

SENATE BILL 487

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By: **Senator Pipkin**
Introduced and read first time: January 31, 2003
Assigned to: Finance

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 12, 2003

CHAPTER _____

1 AN ACT concerning

2 ~~Telecommunication and Computer Network Access – Underserved Areas~~
3 ~~Task Force on Broadband Communications Deployment in Underserved~~
4 ~~Rural Areas~~

5 FOR the purpose of ~~altering certain provisions relating to a certain State~~
6 ~~telecommunication and computer network under the Department of Budget and~~
7 ~~Management; providing for access to a certain telecommunication and computer~~
8 ~~network by certain persons; providing for the construction of certain network~~
9 ~~facilities in areas where existing commercial access is lacking; providing for~~
10 ~~certain points of presence in certain areas in a certain manner; requiring the~~
11 ~~Department to consult and coordinate with certain agencies and entities for~~
12 ~~certain purposes; declaring the intent of the General Assembly; requiring the~~
13 ~~Department of Business and Economic Development and the Department of~~
14 ~~Budget and Management to undertake certain actions by certain dates and to~~
15 ~~report to the General Assembly on certain actions by a certain date; and~~
16 ~~generally relating to telecommunication and computer networking and~~
17 ~~underserved areas establishing a Task Force on Broadband Communications~~
18 ~~Deployment in Underserved Rural Areas; providing for the membership and~~
19 ~~duties of the Task Force; providing for staffing of the Task Force; prohibiting a~~
20 ~~member of the Task Force from receiving certain compensation; authorizing a~~
21 ~~member of the Task Force to receive reimbursement for certain expenses;~~
22 ~~providing for a panel of advisors; requiring the Task Force to report to the~~
23 ~~Governor and the General Assembly on or before certain dates; providing for the~~
24 ~~termination of this Act; and generally relating to the establishment of a Task~~
25 ~~Force on Broadband Communications Deployment in Underserved Rural Areas.~~

26 ~~BY repealing and reenacting, with amendments,~~
27 ~~Article – State Finance and Procurement~~

1 Section 3-702 and 3-705
2 Annotated Code of Maryland
3 (2001 Replacement Volume and 2002 Supplement)

4 Preamble

5 WHEREAS, many rural communities located in Southern Maryland, Western
6 Maryland, and on the Eastern Shore of Maryland do not have ready access to
7 available or affordable broadband communications Internet services; and

8 WHEREAS, the lack of broadband communications deployment has severely
9 impeded economic development efforts in rural areas that are struggling to diversify
10 their existing manufacturing, agricultural, and resource industry based economies;
11 and

12 WHEREAS, public officials and private sector leaders from rural communities
13 have repeatedly questioned why the State's broadband communications program has
14 not resolved their long-standing broadband access concerns; and

15 WHEREAS, the "eReadiness Maryland" study conducted by the Maryland
16 Technology Development Corporation in 2002 confirmed the impression that Central
17 Maryland had sufficient broadband infrastructure to meet the needs of business
18 users, but also found that the rural regions had fallen behind considerably; and

19 WHEREAS, the Department of Budget and Management is responsible for
20 providing communications services for State government and has been mandated to
21 establish a telecommunications and computer network for State and local
22 governments and public and private educational institutions in the State called
23 networkMaryland; and

24 WHEREAS, networkMaryland was officially made operational on October 30,
25 2002, to service the needs of State agencies and other public sector entities, with
26 expansion of the system expected to be completed by late 2004 that will include
27 inter-LATA communications access across the State; and

28 WHEREAS, in March 2002 the Department of Budget and Management
29 established a very effective networkMaryland Advisory Group consisting of
30 representatives from State agencies, local governments, hospitals, and educational
31 institutions to provide important oversight and direction of the networkMaryland
32 project; and

33 WHEREAS, the State of Maryland currently owns 313.5 miles of fiber optic
34 cable in Central and Western Maryland that includes 48 strands of dark fiber with
35 the following reserved deployment: 16 strands for the Maryland Department of
36 Transportation, 20 strands for networkMaryland, and 12 strands for cooperative use
37 by private sector firms; and

38 WHEREAS, there are serious State and federal regulatory concerns with
39 opening up networkMaryland to general use by the private sector; and

1 WHEREAS, the Forvm for Rural Maryland and the rural regional development
 2 organizations have repeatedly articulated the need for broadband Internet access to
 3 create economically competitive communities, and are currently in the process of
 4 performing studies to evaluate demand aggregation, establishing
 5 business-community partnerships for developing innovative communications service
 6 provision, and making applications to the federal government for program and
 7 infrastructure funding; and

