and ferries,  
3 local governments, and state government, respectively, so as to provide for planning,  
4 deployment, and incentives of broadband services and other emerging communications  
5 technologies throughout the state; to provide for the Department of Transportation to take  
6 certain actions to enable the rights of way of interstate highways to be used for the  
7 deployment of broadband services and other emerging communications technologies; to  
8 provide for definitions; to require a comprehensive plan of a local government to include the  
9 promotion of the deployment of broadband services; to provide for certain powers, duties,  
10 and responsibilities of certain state departments and authorities relative to the deployment  
11 of broadband services and other emerging communications technologies; to change certain  
12 definitions relative to the "OneGeorgia Authority Act" to include broadband services; to  
13 change certain provisions related to the board of directors of the OneGeorgia Authority; to  
14 provide for the certain policies and programs for the deployment of broadband services and  
15 other emerging communications technologies throughout the state; to provide for the  
16 promulgation of certain rules and regulations; to require the development and publication of  
17 a map; to provide for legislative findings and declarations; to provide for certain reports; to  
18 provide for applicability; to provide for a short title; to provide for related matters; to provide  
19 for an effective date; to repeal conflicting laws; and for other purposes.

20 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

21 **PART I**  
22 **SECTION 1-1.**

23 This Act shall be known and may be cited as the "Achieving Connectivity Everywhere  
24 (ACE) Act."

25 **PART II**

26 **SECTION 2-1.**

27 Title 32 of the Official Code of Georgia Annotated, relating to highways, bridges, and ferries,  
 28 is amended in Code Section 32-2-2, relating to powers and duties of the Department of  
 29 Transportation generally, by revising paragraphs (18) and (19) of subsection (a) and by  
 30 adding a new paragraph to read as follows:

31 "(18)(A) Subject to general appropriations and any provisions of Chapter 5 of this title  
 32 to the contrary notwithstanding, the department is authorized within the limitations  
 33 provided in subparagraph (B) of this paragraph to provide to municipalities, counties,  
 34 authorities, and state agencies financial support by contract for clearing, dredging, or  
 35 maintaining free from obstructions and for the widening, deepening, and improvement  
 36 of the ports, seaports, or harbors of this state.

37 (B)(i) Municipalities, counties, authorities, or state agencies may, by formal  
 38 resolution, apply to the department for financial assistance provided by this  
 39 paragraph.

40 (ii) The department shall review the proposal and, if satisfied that the proposal is in  
 41 accordance with the purposes of this paragraph, may enter into a contract for  
 42 expenditure of funds.

43 (iii) The time of payment and any conditions concerning such funds shall be set forth  
 44 in the contract.

45 (C) In addition to subparagraph (A) of this paragraph and subject to general  
 46 appropriations for such purposes, the department with its own forces or by contract may  
 47 clear, dredge, or maintain free from obstruction and may widen, deepen, and improve  
 48 the ports, seaports, or harbors of this state; ~~and~~

49 (19) Code Sections 32-3-1 and 32-6-115 notwithstanding, the department may by  
 50 contract grant to any rapid transit authority created by the General Assembly, under such  
 51 terms and conditions as the department may deem appropriate, the right to occupy or  
 52 traverse a portion of the right of way of any road on the state highway system by or with  
 53 its mass transportation facilities. Furthermore, the department may by contract lease to  
 54 the rapid transit authority, under such terms and conditions as the department may deem  
 55 appropriate, the right to occupy, operate, maintain, or traverse by or with its mass  
 56 transportation facilities any parking facility constructed by the department.  
 57 Notwithstanding Code Section 48-2-17, all net revenue derived from the lease shall be  
 58 utilized by the department to offset the cost of constructing any parking facility.  
 59 Regardless of any financial expenditures by the rapid transit authority, no right of use or  
 60 lease granted under this paragraph shall merge into or become a property interest of the

