

# HOUSE BILL No. 5254

November 5, 2003, Introduced by Reps. Nitz, Gaffney, Caswell, Garfield, Milosch, Nofs, Stahl, Casperson, Hune, Acciavatti, Voorhees, LaJoy, Bisbee, Shulman, Emmons, Walker, Hoogendyk, Hummel, Huizenga, Newell, Rocca, Farhat, Koetje, Wenke, Pastor, Steil, Meyer, Palsrok, Palmer, Ehardt, Kooiman, Richardville, Julian, Vander Veen, Shaffer and Sheen and referred to the Committee on Commerce.

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

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

26 (5) As part of an application for financing under this act,  
27 the broadband developer and broadband operator shall file with

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

6 (6) The authority may make grants to a qualified tool and die  
7 business for broadband infrastructure and broadband services if  
8 the qualified tool and die business is located in a recovery zone  
9 if approved by the department of treasury and the Michigan  
10 economic development corporation. As used in this subsection,  
11 "qualified tool and die business" and "recovery zone" mean those  
12 terms as defined in section 8d of the Michigan renaissance zone  
13 act, 1996 PA 376, MCL 125.2688d.