8 WHEREAS, the Tri-County Council for Western Maryland has initiated a
 9 follow-up "eReadiness Maryland" project to quantify current and future broadband
 10 demand and identify specific investment requirements to make the region's
 11 information infrastructure more accessible and robust; and

12 WHEREAS, the Tri-County Council for Southern Maryland has organized a
 13 formal task group of local and regional public and private sector representatives to
 14 address the need for communications demand aggregation and the deployment of
 15 infrastructure and services; and

16 WHEREAS, the Mid-Shore Regional Council and Tri-County Council for the
 17 Lower Eastern Shore have authorized a formal study to quantify current and future
 18 demand and identify specific investment requirements that will make the region's
 19 information infrastructure more accessible and robust; and

20 WHEREAS, there is a need for a comprehensive State plan to support the local
 21 and regional implementation of programs for broadband communications services in
 22 rural areas; now, therefore,

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 24 MARYLAND, That the Laws of Maryland read as follows:

25 **~~Article -- State Finance and Procurement~~**

26 ~~3-702.~~

27 (a) ~~The Department shall:~~

28 (1) ~~coordinate the development, procurement, management and~~
 29 ~~operation of telecommunication equipment, systems, and services by State~~
 30 ~~government, BOTH BY DIRECT ACQUISITION AND BY USE OF OTHER PUBLIC AND~~
 31 ~~PRIVATE INFRASTRUCTURE;~~

32 (2) ~~acquire and manage common user telecommunication equipment,~~
 33 ~~systems, [or] AND services and [charge] PROVIDE A STANDARD INTERFACE FOR~~
 34 ~~COMMON BACKBONE SERVICES AT A FLAT RATE TO units of State government [for~~
 35 ~~their proportionate share of the costs of installation, maintenance, and operation of~~
 36 ~~the common user telecommunication equipment, systems, or services] AND MAKE~~
 37 ~~SUPPLEMENTAL INTENSIVE HIGH-BANDWIDTH SERVICES AVAILABLE TO THOSE~~
 38 ~~UNITS AT ADDITIONAL COST;~~

1 (3) promote compatibility of telecommunication systems by developing
2 policies, procedures, and standards for the acquisition and use of telecommunication
3 equipment, systems, and services by units of State government;

4 (4) coordinate State government telecommunication systems and
5 services by reviewing requests by units of State government for telecommunication
6 equipment, systems, or services;

7 (5) advise units of State government about planning, acquisition, and
8 operation of telecommunication equipment, systems, or services; and

9 (6) provide radio frequency coordination for State and local governments
10 in accordance with regulations of the Federal Communications Commission.

11 (b) The Department [may] ~~SHALL~~ make arrangement for [a user] ~~ALL USERS~~
12 other than a unit of State government to have access to and use of State
13 telecommunication equipment, systems, and [services and shall charge the user any
14 appropriate amount to cover the cost of installation, maintenance, and operation of
15 the telecommunication equipment, system, or service provided] ~~SERVICES~~:

16 (1) ~~OFFERING TO LOCAL GOVERNMENTS AND THEIR UNITS A PLATFORM~~
17 ~~OF BACKBONE SERVICES ON A STANDARD SCHEDULE OF FLAT RATES, AND MAKING~~
18 ~~SUPPLEMENTAL INTENSIVE HIGH BANDWIDTH SERVICES AVAILABLE TO THOSE~~
19 ~~GOVERNMENTS AND UNITS AT ADDITIONAL COST; AND~~

20 (2) ~~OFFERING BROADBAND SERVICES, INCLUDING SUPPLEMENTAL~~
21 ~~INTENSIVE HIGH BANDWIDTH SERVICES, AVAILABLE TO OTHER USERS ACCORDING~~
22 ~~TO AN APPROPRIATE SCHEDULE OF CHARGES OR USING ANY OTHER APPROPRIATE~~
23 ~~METHOD TO RECOVER THE COSTS OF PROVIDING SERVICES TO THESE USERS.~~

24 3-705.