61 rapid transit authority. Upon the transfer of the title of the mass transportation facilities  
 62 to private ownership or upon the operation of the rapid transportation facilities for the  
 63 financial gain of private persons, such rights granted by the department shall  
 64 automatically terminate and all rapid transportation facilities shall be removed from the  
 65 rights of way of the state highway system; and  
 66 (20) The department, in consultation with the Georgia Technology Authority, shall have  
 67 the authority to plan for, establish, and implement a long-term policy with regard to the  
 68 use of the rights of way of the interstate highways and state owned roads for the  
 69 establishment, development, and maintenance of the deployment of broadband services  
 70 and other emerging communications technologies throughout the state by public or  
 71 private providers, or both. The department shall be authorized to promote and encourage  
 72 the use of such rights of way of the interstate highways and state owned roads for such  
 73 purposes to the extent feasible and prudent. All net revenues from the use, lease, or other  
 74 activities in such rights of way in excess of any project costs, that are not subject to the  
 75 jurisdiction of the Federal Highway Administration or that are not otherwise restricted  
 76 by any federal laws, rules, or regulations, shall be paid into the general fund of the state  
 77 treasury subject to any restrictions imposed by the Federal Highway Administration. It  
 78 is the intention of the General Assembly, subject to the appropriation process, that a  
 79 portion of the amount so deposited into the general fund of the state treasury be  
 80 appropriated each year to programs to be administered by the Georgia Technology  
 81 Authority, the Department of Community Affairs, and other state agencies as provided  
 82 in Chapter 39 of Title 50 to be used to promote and provide broadband services  
 83 throughout the state."

### 84 PART III

#### 85 SECTION 3-1.

86 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended  
 87 by adding a new Code section to read as follows:

88 "36-70-6.

89 (a) As used in this Code section, the terms 'broadband services' and 'broadband services  
 90 provider' shall have the same meanings as provided in Code Section 50-39-1.

91 (b) The governing bodies of municipalities and counties shall provide in any  
 92 comprehensive plan for the promotion of the deployment of broadband services by  
 93 broadband services providers."

94 **SECTION 3-2.**

95 Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended  
 96 in Code Section 50-8-7.1, relating to general powers and duties of the Department of  
 97 Community Affairs, by revising paragraph (1) of subsection (b) as follows:

98 "(1) As part of such minimum standards and procedures, the department shall establish  
 99 minimum elements which shall be addressed and included in comprehensive plans of  
 100 local governments which are prepared as part of the coordinated and comprehensive  
 101 planning process, provided that such minimum elements shall include the promotion of  
 102 the deployment of reasonable and cost-effective access to broadband services by  
 103 broadband services providers. As used in this paragraph, the terms 'broadband services'  
 104 and 'broadband services provider' shall have the same meanings as provided in Code  
 105 Section 50-39-1;"

106 **PART IV**107 **SECTION 4-1.**

108 Said Title 50 is further amended in Code Section 50-7-8, relating to additional powers of the  
 109 Board of Economic Development, by revising paragraphs (13) and (14) and by adding a new  
 110 paragraph to read as follows:

111 "(13) To enter into contracts with the Georgia Music Hall of Fame Authority for any  
 112 purpose necessary or incidental in assisting the Georgia Music Hall of Fame Authority  
 113 in carrying out or performing its duties, responsibilities, and functions; provided,  
 114 however, that all such assistance shall be performed on behalf of and pursuant to the  
 115 lawful purposes of the Georgia Music Hall of Fame Authority and not on behalf of the  
 116 department; and provided, further, that such assistance shall not include the authorization  
 117 of the issuance of any bonds or other indebtedness of the authority. The department may  
 118 undertake joint or complementary programs with the Georgia Music Hall of Fame  
 119 Authority, including the provision for joint or complementary services, within the scope  
 120 of their respective powers; ~~and~~

121 (14) To induce, by payment of state funds or other consideration, any agency or authority  
 122 assigned to the department for administrative purposes to perform the ~~agency~~ agency's  
 123 or authority's statutory functions; ~~and~~

124 (15) To promote the deployment of broadband services throughout the state, including,  
 125 but not limited to, the deployment of broadband services in any facilities and  
 126 developments designated as a Georgia Broadband Ready Community Site. The board  
 127 and the Department of Economic Development shall have such additional powers and

128 duties related to the promotion of the deployment of broadband services and other  
 129 emerging communications technologies provided in Chapter 39 of this title."

130 **SECTION 4-2.**

131 Said Title 50 is further amended in Code Section 50-8-7.1, relating to general powers and  
 132 duties of the Department of Community Affairs, by adding a new subsection to read as  
 133 follows:

134 "(e) The department shall undertake such activities as may be necessary to carry out any  
 135 additional authority, duties, and responsibilities as authorized and described in Chapter 39  
 136 of this title."

