RESOLUTION NO. 2021-184

LATE FILING
First Reading Passage Requested
(B. Nelsen)

SPONSORS Executive Shapiro, Ms. Walters, Mr. Dickinson, Ms. Darrow, Mr. Donofrio, Mr. Feeman, Ms. McKenney, Ms. Rodgers, Mr. Schmidt, Ms. Sims, Mr. Wilhite

DATE June 14, 2021 COMMITTEE Committee of the Whole

A Resolution opposing provisions of the Ohio Senate Omnibus Budget Amendment which would effectively prohibit in the State of Ohio the new construction of public-owned broadband networks, and the ongoing provision of broadband services provided by public-owned networks such as Fairlawn Gig and Hudson's Velocity Broadband, thereby harming the ability for Ohio's residents and businesses to participate in the 21st century digital economy, for the Executive and Council, and declaring an emergency.

WHEREAS, the COVID-19 pandemic has clearly shown that broadband is an essential service for Ohioans in the 21st century, and is needed to support online school and work, access healthcare and medical information, conduct efficient business operations, and ensure our safety forces can communicate with one another for our protection; and

WHEREAS, the Ohio Senate Omnibus Budget Amendment includes language that would modify Chapter 122 of the Ohio Revised Code (specifically to add Sections 122.4090, 122.4091, 122.4093, 122.4095, 122.4097, and 122.4098) (the "Public-owned Broadband Restriction Amendment") to prevent political subdivisions, including municipalities that currently operate broadband networks, from offering broadband service except to areas that do not have service of 10 Mbps download/1Mbps upload, which is akin to dial-up service; and

WHEREAS, The United States Federal Communications Commission (FCC) is the federal agency responsible for defining minimum broadband service, and the FCC has established that minimum broadband service as 25 megabits per second download (25 Mbps) and three megabits per second (3 Mbps) upload; and

WHEREAS, while many Ohioans lack access to the minimum broadband standard established by the FCC, it is estimated that 98.28% of Ohio households have access to service at the threshold definition used in the Public-owned Broadband Restriction Amendment, leaving only 1.72% of Ohio's population "unserved" under that definition; and

WHEREAS, as a result of the overly restrictive definition of "unserved" in the Public-owned Broadband Restriction Amendment, political subdivisions would effectively be prohibited from operating public-owned broadband networks, such as the Fairlawn GIG and Hudson's Velocity Broadband, resulting in local governments being banned from providing service even to those Ohioans that fall below the FCC's minimum broadband service standard; and

WHEREAS, given the massive migration over the last fifteen months of Ohioans to high-speed broadband for educational, employment, medical and other essential purposes, many experts argue that even the FCC's standard for minimum broadband service is antiquated, and that a 21st century digital economy demands much higher broadband speeds; and

WHEREAS, unfortunately, the Public-owned Broadband Restriction Amendment monopolizes an essential service in the hands of a small number of private companies, who have failed or refused to adequately provide affordable, reliable and sufficient broadband service to many of Ohio's residents and business; and

WHEREAS, public ownership of a high-speed, reliable broadband network is critical to ensure that Ohio's residents and businesses can receive affordable, reliable and sufficient broadband to be able to compete and prosper in today's economy, providing for:

- critical communication between our public safety forces, including advanced-911 systems,
- the competitiveness of our businesses and the ability to attract and retain business and employment opportunities in our State,
- access to meaningful educational opportunities for all Ohioans,
- a level playing field where Ohioans from all socio-economic backgrounds can obtain the tools they need to succeed,
- enhanced security to ensure that personal and business data of Ohioans is secure,
- access to high-quality medical services from anywhere,
- advances in new technologies for Ohio to become an active player in our global economy, particularly in areas like autonomous transportation, enhanced security protections and medical advancements; and

WHEREAS, certain existing and already capitalized multi-jurisdiction/agency combined networks being used throughout Ohio for public safety, remote health care, regional economic development, and transportation initiatives would be required to cease operation as a result of the Public-Owned Broadband Restriction Amendment because their participating jurisdictions will be required to abandon their individual system components; and

WHEREAS, Ohio schools, port authorities, and other entities falling under the sweeping definition of political subdivisions used in the Public-Owned Broadband Restriction Amendment would be prohibited from ongoing or future participation in the provision of broadband service to meet the needs of its users; and

WHEREAS, the Public-Owned Broadband Restriction Amendment is yet another infringement of upon the home rule authority of municipalities and charter counties, like Summit County, that use such authority to provide for the health, safety and welfare of their residents; and

WHEREAS, the Public-Owned Broadband Restriction Amendment further prohibits political subdivisions, including those with already-established networks, from utilizing federal funds, including the billions being received by political subdivisions in Ohio under the American Rescue Plan, on public-owned broadband systems, at a time when those funds can be used to connect Ohioans to the 21st century digital economy; and

WHEREAS, the Public-Owned Broadband Restriction Amendment was added to the Ohio Senate Omnibus Budget Amendment at the twelfth hour, in an attempt to place the profits of a handful of companies ahead of the health, education, safety and welfare of Ohioans, with absolutely no public discussion or debate; and

WHEREAS, in summary, the health, education, safety, and welfare of the residents of Summit County require the unfettered ability of the County and its political subdivision to provide affordable, reliable and sufficient broadband services at levels that ensure the needs of its residents and businesses can participate in the 21st century digital economy and beyond; and

WHEREAS, this Council finds and determines, after reviewing all pertinent information, that it is necessary and in the best interest of the County of Summit to oppose the Public-Owned Broadband Restriction Amendment contained in the Ohio Senate Omnibus Budget Amendment to the extent that would modify Chapter 122 of the Ohio Revised Code (specifically to add Sections 122.4090, 122.4091, 122.4093, 122.4095, 122.4097, and 122.4098) to restrict public-owned broadband networks.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the County of Summit, State of Ohio, that:

SECTION 1

This Council opposes the passage of the Omnibus Budget Amendment to the extent that it would modify Chapter 122 of the Ohio Revised Code (specifically to add Sections 122.4090, 122.4091, 122.4093, 122.4095, 122.4097, and 122.4098) to in any way restrict public-owned broadband.

SECTION 2

The Clerk of Council is hereby authorized and directed to forward a copy of this Resolution to the Governor of Ohio, to the members of the Ohio House and Senate Conference Committee negotiating the State of Ohio's Biennial Budget, and to the Summit County delegation of the Ohio General Assembly.

SECTION 3

This Resolution is hereby declared an emergency in the interest of the health, safety and welfare of the citizens of the County of Summit and for the further purpose of immediately expressing opposition to the passage of the Omnibus Budget Amendment to the extent that it would modify Chapter 122 of the Ohio Revised Code (specifically to add Sections 122.4090, 122.4091, 122.4093, 122.4095, 122.4097, and 122.4098).

SECTION 4

Provided this Resolution receives the affirmative vote of eight members, it shall take effect immediately upon its adoption and approval by the Executive; otherwise, it shall take effect and be in force at the earliest time provided by law.

SECTION 5

It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Codes.

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INTRODUCED June 14, 2021

ADOPTED June 14, 2021

CLERK OF COUNCIL

PRESIDENT OF COUNCIL

APPROVED June 15, 2021

EXECUTIVE

ENACTED EFFECTIVE June 15, 2021

Voice Vote - YES: 11-0: Darrow, DeVitis, Dickinson, Donofrio, Feeman, McKenney, Rodgers, Schmidt, Sims, Walters, Wilhite