25 (a) The General Assembly declares that:

26 (1) it is the policy of the State to foster ~~BROADBAND~~ telecommunication
27 and computer networking [among State and local governments, their agencies, and
28 educational institutions in] ~~THROUGHOUT~~ the State;

29 (2) the current alignment of [interagency and educational]
30 telecommunication and computer networking in the State, based in part on the
31 arrangement of Local Access and Transport Areas (LATAs), does not serve all areas of
32 the State equally, but instead creates a disparity between rural and urban regions;

33 (3) rates for the intrastate inter LATA telephone communications
34 needed for effective integration of telecommunication and computer resources are
35 prohibitive for many smaller governments, agencies, and [institutions] ~~OTHER~~
36 ~~PERSONS~~;

37 (4) there is a need to improve access, especially in rural areas, to
38 efficient telecommunication and computer network connections;

1 (5) ~~IMPROVED ACCESS TO HIGH SPEED TELECOMMUNICATION AND~~
2 ~~COMPUTER NETWORKING CONNECTIONS IN DESIGNATED GROWTH AREAS,~~
3 ~~PARTICULARLY IN UNSERVED AND UNDERSERVED PARTS OF THE STATE, WILL~~
4 ~~FOSTER ECONOMIC DEVELOPMENT IN APPROPRIATE AREAS, FURTHERING THE GOAL~~
5 ~~OF EQUITABLE DEVELOPMENT IN THE STATE BY:~~

6 ~~(I) PROMOTING LOW IMPACT ECONOMIC DEVELOPMENT THAT~~
7 ~~WILL REQUIRE LITTLE ADDITIONAL TRADITIONAL CAPITAL INFRASTRUCTURE AND~~
8 ~~CONSUMPTION OF LAND; AND~~

9 ~~(II) ASSISTING COMMUNITY LEGACY AND REVITALIZATION~~
10 ~~EFFORTS IN CURRENT POPULATION CENTERS OF UNSERVED AND UNDERSERVED~~
11 ~~AREAS THROUGH PROMOTING REINVESTMENT IN THESE COMMUNITIES,~~
12 ~~FACILITATING THE REUSE OF EXISTING BUILDINGS AND STRUCTURES IN THESE~~
13 ~~COMMUNITIES, AND DRAWING EMPLOYEES FROM THE COMMUNITIES AND THEIR~~
14 ~~ENVIRONS;~~

15 ~~(6) improvement of telecommunication and computer networking [for~~
16 ~~State and local governments and educational institutions] UNDER THIS SECTION~~
17 ~~promotes economic development, educational resource use and development, and~~
18 ~~efficiency in State and local administration; and~~

19 ~~[(6)] (7) the use of improved State telecommunication and computer~~
20 ~~networking under this section is intended not to compete with commercial access to~~
21 ~~advanced network technology, but rather to COMPLEMENT IT WHERE IT EXISTS, TO~~
22 ~~PROVIDE ACCESS WHERE COMMERCIAL ACCESS IS LACKING, AND TO foster~~
23 ~~fundamental efficiencies in government and education for the public good.~~

24 ~~(b) (1) The Department shall establish a telecommunication and computer~~
25 ~~network in the State.~~

26 ~~(2) The network shall consist of:~~

27 ~~(i) one or more connection facilities for telecommunication and~~
28 ~~computer connection in each LATA in the State, SITED TO PROVIDE SUITABLE~~
29 ~~ACCESS FOR RURAL AS WELL AS URBAN AND SUBURBAN AREAS;~~

30 ~~(ii) a backbone comprising one or more inter-LATA fiber optic~~
31 ~~links between each telecommunication facility, using a failure resistant architecture,~~
32 ~~and adhering to [the DS3 standard or better] CURRENT COMMERCIAL BROADBAND~~
33 ~~STANDARDS, to allow SUFFICIENT communication rates [of at least 45 megabits per~~
34 ~~second,] and multiplexing for transmission of video, voice, and data;~~

35 ~~(III) ON REQUEST OF A COUNTY OR MUNICIPAL CORPORATION,~~
36 ~~POINTS OF PRESENCE IN GROWTH AREAS, AS DESIGNATED IN THE COUNTY OR~~
37 ~~MUNICIPAL MASTER PLAN, THAT ARE ADJACENT TO THE BACKBONE; and~~

38 ~~[(iii)] (IV) facilities, auxiliary equipment, and services required to~~
39 ~~support the network in a reliable and secure manner.~~

1 ~~(C)~~ IN PLANNING THE INSTALLATION AND EXPANSION OF THE NETWORK,
2 THE DEPARTMENT SHALL CONSULT AND COORDINATE WITH OTHER STATE UNITS,
3 COUNTIES, MUNICIPAL CORPORATIONS, AND PUBLIC AND PRIVATE UTILITIES IN
4 ORDER TO:

5 ~~(1)~~ IDENTIFY AND CONSOLIDATE DEMAND FOR BROADBAND SERVICES
6 IN THE VARIOUS REGIONS OF THE STATE;

7 ~~(2)~~ IDENTIFY UNUSED CAPACITY IN EXISTING FACILITIES; AND

8 ~~(3)~~ PLAN THE OPTIMAL LOCATION OF POINTS OF PRESENCE IN EACH
9 LATA IN THE STATE.