137 **SECTION 4-3.**

138 Said Title 50 is further amended in Code Section 50-25-4, relating to general powers of the  
 139 Georgia Technology Authority, by revising paragraphs (30) and (31) of subsection (a) and  
 140 by adding a new paragraph to read as follows:

141 "(30) To exercise any power granted by the laws of this state to public or private  
 142 corporations which is not in conflict with the public purpose of the authority; and  
 143 (31) To coordinate the establishment and administration of one or more programs to  
 144 increase economic, educational, and social opportunities for citizens and businesses  
 145 through the promotion of the deployment of broadband services and other emerging  
 146 communications technologies throughout the state and to exercise any power granted to  
 147 the authority in Chapter 39 of this title; and  
 148 ~~(31)~~(32) To do all things necessary or convenient to carry out the powers conferred by  
 149 this chapter."

150 **PART V**

151 **SECTION 5-1.**

152 Said Title 50 is further amended in Code Section 50-34-2, relating to definitions relative to  
 153 the "OneGeorgia Authority Act," by revising subparagraph (B) of paragraph (4) and by  
 154 revising paragraph (9) by deleting "and" at the end of subparagraph (F), by replacing the  
 155 period with "; and" at the end of subparagraph (G), and by adding a new subparagraph to  
 156 read as follows:

157 "(B) All costs of real property, fixtures, equipment, or personal property used in or in  
 158 connection with or necessary or convenient for any project or any facility or facilities  
 159 related thereto, including, but not limited to, cost of land, interests in land, options to  
 160 purchase, estates for years, easements, rights, improvements, water rights, and

161 connections for utility services, and infrastructure and connections for broadband  
 162 services as such term is defined in Code Section 50-39-1; the cost of fees, franchises,  
 163 permits, approvals, licenses, and certificates or the cost of securing any of the  
 164 foregoing; the cost of preparation of any application therefor; and the cost of all  
 165 fixtures, machinery, equipment, furniture, and other property used in connection with  
 166 or necessary or convenient for any project or facility;"

167 "(H) The acquisition, construction, improvement, or modification of any property, real  
 168 or personal, used to provide or used in connection with the provision of broadband  
 169 services which the authority has determined as necessary for the operation of the  
 170 industries which such property, real or personal, is to serve and which is necessary for  
 171 the public welfare, provided that, for the purposes of this subparagraph, the term  
 172 'broadband services' shall have the same meaning as provided in Code Section 50-39-1."

### 173 SECTION 5-2.

174 Said Title 50 is further amended by revising subsection (b) of Code Section 50-34-3, relating  
 175 to creation, membership, power, and authority of OneGeorgia Authority, as follows:

176 "(b) The board of directors of the authority shall consist of the Governor, who shall serve  
 177 as chair of the authority; the Lieutenant Governor, who shall serve as ~~vice~~ co-vice chair of  
 178 the authority; the Speaker of the House of Representatives, who shall serve as co-vice chair  
 179 of the authority; the director of the Office of Planning and Budget, who shall serve as  
 180 secretary of the authority; the commissioner of community affairs; the commissioner of  
 181 economic development; and the commissioner of revenue."

## 182 PART VI

### 183 SECTION 6-1.

184 Said Title 50 is further amended by adding a new chapter to read as follows:

#### 185 "CHAPTER 39

#### 186 ARTICLE 1

187 50-39-1.

188 As used in this chapter, the term:

189 (1) 'Broadband network project' means any deployment of broadband services.

190 (2) 'Broadband services' means a wired or wireless terrestrial service that consists of the  
 191 capability to transmit at a rate of not less than 25 megabits per second in the downstream

192 direction and at least 3 megabits per second in the upstream direction to end users and in  
 193 combination with such service provides:

194 (A) Access to the Internet; or

195 (B) Computer processing, information storage, or protocol conversion.

196 (3) 'Broadband services provider' means any provider of broadband services or a public  
 197 utility or any other person or entity that builds or owns a broadband network project.

198 (4) 'Development authority' shall have the same meaning as provided in Code Section  
 199 36-62A-20.

200 (5) 'Eligible applicants' means any or all public bodies, designated by the Department of  
 201 Community Affairs pursuant to paragraph (2) of subsection (b) of Code Section  
 202 50-39-81, as political subdivisions qualified to apply for funds under this article.

203 (6) 'Local authority' shall have the same meaning as provided in Code Section  
 204 36-82-220.

205 (7) 'Location' means any residence, dwelling, home, business, or building.

206 (8) 'Political subdivision' means a county, municipal corporation, consolidated  
 207 government, or local authority.

