

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 246

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES GUTTENBERG, Gara, Tuck, Drummond, Kawasaki

Introduced: 2/21/18

Referred: State Affairs, Labor and Commerce

A BILL

FOR AN ACT ENTITLED

1 **"An Act creating the Alaska Broadband Development Corporation; and relating to the**
2 **Regulatory Commission of Alaska."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** The uncoded law of the State of Alaska is amended by adding a new section
5 to read:

6 LEGISLATIVE FINDINGS. The legislature finds that

7 (1) many communities in the state have limited access to the Internet because
8 the communities lack broadband and advanced telecommunications that enable high-speed
9 access to the Internet necessary to support modern civic, governmental, cultural, economic
10 development, health care, public safety, educational, and community resources;

11 (2) although the state is connected to the rest of the world through several
12 fiber-optic cables, many areas in the state lack sufficient access to affordable broadband data
13 services and broadband Internet access services because of insufficient connectivity to fiber-
14 optic cables;

(3) removing barriers to broadband deployment by using a technology and competitively neutral approach will encourage lower prices for broadband service, expand availability, and offer more choices to consumers;

(4) access to broadband and advanced telecommunications services throughout the state is essential for the state to keep pace with global changes in economic diversification, education, health care, energy and environmental technology, and public safety;

(5) affordable and nondiscriminatory access is necessary to support investment in and development of accessible broadband networks in the state and action should be taken to ensure that broadband services are affordable and reasonably comparable in all areas of the state;

(6) insufficient and unaffordable Internet connectivity between unserved or underserved locations and existing fiber-optic cables that provide high-speed Internet service is the greatest and most costly obstacle to wider deployment of broadband and advanced telecommunications services in remote areas of the state;

(7) funding from federal, private, or other sources is essential to offset the high cost of deployment, ownership, and operation of facilities providing Internet connectivity; and

(8) a coordinated approach is necessary to ensure that facilities that provide Internet connectivity are deployed efficiently and have sufficient capacity to reach unserved and underserved areas of the state and that Internet connectivity is made available on a nondiscriminatory basis to all potential users and service providers.

* **Sec. 2.** AS 42.05.145 is amended by adding a new subsection to read:

(c) Upon application, the commission shall designate the Alaska Broadband Development Corporation, established in AS 44.21.510 - 44.21.530, as an eligible telecommunications carrier for the purposes of 47 U.S.C. 214(e).

* **Sec. 3.** AS 42.05.990(6) is amended to read:

(6) "public utility" or "utility" includes every corporation whether public, cooperative, or otherwise, company, individual, or association of individuals, their lessees, trustees, or receivers appointed by a court, that owns, operates, manages, or controls any plant, pipeline, or system for

(A) furnishing, by generation, transmission, or distribution, electrical service to the public for compensation;

(B) furnishing telecommunications service, including broadband Internet access, to the public for compensation;

(C) furnishing water, steam, or sewer service to the public for compensation;

(D) furnishing by transmission or distribution of natural or manufactured gas to the public for compensation;

(E) furnishing for distribution or by distribution petroleum or petroleum products to the public for compensation when the consumer has no alternative in the choice of supplier of a comparable product and service at an equal or lesser price;

(F) furnishing collection and disposal service of garbage, refuse, trash, or other waste material to the public for compensation;

(G) furnishing the service of natural gas storage to the public for compensation;

(H) furnishing the service of liquefied natural gas storage to the public for compensation;

* **Sec. 4.** AS 42.05.990 is amended by adding a new paragraph to read:

(14) "broadband Internet access" means high-speed Internet access that is always on and that is faster than traditional dial-up access.

* **Sec. 5.** AS 44.21 is amended by adding new sections to read:

Article 7. Alaska Broadband Development Corporation.

