

[Senate, July 10, 2008 – New text, printed as amended, to House Bill relative to establishing and funding the Massachusetts Broadband Institute (House, No. 4864).]



The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND EIGHT

1 SECTION 1. To provide for a capital outlay program to achieve the deployment of
2 affordable and ubiquitous broadband access for every citizen of the commonwealth, the
3 sums set forth in section 2, for the several purposes and subject to the conditions
4 specified in this act, are hereby made available, subject to the laws regulating the
5 disbursement of public funds.

6

7 **SECTION 2.**

8

9 EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

10

11	1599-7060	For a reserve to provide funds to the Massachusetts Broadband
12		Incentive Fund established by section 6C of chapter 40J of the
13		General Laws.....40,000,000

14

15 **SECTION 3.** Section 3 of chapter 23A of the General Laws, as appearing in the
16 2006 Official Edition, is hereby amended by striking out, in line 24, the words “wireless

17 broadband development council” and inserting in place thereof the following words:-
18 Massachusetts Broadband Institute.

19

20 **SECTION 4.** Said section 3 of said chapter 23A, as so appearing, is hereby
21 further amended by striking out, in lines 62 and 63, the words “wireless broadband
22 development council, established pursuant to section 6A” and inserting in place thereof
23 the following words:- Massachusetts Broadband Institute, established pursuant to section
24 6B.

25

26 **SECTION 5.** Said section 3 of said chapter 23A, as so appearing, is hereby
27 further amended by striking out, in lines 87 and 88, the words “wireless broadband
28 development council established pursuant to section 6A” and inserting in place thereof
29 the following words:- Massachusetts Broadband Institute established pursuant to section
30 6B.

31

32 **SECTION 6.** Chapter 40J of the General Laws is hereby amended by striking out
33 sections 6B and 6C, as so appearing, and inserting in place thereof the following 2
34 sections:-

35 Section 6B. (a) As used in this section and in section 6C the following words
36 shall, unless the context clearly requires otherwise, have the following meanings:

37

38 “Board”, the board of the Massachusetts Broadband Institute established pursuant
39 to subsection (c).

40

41 “Broadband”, high-speed internet access, including wireless internet access, and
42 as may be further defined by the board.

43

44 “Fund”, the Massachusetts Broadband Incentive Fund established pursuant to
45 section 6C.

46

47 “Institute”, the Massachusetts Broadband Institute established pursuant to
48 subsection (b).

49

50 (b) The corporation shall establish an institute for investment in broadband
51 infrastructure in the commonwealth, to be known as the Massachusetts Broadband
52 Institute. The executive director of the corporation, subject to the approval of the board,
53 shall appoint a qualified individual as director to manage the affairs of the institute. The
54 purpose of the institute shall be to achieve the deployment of affordable and ubiquitous
55 broadband access across the commonwealth. The objectives of the institute shall be to: (i)
56 assess and improve broadband access conditions in communities that have no access or
57 have limited or insufficient access to broadband; (ii) promote robust broadband access for
58 essential state and local governmental services including, without limitation, public
59 safety, health and education; (iii) to promote increased availability of, and competition
60 for, broadband access and related services; and (iv) to create conditions that will
61 encourage economic competitiveness and growth. The first priority of the institute shall

62 be to assess and improve conditions in the commonwealth's communities that have no
63 broadband access.

64

65 (c) The institute shall be governed and its corporate powers exercised by a board
66 of directors, which shall consist of the following 9 members: the secretary of
67 administration and finance or his designee; the secretary of housing and economic
68 development or his designee; the commissioner of telecommunications and cable or his
69 designee; the executive director of the corporation or his designee; and the chairman of
70 the governing board of the John Adams Innovation Institute or his designee; and 4
71 members to be appointed by the governor, all of whom shall have knowledge and
72 experience in 1 or more of the following areas: telecommunications, broadband
73 infrastructure, public-private partnership development, information technology or other
74 fields of experience consistent with the mission of the institute. The governor shall, from
75 time to time, designate a member to chair the board. Each member appointed by the
76 governor shall serve a term of 4 years and thereafter until his successor is appointed. Any
77 person appointed to fill a vacancy in the office of a member of the board shall be
78 appointed in a like manner and shall serve for only the unexpired term of such member.
79 Any appointed member shall be eligible for reappointment. An appointed member may
80 be removed by the governor for cause. Five members of the board shall constitute a
81 quorum, and the affirmative vote of a majority of the members present and eligible to
82 vote at a meeting shall be necessary for any action to be taken by the board. The members
83 shall serve without compensation, but each member shall be entitled to reimbursement

84 for actual and necessary expenses incurred in the performance of his official duties. The
85 board shall meet at least 4 times annually.

86

87 (d) The board shall leverage private sector and federal investment by financing
88 the construction and acquisition of broadband infrastructure to promote the development
89 of broadband access. This broadband infrastructure shall include, but not be limited to,
90 conduit, fiber and towers. Any equipment or other property financed by the institute shall
91 be owned by the corporation, the commonwealth or 1 or more other public entities, but
92 may be leased or licensed by the institute, for a fee or otherwise, for use by nonprofit or
93 for-profit private-sector entities. Any such transaction shall constitute a transaction with
94 the commonwealth for the purpose of chapter 30B. The lessee or licensee shall pay any
95 lease or license fees to the corporation, which shall credit them to the fund. The institute
96 may provide and pay for such advisory services and technical assistance as may be
97 necessary or desired to carry out its purposes.