208 (9) 'Qualified broadband provider' means an entity that is authorized to apply for or that  
 209 obtains a certificate of authority issued pursuant to Code Section 46-5-163 that:

210 (A)(i) Has, directly or indirectly, been providing broadband services to at least 1,000  
 211 locations; and

212 (ii) Has been conducting business in the state for at least three years with a  
 213 demonstrated financial, technical, and operational capability to operate a broadband  
 214 services network; or

215 (B) Is able to demonstrate financial, technical, and operational capability to operate a  
 216 broadband services network.

217 (10) 'Served area' means a census block that is not designated by the Department of  
 218 Community Affairs as an unserved area.

219 (11) 'Unserved area' means a census block in which broadband services are not available  
 220 to 20 percent or more of the locations as determined by the Department of Community  
 221 Affairs pursuant to Article 2 of this chapter.

222 50-39-2.

223 (a) The Georgia Technology Authority is authorized and directed to establish and  
 224 implement such policies and programs as are necessary to coordinate state-wide efforts to  
 225 promote and facilitate deployment of broadband services and other emerging  
 226 communications technologies throughout the state. Such policies and programs may  
 227 include, but are not limited to, the following:

- 228 (1) A written state-wide broadband services deployment plan and the development of  
229 recommendations for the promotion and implementation of such a plan;
- 230 (2) Technical support and advisory assistance to state agencies, including, but not limited  
231 to, the Department of Community Affairs and the OneGeorgia Authority, in developing  
232 grant programs, designation programs, and other programs to promote the deployment  
233 of broadband services and other emerging communications technologies;
- 234 (3) A periodic analysis performed in conjunction with the State Properties Commission  
235 of any state assets, including, but not limited to, real property and structures thereon, that  
236 may be leased or otherwise utilized for broadband services deployment; and
- 237 (4) Coordination between state agencies, local governments, industry representatives,  
238 community organizations, and other persons that control access to resources, such as  
239 facilities and rights of way, that may be used for the deployment of broadband services  
240 and other emerging communications technologies, that apply for or receive federal funds  
241 for the deployment of broadband services and other emerging communications  
242 technologies, and that promote economic and community development.
- 243 (b) The Georgia Technology Authority shall submit copies of an annual report to the  
244 Lieutenant Governor, the Speaker of the House of Representatives, and the Governor  
245 regarding the policies and programs established by the authority as provided in  
246 subsection (a) of this Code section. Such report shall specifically include information as  
247 to the status of attainment of state-wide deployment of broadband services and other  
248 emerging communications technologies and industry and technology trends in broadband  
249 services and other emerging communications technologies. The Georgia Technology  
250 Authority shall also provide such report to all members of the General Assembly; provided,  
251 however, that the authority shall not be required to distribute copies of the report to the  
252 members of the General Assembly but shall notify the members of the availability of such  
253 report in the manner which it deems to be most effective and efficient. Furthermore, such  
254 report may be a part of or submitted in conjunction with the report required to be submitted  
255 by the Department of Community Affairs pursuant to Code Section 50-39-84.
- 256 (c) All state agencies shall cooperate with the Georgia Technology Authority and its  
257 designated agents by providing requested information to assist in the development and  
258 administration of policies and programs and the annual report provided for in this Code  
259 section.
- 260 (d) The Georgia Technology Authority shall promulgate any policies necessary to  
261 effectuate the provisions of this Code section.



262 50-39-3.

263 All information provided by a broadband services provider pursuant to this chapter shall  
 264 be presumed to be confidential, proprietary, a trade secret as such term is defined in Code  
 265 Section 10-1-761, and subject to exemption from disclosure under state and federal law and  
 266 shall not be subject to disclosure under Article 4 of Chapter 18 of this title, except in the  
 267 form of a map where information that could be used to determine provider-specific  
 268 information about the network of the broadband services provider is not disclosed. Except  
 269 as otherwise provided in this chapter, such provider-specific information shall not be  
 270 released to any person other than to the submitting broadband services provider, the  
 271 Department of Community Affairs or the Georgia Technology Authority, agents designated  
 272 to assist in developing the map provided for in Article 2 of this chapter, employees of the  
 273 Department of Community Affairs or the Georgia Technology Authority, and attorneys  
 274 employed by or under contract with the Department of Community Affairs or the Georgia  
 275 Technology Authority without express permission of the submitting broadband services  
 276 provider. Such information shall be used solely for the purposes stated under this chapter.