Sec. 44.21.510. Alaska Broadband Development Corporation established; purpose. (a) The Alaska Broadband Development Corporation is established. The corporation is a public corporation and instrumentality of the state within the Department of Administration. The exercise by the corporation of the powers in AS 44.21.510 - 44.21.530 is considered an essential governmental function of the state.

(b) The purpose of the corporation is to facilitate, upgrade, plan, and finance the installation, operation, and promotion of effective use of a broadband system

1 throughout the state.

2 **Sec. 44.21.515. Board of directors.** (a) The corporation is governed by a
3 board of directors. The board consists of the following eight members:

4 (1) six voting members appointed by the governor as follows:

5 (A) one member who has expertise and experience in
6 telehealth, telemedicine, and distance learning applications on broadband
7 networks and services;

8 (B) one member who has expertise and experience in
9 developing broadband technologies in unserved or underserved rural, insular,
10 or high-cost areas;

11 (C) one member who has expertise and experience in federal
12 assistance programs supporting the development of broadband facilities and
13 affordability of broadband services;

14 (D) one member who has expertise and experience in
15 promoting broadband adoption and education;

16 (E) two members who have expertise and experience in the
17 operation of a broadband network and offering broadband services;

18 (2) two nonvoting members as follows:

19 (A) a member of the house of representatives appointed by the
20 speaker of the house of representatives and who serves at the pleasure of the
21 speaker of the house of representatives; and

22 (B) a member of the senate appointed by the president of the
23 senate and who serves at the pleasure of the president of the senate.

24 (b) Except for the legislative members of the board appointed under (a)(2) of
25 this section, two or more members of the board may not, during the member's term, be
26 employed by the same entity.

27 (c) The board shall annually elect a chair and other necessary officers from
28 among its voting members.

29 (d) The voting members of the board appointed under (a)(1) of this section
30 serve three-year terms and may be reappointed. Terms shall be staggered as provided
31 in AS 39.05.055. The voting members serve at the pleasure of the governor.

1 (e) A vacancy on the board occurring other than by expiration of a term shall
 2 be filled in the same manner as the original appointment, but for the unexpired term
 3 only.

4 (f) Four voting members of the board appointed under this section constitute a
 5 quorum for the transaction of business and the exercise of the powers and duties of the
 6 board. The board shall meet at least four times a year. A meeting of the board shall
 7 occur at the call of the chair, or upon the written request of three voting members of
 8 the board, and shall be open to the public.

9 (g) Board members do not receive a salary, but are entitled to per diem and
 10 travel expenses authorized under AS 39.20.180.

11 **Sec. 44.21.520. Purposes and duties of the corporation.** (a) The purposes of
 12 the corporation are

13 (1) increasing and improving the availability, affordability, and
 14 performance of broadband data services and broadband Internet access services in
 15 unserved and underserved areas of the state by lessening the barriers to entry posed by
 16 a lack of sufficient and affordable access to high-speed, low-latency connectivity
 17 between unserved and underserved customer areas and fiber-optic cables that connect
 18 to the Internet in the state; and

19 (2) facilitating the development of competitive options for customers
 20 in unserved and underserved areas.

21 (b) The corporation shall

22 (1) provide or enable affordable and nondiscriminatory access to high-
 23 speed, low-latency telecommunications connectivity between points in the state that
 24 are unserved or underserved by high-speed, low-latency telecommunications
 25 connectivity to existing fiber-optic cables that connect to the Internet;

26 (2) deploy the necessary broadband networking facilities to provide
 27 high-speed, low-latency telecommunications connectivity in a coordinated manner;
 28 and

29 (3) ensure the efficient use of state or other funds for the purposes
 30 described in this subsection.

31 (c) For the purposes listed in (a) of this section and AS 44.21.525, the

1 corporation may use

2 (1) federal financial assistance, including federal grant awards, loans,
3 and support from universal service support mechanisms authorized by the Federal
4 Communications Commission; and

5 (2) sources of private or other funding or property.