10 ~~{(e)}~~ ~~(D)~~ The network shall be accessible through direct connection and
11 through local intra LATA telecommunications to State and local governments and
12 public and private educational institutions in the State.

13 SECTION 2. AND BE IT FURTHER ENACTED, That:

14 ~~(a)~~ On or before July 1, 2004, the Department of Business and Economic
15 Development shall identify existing and significant potential demand for access to
16 high-speed telecommunication and data transmission services facilities in
17 underserved rural areas of the State, in consultation with local government officials,
18 existing businesses, and existing regional and local consortia and other groups
19 involved with high technology economic development in those areas;

20 ~~(b)~~ On or before July 1, 2004, the Department of Budget and Management
21 shall explore expansion of high-speed telecommunication and data transmission
22 capacity, including fiber optic cable and competing technologies, into underserved
23 rural areas that have existing and significant potential demand for the capacity
24 afforded by fiber optic cable and competing technologies associated with State and
25 local economic development, by expansion of the State backbone and network under §
26 3-705 of the State Finance and Procurement Article, through other
27 Net Work Maryland or successor initiatives, or through other public-private
28 cooperation with commercial providers of high-speed telecommunication and data
29 transmission services, and shall also explore alternative models for delivering these
30 services in underserved rural areas;

31 ~~(c)~~ On or before January 1, 2005, the Department of Business and Economic
32 Development, in consultation with the Department of Budget and Management, shall
33 facilitate the expansion of high-speed telecommunication and data transmission
34 services and facilities into underserved rural areas of the State by matching existing
35 and significant potential demand with private and public providers of these services
36 and facilities; and

37 ~~(d)~~ On or before January 1, 2004, the Department of Business and Economic
38 Development and the Department of Budget and Management shall report jointly,
39 subject to § 2-1246 of the State Government Article, to the General Assembly on their
40 progress in complying with this section.

1 ~~SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect~~
2 ~~July 1, 2003.~~

3 (a) There is a Task Force on Broadband Communications Deployment in
4 Underserved Rural Areas.

5 (b) The Task Force consists of the following 20 members:

6 (1) the Secretary of Budget and Management, or the Secretary's
7 designee;

8 (2) the Secretary of Business and Economic Development, or the
9 Secretary's designee;

10 (3) the Chairman of the Public Service Commission, or the Chairman's
11 designee;

12 (4) the President of the Maryland Technology Development Corporation,
13 or the President's designee;

14 (5) the Executive Director of the Forvm for Rural Maryland, or the
15 Executive Director's designee;

16 (6) the Executive Director of the Tri-County Council for Western
17 Maryland, or the Executive Director's designee;

18 (7) the Executive Director of the Tri-County Council for Southern
19 Maryland, or the Executive Director's designee;

20 (8) the Executive Director of the Tri-County Council for the Lower
21 Eastern Shore of Maryland, or the Executive Director's designee;

22 (9) the Executive Director of the Mid-Shore Regional Council, or the
23 Executive Director's designee;

24 (10) a local government representative from Carroll County or Frederick
25 County appointed by the Executive Director of the Forvm for Rural Maryland;

26 (11) a local government representative from Harford County, Cecil
27 County, Kent County, or Queen Anne's County appointed by the Executive Director of
28 the Forvm for Rural Maryland;

29 (12) three members of the Maryland House of Delegates, one each from
30 Western Maryland, Southern Maryland, and the Eastern Shore, appointed by the
31 Speaker of the House;

32 (13) three members of the Senate of Maryland, one each from Western
33 Maryland, Southern Maryland, and the Eastern Shore, appointed by the President of
34 the Senate; and

1 (14) three technical experts representing public sector agencies and
2 universities appointed jointly by the Chairmen of the Southern Maryland, Western
3 Maryland, and Eastern Shore delegations to the General Assembly.

4 (c) The President of the Maryland Technology Development Corporation shall
5 serve as the Chairman of the Task Force.

6 (d) The Chairman of the Task Force may establish subcommittees of the Task
7 Force to assist in the work of the Task Force.

8 (e) A member of the Task Force may not receive compensation for serving on
9 the Task Force, but is entitled to reimbursement for expenses under the Standard
10 State Travel Regulations, as provided in the State budget.

11 (f) (1) The Chairman of the Task Force shall periodically convene a panel of
12 advisors to solicit comments and recommendations on broadband communications in
13 rural areas and other issues defined by the Task Force.

14 (2) The panel of advisors may assist the Task Force in its work as
15 determined by the Chairman of the Task Force.