277 ARTICLE 2

278 50-39-20.

279 The Department of Community Affairs shall determine those areas in the state that are  
 280 served areas and unserved areas and shall publish such findings.

281 50-39-21.

282 (a) On or before January 1, 2019, the Department of Community Affairs shall publish on  
 283 its website a map showing the unserved areas in the state.

284 (b) The Department of Community Affairs shall consult with the Federal Communications  
 285 Commission in determining if a map showing the unserved areas, as determined by the  
 286 Department of Community Affairs, exists. If on or before July 1, 2018, the Department of  
 287 Community Affairs determines that such a map does not exist then such a map shall be  
 288 created by the Department of Community Affairs or an agent designated by the Department  
 289 of Community Affairs. Such agent may include the Georgia Technology Authority or  
 290 other entities and individuals that are determined by the Department of Community Affairs  
 291 to possess the necessary prerequisites to assist the department in creating such a map. Any  
 292 such map created by the Department of Community Affairs shall take into consideration  
 293 any information received pursuant to subsections (c) and (d) of this Code section and Code  
 294 Section 50-39-22. If the Department of Community Affairs determines that such a map  
 295 does exist that was not created by the Department of Community Affairs or an agent

296 designated by the Department of Community Affairs, then its website may link to such  
 297 existing map in lieu of republishing such map.

298 (c) All local governments shall cooperate with the Department of Community Affairs and  
 299 any agent designated by the Department of Community Affairs by providing requested  
 300 information as to addresses and locations of broadband services and other emerging  
 301 communications technologies within their jurisdictions.

302 (d) The Department of Community Affairs and any agent designated by the Department  
 303 of Community Affairs may request information from all broadband services providers in  
 304 the state in developing a map or making the determination as to the percentage of locations  
 305 within a census block to which broadband services are not available.

306 50-39-22.

307 (a) An entity that is authorized to apply for or that obtains a certificate of authority  
 308 pursuant to Code Section 45-5-163, a broadband services provider, or a political  
 309 subdivision may file a petition with the Department of Community Affairs along with data  
 310 specifying locations or census blocks which the petitioner alleges should be designated  
 311 differently than as shown on the map published on the website of the Department of  
 312 Community Affairs pursuant to Code Section 50-39-21. Upon receipt of such petition and  
 313 data, the Department of Community Affairs shall provide notice of the petition on the  
 314 Department of Community Affairs' website and shall notify all broadband services  
 315 providers furnishing broadband services in such census block or any census block in which  
 316 any such locations are positioned. Such broadband services providers shall have 45 days  
 317 after the date such notice is sent to furnish information to the Department of Community  
 318 Affairs showing whether the locations that are the subject of the petition currently have  
 319 broadband services available. The Department of Community Affairs shall determine  
 320 whether the designation of such locations or census blocks should be changed and shall  
 321 issue such determination within 75 days of the date the notice is sent to the broadband  
 322 services provider.

323 (b) Any determination made by the Department of Community Affairs pursuant to this  
 324 Code section shall be final and not subject to review and any such determination shall not  
 325 be a contested case under Chapter 13 of Title 50, 'Georgia Administrative Procedure Act.'

326 ARTICLE 3

327 50-39-40.

328 (a) A political subdivision that has a comprehensive plan that includes the promotion of  
 329 the deployment of broadband services, as required pursuant to Code Sections 36-70-6 and

330 50-8-7.1, may apply to the Department of Community Affairs for certification as a  
 331 broadband ready community. The department shall by rules and regulations prescribe the  
 332 form and manner for making an application. The department shall prescribe by rules and  
 333 regulations a process for public notice and comment on an application for a period of at  
 334 least 30 days after such application is received, except that such process shall not apply to  
 335 an application by a political subdivision that enacts a model ordinance developed by the  
 336 department under Code Section 50-39-41.

337 (b) The department shall approve an application and certify a political subdivision as a  
 338 broadband ready community if the department determines that such political subdivision  
 339 has enacted an ordinance that complies with Code Section 50-39-41. If the process for  
 340 public notice and comment applies to an application, the department shall, before  
 341 approving such application, consider any public comments made regarding such  
 342 application.

343 50-39-41.