6 (d) Under (a) of this section, an area is unserved or underserved if the
7 corporation determines that

8 (1) the terrestrial network facilities that connect the location to the
9 Internet lack the sufficient high-speed, low-latency capacity to deliver service to all
10 customers in that area at minimum speed and usage allowances that are reasonably
11 comparable to those available in urban areas of the state and at rates and under terms
12 and conditions that are reasonably comparable to those available in urban areas of the
13 state; or

14 (2) most of the facilities in the area are owned or controlled by a single
15 entity or affiliates of the entity.

16 (e) To make the determination under (d) of this section, the corporation may

17 (1) determine and consider the current level of broadband Internet
18 access in urban and rural areas of the state;

19 (2) determine an acceptable level of broadband Internet access
20 throughout the state and in so doing may consider the findings of the Federal
21 Communications Commission under 47 U.S.C. 1302(b) (sec. 706(b),
22 Telecommunications Act of 1996); or

23 (3) monitor the ongoing deployment and capacity of high-speed, low-
24 latency telecommunications transport network facilities between points in the state,
25 including projects that are currently being developed and projects that are in the
26 planning and predevelopment stage.

27 **Sec. 44.21.525. Powers of the corporation.** The corporation may

28 (1) apply for and accept a gift, grant, or loan from a federal agency, an
29 agency or instrumentality of the state or of a municipality, or a private source for the
30 purpose of planning, constructing, deploying, owning, operating, maintaining,
31 repairing, or replacing broadband networking infrastructure in order to provide

1 sufficient and affordable high-speed, low-latency connectivity between unserved and
2 underserved customer areas and fiber-optic cables that connect to the Internet;

3 (2) use a gift, grant, or loan accepted under (1) of this section to

4 (A) plan efficient routing and deployment of
5 telecommunications facilities between points in the state that are unserved or
6 underserved by high-speed, low-latency telecommunications connectivity to
7 existing fiber-optic cables; or

8 (B) construct, upgrade, install, own, or operate
9 telecommunications facilities described in (A) of this paragraph;

10 (3) subject to the limitations in this paragraph, sell transmission
11 services and lease capacity to retail providers of broadband data services and Internet
12 access services at a wholesale price and on just, reasonable, and nondiscriminatory
13 rates, terms, and conditions for the use of those retail providers to offer the services to
14 retail end-user customers in unserved and underserved areas; the corporation may not
15 enter into a sale or lease of capacity if, following the transaction, the purchaser or an
16 affiliate of the purchaser, at the time of the transaction, would own, operate, or
17 otherwise control more than

18 (A) one-third of the total terrestrial network capacity serving
19 the area; or

20 (B) one-half of the total terrestrial network capacity available
21 for sale to serve the area;

22 (4) enter into a contract or other transaction with a federal agency, with
23 an agency or instrumentality of the state or of a municipality, or with a private
24 organization or other party;

25 (5) employ appropriate consultative, technical, legal, clerical, and other
26 personnel for the implementation of AS 44.21.510 - 44.21.530, within the limits of
27 available funds;

28 (6) prepare and submit to the governor and the legislature, in
29 compliance with the state information systems plan adopted by the commissioner of
30 administration, reports of the corporation's activities, including changes in the number
31 of areas that remain unserved or underserved by high-speed, low-latency

1 telecommunications connectivity to existing fiber-optic cables that connect to the
2 Internet; and

3 (7) take an action, not inconsistent with AS 44.21.520, as is necessary
4 to execute the function of the corporation.

5 **Sec. 44.21.530. Definitions.** In AS 44.21.510 - 44.21.530,

6 (1) "affiliate" means a person or entity that directly or indirectly owns
7 or controls, is owned or controlled by, or is under common ownership or control with,
8 another person or entity;

9 (2) "corporation" means the Alaska Broadband Development
10 Corporation established under AS 44.21.510;

11 (3) "entity" means the controlling entity and its affiliates;

12 (4) "own" means to own an equity interest of more than 10 percent.