16 (g) The panel of advisors shall consist of representatives of:

17 (1) local telephone service providers;

18 (2) long distance telephone service providers;

19 (3) cable service providers;

20 (4) wireless service providers;

21 (5) satellite service providers;

22 (6) investor-owned electric utility providers;

23 (7) rural electric cooperatives;

24 (8) municipal electric utilities;

25 (9) Internet service providers;

26 (10) the Network Maryland Advisory Group;

27 (11) the Network Maryland Engineering Committee;

28 (12) the Governor's Technology Commission;

29 (13) the Information Technology Board;

30 (14) the Maryland Chamber of Commerce;

- 1 (15) the Maryland Municipal League;
2 (16) the Maryland Association of Counties;
3 (17) the Maryland Rural Health Association;
4 (18) organizations representing schools, libraries, colleges, universities,
5 and high technology councils; and
6 (19) any other group, organization, or person, as determined by the
7 Chairman of the Task Force.

8 (h) The Task Force shall:

9 (1) consider developments and best practices in regions of the country
10 where broadband communications is being deployed for rural communities, the
11 broadband networking infrastructure in those areas, and the direct and indirect
12 benefits and costs associated with the networks;

13 (2) after considering existing State and regional broadband
14 communications assessments and information that may become available during the
15 deliberations of the Task Force, evaluate:

16 (i) the resources, infrastructure, and cost structures now in place
17 or available in the various rural regions of the State for developing or accessing
18 broadband communications;

19 (ii) the feasibility of using existing or alternative legal mechanisms
20 and infrastructure to support the economical development of broadband
21 communications in rural areas of the State;

22 (iii) the utility of several applications where broadband
23 communications would be beneficial to rural areas, such as applications relating to
24 agriculture, medicine, and education; and

25 (iv) other matters that the Task Force considers pertinent to
26 establishing effective broadband communications in the rural areas of the State;

27 (3) encourage the development of specific goals for the State in the
28 deployment of broadband communications in rural areas, including:

29 (i) the development of economically competitive access to
30 broadband communications by the public and private sectors in each rural region of
31 the State;

32 (ii) the availability of broadband communications access
33 throughout the rural areas of the State to address issues of universal service in
34 unserved and underserved communities;

35 (iii) the development and expansion of practical applications for the
36 enhancement of economic development, and other public benefits;

1 (iv) the development of affinities and interconnection among the
2 governmental units in the State, educational institutions, and private industry; and

3 (v) other goals that the Task Force determines to be in the public
4 interest;

5 (4) develop proposals and recommendations for the establishment and
6 enhancement of broadband communications in rural areas, by:

7 (i) reviewing government policies for the promotion, development,
8 and economically competitive use of broadband communications;

9 (ii) identifying sources of funding and support, including leveraging
10 of State and federal resources;

11 (iii) encouraging private and public participation in the
12 development and use of broadband communications in rural areas, including demand
13 aggregation and/or resource leveraging to enhance economic and technological
14 development; and

15 (iv) examining any other pertinent issues;

16 (5) oversee the implementation of the Task Force's recommendations
17 made under item (4) of this subsection, and as the Task Force may determine, offer
18 any recommendations pertaining to:

19 (i) legislation for possible introduction in the 2004 or 2005 session
20 of the General Assembly to implement the recommendations of the Task Force;

21 (ii) budget provisions and amendments for inclusion in the State
22 budgets for fiscal years 2005, 2006, and beyond; and

23 (iii) programmatic changes in State procurement or other areas that
24 might be implemented by regulation; and

25 (6) subject to § 2-1246 of the State Government Article, report to the
26 Governor, the President of the Senate of Maryland, the Speaker of the House of
27 Delegates, and the Chairmen of the Senate Finance Committee, the House Economic
28 Matters Committee, and the General Assembly's rural delegations, as follows:

29 (i) on or before December 1, 2003, issue a preliminary report and
30 draft statewide rural development plan focusing on public and private broadband
31 communications access;

32 (ii) on or before January 15, 2004, issue an interim report and
33 recommendations for a statewide broadband communications plan focusing on private
34 sector access;

1 (iii) on or before December 1, 2004, issue a progress report on the
2 implementation of the plans for public and private broadband communications access,
3 together with any follow-up recommendations; and

4 (iv) on or before June 30, 2005, issue a final report of the Task
5 Force.

6 (i) The Maryland Technology Development Corporation shall provide staff
7 support to the Task Force, with the assistance of the Forvm for Rural Maryland, the
8 Department of Budget and Management, and the Department of Business and
9 Economic Development.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 June 1, 2003. It shall remain effective for a period of 2 years and 1 month and, at the
12 end of June 30, 2005, with no further action required by the General Assembly, this
13 Act shall be abrogated and of no further force and effect.