344 (a) A political subdivision shall not be certified as a broadband ready community unless  
 345 such political subdivision enacts an ordinance for reviewing applications and issuing  
 346 permits related to broadband network projects that provides for all of the following:

347 (1) Appointing a single point of contact for all matters related to a broadband network  
 348 project;

349 (2) Requiring such political subdivision to determine whether an application is complete  
 350 and notifying the applicant about such determination in writing within a certain time  
 351 period after receiving such application; provided, however, that any delay in the  
 352 processing of an application that is outside the control of such political subdivision and  
 353 that is directly caused by or attributable to a natural disaster, a state of emergency, a  
 354 mandated federal review or approval, the receipt of multiple applications by the same or  
 355 different applicants within a relatively short period of time, another political subdivision's  
 356 review or approval, or through fault of the applicant shall not count toward the days  
 357 allotted within such time period;

358 (3) If the political subdivision receives an application that is incomplete, requiring the  
 359 written notification provided for under paragraph (2) of this subsection to specify in detail  
 360 the required information that is incomplete;

361 (4) If such political subdivision does not make the written notification required under  
 362 paragraph (2) of this subsection, requiring such political subdivision to consider an  
 363 application to be complete;

364 (5) Within a certain time period after receiving an application that is complete, requiring  
 365 such political subdivision to approve or deny such application and provide the applicant  
 366 notification in writing of such approval or denial;

367 (6) That any fee imposed by such political subdivision to review an application, issue a  
 368 permit, or perform any other activity related to a broadband network project shall be  
 369 reasonable, cost based, and nondiscriminatory to all applicants; and

370 (7) Any other information or specifications as may be required by the department by  
 371 rules and regulations related to ensuring ready access to the public rights of way and  
 372 infrastructure.

373 (b) The department, with input from broadband services providers and local governments,  
 374 shall develop a model ordinance for the review of applications and the issuance of permits  
 375 related to broadband network projects that complies with subsection (a) of this Code  
 376 section that may be enacted by a political subdivision.

377 (c) If a political subdivision enacts an ordinance that differs from the model ordinance  
 378 developed by the department, the political subdivision shall, when applying for certification  
 379 under Code Section 50-39-40, provide the department with a written statement that  
 380 describes the ordinance enacted by such political subdivision and how such ordinance  
 381 differs from the model ordinance.

382 (d) After certification of a political subdivision as a broadband ready community, the  
 383 department shall continue to monitor such political subdivision's compliance with the  
 384 broadband ready community eligibility requirements provided in subsection (a) of this  
 385 Code section to ensure that the ordinance is still in effect and that such political  
 386 subdivision's actions are in conformance with such ordinance.

387 50-39-42.

388 A political subdivision that the department has certified as a broadband ready community  
 389 under Code Section 50-39-41 may be decertified by the department if it:

390 (1) Imposes an unreasonable or noncost based fee to review an application or issue a  
 391 permit for a broadband network project. Any application fee that exceeds \$100.00 shall  
 392 be considered unreasonable unless such political subdivision can provide documentation  
 393 justifying such fee based on a specific cost;

394 (2) Imposes a moratorium of any kind on the approval of applications or issuance of  
 395 permits for broadband network projects or on construction related to broadband network  
 396 projects;

397 (3) Discriminates among broadband services providers with respect to any action  
 398 described in this article or otherwise related to a broadband network project, including  
 399 granting access to public rights of way, infrastructure and poles, river and bridge

400 crossings, or any other physical assets owned or controlled by such political subdivision;  
401 or  
402 (4) As a condition for approving an application or issuing a permit for a broadband  
403 network project, requires the applicant to:  
404 (A) Provide any service or make available any part of the broadband network project  
405 to such political subdivision; or  
406 (B) Except for reasonable and cost based fees allowed, make any payment to or on  
407 behalf of such political subdivision.

408 50-39-43.  
409 (a) Upon the request of a broadband services provider, the department may decertify a  
410 political subdivision as a broadband ready community if such political subdivision fails to  
411 act in accordance with the ordinance required for certification under Code  
412 Section 50-39-41, modifies such ordinance so that such ordinance no longer complies with  
413 subsection (a) of Code Section 50-39-41, or violates any provision of Code Section  
414 50-39-42.  
415 (b) Upon a complaint that an application fee under an ordinance required for certification  
416 under Code Section 50-39-41 is unreasonable, the department shall determine whether or  
417 not such fee is reasonable. In the proceeding for making such determination, the political  
418 subdivision shall have the burden of proving the reasonableness of any action undertaken  
419 by such political subdivision as part of the application process and the reasonableness of  
420 the costs of such actions.