98

99 The board may work in collaboration with the corporation and other quasi-public
100 and nonprofit entities and state agencies, and may provide advisory assistance to local
101 entities, local authorities, public bodies and private corporations for the purposes of
102 maximizing opportunities for the expansion of broadband access in the commonwealth
103 and fostering innovative approaches to broadband access in the commonwealth.

104

105 (e) The board shall collect information from reasonably available sources
106 including, but not limited to, municipalities and other public entities and agencies of the

107 commonwealth, local and regional nonprofit entities, and telecommunications and
108 broadband service providers, to develop and maintain an inventory of: (i) locations where
109 telecommunications and broadband services are not available in the commonwealth; (ii)
110 locations where telecommunications and broadband infrastructure is available or is
111 reasonably likely to be available to support the provision of services to unserved and
112 underserved areas; (iii) locations where new infrastructure may be necessary to support
113 the provision of services to unserved and underserved areas; (iv) the quality of such
114 services, including but not limited to speed of data transmission and cost of such services;
115 and (v) any other relevant information as the board may deem necessary.

116

117 (f) The board shall establish a detailed long-term plan for the operation of the
118 institute and the administration of the fund and shall consult with the joint committee on
119 telecommunications, utilities and energy and the joint committee on economic
120 development and emerging technologies on the plan. The plan, and any amendments
121 thereto, shall be subject to the approval of the secretary of housing and economic
122 development and the secretary of administration and finance and shall be filed with the
123 house and senate committees on ways and means, the joint committee on
124 telecommunications, utilities and energy and the joint committee on economic
125 development and emerging technologies.

126

127 (g) The board shall annually adopt an operating plan governing disbursements
128 from the fund and, to the extent the plan provides for disbursement of appropriations or
129 other moneys authorized by the general court, the plan shall be subject to the approval of

130 the secretary of housing and economic development and the secretary of administration
131 and finance. The board shall file the plan, and any amendments thereto, with the house
132 and senate committees on ways and means, the joint committee on telecommunications,
133 utilities and energy and the joint committee on economic development and emerging
134 technologies.

135

136 (h) The board shall promulgate rules and regulations for the administration and
137 enforcement of this section and section 6C.

138

139 (i) The board shall review and recommend changes in laws, rules, programs and
140 policies of the commonwealth and its agencies and subdivisions to further financing,
141 infrastructure and development for broadband access in the commonwealth.

142

143 (j) The board shall prepare, publish and distribute, with or without charge, as the
144 institute may determine, any studies, reports and bulletins and other material as the
145 institute deems appropriate.

146

147 (k) The institute shall file an annual report of its activities with the governor, the
148 joint committee on telecommunications, utilities and energy, the joint committee on
149 economic development and emerging technologies, and the house and senate committees
150 on ways and means.

151

152 Section 6C. The corporation shall establish a fund to be known as the
153 Massachusetts Broadband Incentive Fund. The corporation shall hold the fund separate
154 and apart from its other funds, to finance the activities of the institute. The corporation
155 shall credit to the fund any appropriations, bond proceeds or other moneys authorized by
156 the general court and specifically designated to be credited to the fund, and any other
157 moneys legally available to the corporation which the board of the corporation may
158 determine to deposit in the fund.

159

160 **SECTION 7.** Notwithstanding any general or special law to the contrary, to meet
161 the expenditures necessary in carrying out section 2, the state treasurer shall, upon
162 request of the governor, issue and sell bonds of the commonwealth in an amount to be
163 specified by the governor from time to time but not exceeding, in the aggregate,
164 \$40,000,000. All bonds issued by the commonwealth as aforesaid shall be designated on
165 their face, Massachusetts Broadband Incentive Fund Loan Act of 2008, and shall be
166 issued for a maximum term of years, not exceeding 30 years, as the governor may
167 recommend to the general court pursuant to section 3 of Article LXII of the Amendments
168 to the Constitution. All such bonds shall be payable not later than June 30, 2043. All
169 interest and payments on account of principal of such obligations shall be payable from
170 the General Fund. Bonds and interest thereon issued under this section shall be general
171 obligations of the commonwealth.

172

173 **SECTION 8.** Notwithstanding any general or special law to the contrary, in
174 making the initial appointments pursuant to subsection (c) of section 6B of chapter 40J of

175 the General Laws, the governor shall appoint 1 member to serve for a term of 1 year, 1
176 member to serve for a term of 2 years, 1 member to serve for a term of 3 years and 1
177 member to serve for a term of 4 years.

178

179 **SECTION 9.** Notwithstanding any general or special law to the contrary, not less
180 than 10 days after the effective date of this act, the Massachusetts Technology Park
181 Corporation, established pursuant to section 3 of chapter 40J of the General Laws, shall
182 transfer the balance of the Wireless and Broadband Development Fund to the
183 Massachusetts Broadband Incentive Fund.