421 50-39-44.  
422 A broadband network project targeting industry development or construction of a new  
423 building for which a political subdivision that has been certified as a broadband ready  
424 community under Code Section 50-39-40 is seeking financing from the OneGeorgia  
425 Authority, as provided for in Chapter 34 of this title, shall be given priority by the  
426 OneGeorgia Authority.

427 50-39-45.  
428 The department shall promulgate any reasonable and necessary rules and regulations to  
429 effectuate the provisions of this article.

430

ARTICLE 4431 50-39-60.

432 As used in this article, the term 'broadband services' means the provision of access to the  
433 Internet or computer processing, information storage, or protocol conversion.

434 50-39-61.

435 In order to encourage economic development and attract technology enabled growth in  
436 Georgia, the Department of Community Affairs shall, with the assistance of the  
437 Department of Economic Development, create and administer the 'Georgia Broadband  
438 Ready Community Site Designation Program.' Such program shall designate facilities and  
439 developments that offer broadband services at a rate of not less than 1 gigabit per second  
440 in the downstream to end users that can be accessed for business, education, health care,  
441 government, and other public purposes as a Georgia Broadband Ready Community Site.

442 50-39-62.

443 (a) The Department of Community Affairs or its designated agents shall evaluate the  
444 information submitted by applicants for designation as a Georgia Broadband Ready  
445 Community Site to confirm, based on the best available local, state, and federal broadband  
446 information, that at least 1 gigabit of broadband services is available within the facility or  
447 development.

448 (b) The Department of Economic Development shall promote the Georgia Broadband  
449 Ready Community Site Designation Program and shall promote the facilities and  
450 developments so designated as local community assets. Upon certification of a facility or  
451 development as a Georgia Broadband Ready Community Site, the Department of  
452 Community Affairs shall notify the Department of Economic Development so that the  
453 Department of Economic Development may provide standardized graphics and materials  
454 to the owner or owners of such facility or development and the county or municipal  
455 corporation in which such facility or development is located in order to promote the status  
456 of the site as a Georgia Broadband Ready Community Site.

457 50-39-63.

458 The Department of Community Affairs shall be authorized to adopt and promulgate such  
459 rules and regulations as may be reasonable and necessary to carry out the purposes of this  
460 article.

461

ARTICLE 5462 50-39-80.

463 (a) The General Assembly recognizes that access to broadband services in today's society  
464 is essential to everyday life. Access to broadband services is a necessary service as  
465 fundamental as electricity, gas, or phone service. There is a growing need for the  
466 government of this state to provide the much needed infrastructure to the homes and  
467 businesses without access to broadband services due to their location in rural and other  
468 unserved areas. Furthermore, the General Assembly finds and declares that ensuring  
469 broadband services deployment will have a positive effect on education, health care, public  
470 safety, business and industry, government services, and leisure activities throughout the  
471 entire state. The General Assembly also finds and declares that guaranteeing an equitable  
472 deployment of broadband services throughout the state is a public necessity, one of the  
473 basic functions of government, and a benefit to the entire state. Moreover, the General  
474 Assembly finds and declares that it is in the best interest of the state and the persons who  
475 live and work in the state to spend state funds through the establishment of a grant program  
476 to ensure the creation of a state-wide foundation of broadband services infrastructure in  
477 unserved areas of the state.

478 (b) The General Assembly hereby finds and determines that the economic benefits that  
479 will inure to the State of Georgia and designated political subdivisions from the Georgia  
480 Broadband Deployment Initiative provided for in this article and from the performance by  
481 private sector persons and entities of the obligations that they will incur in connection with  
482 such Georgia Broadband Deployment Initiative, will be equal to or greater than the benefits  
483 to be derived by such private sector persons and entities in connection therewith, and that,  
484 therefore, the Georgia Broadband Deployment Initiative does not violate the prohibition  
485 in the Georgia Constitution on the payment by public bodies of gratuities to private sector  
486 persons or entities.

487 50-39-81.

488 (a) On or before July 1, 2019, the Department of Community Affairs shall develop the  
489 'Georgia Broadband Deployment Initiative' program to provide funding awards to expand  
490 broadband services to unserved areas of the state. The goal of such program shall be to  
491 provide broadband services coverage throughout the entire state. The funding awards of  
492 the program shall represent the state's investment in the deployment of broadband services  
493 to unserved areas and shall be used only for capital expenses and expenses directly related  
494 to the purchase or lease of property or communications services or facilities, including  
495 without limitation backhaul and transport, to facilitate the provision of broadband services.

496 (b)(1) Funding awards, in the form of grants or loans, shall be competitively awarded to  
 497 eligible applicants based on criteria consistent with this article and other factors  
 498 established by the department; provided, however, that the department shall not  
 499 discriminate between different types of broadband services technology as long as the  
 500 technology is capable of transmitting data at the rates specified for each unserved area.

501 (2) The department shall designate political subdivisions as eligible applicants that shall  
 502 be qualified to apply for funding awards under this article. All such eligible applicants  
 503 are hereby granted all powers necessary for any and all purposes of the program, and in  
 504 the case of any development authority included as an eligible applicant, the exercise of  
 505 such powers is hereby found and determined to promote the development of trade,  
 506 commerce, industry, and employment opportunities.

507 (c) Funding awards shall be based on appropriations of funds or receipt of other funds to  
 508 support the program.

509 (d) The department shall consider each of the following in the funding awards process:

510 (1) The effectiveness of the partnership between an eligible applicant and a qualified  
 511 broadband services provider;

512 (2) The benefit to the unserved area in terms of the population served and the capacity  
 513 and scalability of the technology to be deployed; and

514 (3) The total project cost and the ability to leverage other available federal, local, and  
 515 private funds.

516 (e) In addition to the criteria provided in subsection (d) of this Code section, the  
 517 department may establish any other criteria for determining any funding awards that are  
 518 reasonable and necessary to ensure that the funds are utilized to provide broadband services  
 519 to the unserved areas. Such criteria may include, but shall not be limited to:

520 (1) Whether the qualified broadband services provider in the partnership is willing to  
 521 agree to:

522 (A) Not charge more for broadband services to customers in any unserved area for  
 523 which a funding award is received than it does for the same or similar broadband  
 524 services to customers in other areas of the state;

525 (B) Serve 90 percent of any locations requesting broadband services in any unserved  
 526 area for which a funding award is received; and

527 (C) Meet or exceed in any unserved area for which it receives a grant a minimum level  
 528 of dependable service as established by the department;

529 (2) The benefit to businesses; industrial parks; education centers; hospitals and other  
 530 health care facilities, such as telehealth facilities and emergency care facilities;  
 531 government buildings; public safety departments; or other providers of public services  
 532 located within the unserved area;



533 (3) Data cap limits, signal latency, and reliability of the technology to be utilized;  
534 (4) Historic service issues in other areas served by the qualified broadband provider in  
535 the partnership; and  
536 (5) The length of time it will take to deploy the broadband services in the unserved area.  
537 (f) The department shall give competitive priority to any unserved area certified as a  
538 broadband ready community as provided in Article 3 of this chapter. Partnerships that  
539 include qualified broadband providers that cooperate in providing information requested  
540 pursuant to subsection (d) of Code Section 50-39-21, as applicable, shall also factor  
541 favorably into the competitive funding awards process.  
542 (g) The department shall ensure that the program complies with all applicable federal laws,  
543 rules, and regulations.

544 50-39-82.

545 In addition to developing the program provided for in Code Section 50-39-81, the  
546 Department of Community Affairs shall provide oversight and coordination of state efforts  
547 to apply for, utilize, and implement public and private grants, programs, designations, and  
548 other resources for the deployment of broadband services and other emerging  
549 communications technologies.

550 50-39-83.

551 The Department of Community Affairs shall promulgate and enforce any reasonable and  
552 necessary rules and regulations to effectuate the provisions of this article and administer  
553 any of the programs provided for in this article.

554 50-39-84.

555 (a) On June 30, 2019, and on each June 30 thereafter, the Department of Community  
556 Affairs shall submit a report to the Lieutenant Governor, the Speaker of the House of  
557 Representatives, and the Governor on the progress in achieving the purposes of this article,  
558 including, at a minimum the status of any funding awards. Such report may be a part of  
559 or submitted in conjunction with the report required to be submitted by the Georgia  
560 Technology Authority pursuant to Code Section 50-39-2. Such report shall be published  
561 on the website of the Department of Community Affairs.

562

**PART VII**

563

**SECTION 7-1.**

564 This Act shall become effective upon its approval by the Governor or upon its becoming law  
565 without such approval.

566

**SECTION 7-2.**

567 All laws and parts of laws in conflict with this Act are repealed.