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H.P. 732

House of Representatives, March 24, 2015

**An Act To Promote Community Broadband Planning and
Strengthen Economic Opportunity throughout Maine**

Reference to the Committee on Energy, Utilities and Technology suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative GIDEON of Freeport.
Cosponsored by Senator MASON of Androscoggin and
Representatives: Speaker EVES of North Berwick, McCABE of Skowhegan, Senators:
ALFOND of Cumberland, CUSHING of Penobscot, HILL of York, President THIBODEAU of
Waldo.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 5 MRSA §12004-I, sub-§85-A**, as enacted by PL 2005, c. 665, §2, is
3 repealed.

4 **Sec. 2. 35-A MRSA §9202, sub-§§3 to 5**, as enacted by PL 2005, c. 665, §3, are
5 amended to read:

6 **3. Communications service.** "Communications service" means any wireline voice,
7 satellite, data, fixed wireless data, facilities-based wireless voice or data or video retail
8 service.

9 **4. Communications service provider.** "Communications service provider" means:

10 A. Any entity offering communications service to customers in the State; ~~or~~

11 ~~B. Any facilities based provider of wireless voice or data retail service that~~
12 ~~voluntarily chooses to be assessed by the authority pursuant to section 9211.~~

13 **5. Unserved or underserved area.** "Unserved or underserved area" means an area
14 that the authority pursuant to section 9204 9204-A, subsection 2, ~~paragraph B~~ 1
15 determines to meet criteria established by the authority by rule adopted pursuant to
16 section 9205, subsection 3 ~~in accordance with section 9204, subsection 1.~~

17 **Sec. 3. 35-A MRSA §9202-A**, as enacted by PL 2009, c. 586, §1, is repealed and
18 the following enacted in its place:

19 **§9202-A. State broadband policy**

20 **1. Goals.** The goals of the State related to broadband service are that:

21 A. Broadband service be universally available in this State, including to all
22 residential and business locations and community anchor institutions;

23 B. There be secure, reliable, competitive and sustainable forward-looking
24 infrastructure that can meet future broadband needs; and

25 C. All residents, businesses and institutions in the State be able to take full advantage
26 of the economic opportunities available through broadband service.

27 **2. Policies.** The policies of the State related to broadband service are to:

28 A. Maximize sustainable investment in broadband infrastructure in the State;

29 B. Maximize federal and private resources to support the deployment of broadband
30 infrastructure in unserved and underserved areas of the State;

31 C. Prioritize the use of state resources to assist deployment of infrastructure to
32 provide broadband service in unserved and underserved areas of the State;

33 D. Promote adoption of broadband service by residents, businesses and institutions;
34 and

35 E. Leverage existing infrastructure to extend broadband service.

1 **Sec. 4. 35-A MRSA §9203, sub-§§1 to 3**, as enacted by PL 2005, c. 665, §3, are
2 amended to read:

3 **1. Establishment; membership.** The ConnectME Authority is established to
4 ~~stimulate investment in advanced communications technology infrastructure in unserved~~
5 ~~or underserved areas~~ further the goals and policies in section 9202-A. The authority is
6 created as a body corporate and politic and a public instrumentality of the State. The
7 exercise by the authority of powers conferred by this chapter is considered to be the
8 performance of essential governmental functions. The authority consists of the following
9 ~~5~~ 7 voting members:

- 10 A. The chair of the Public Utilities Commission or the chair's designee;
- 11 B. The Chief Information Officer of the State; or the officer's designee;
- 12 C. One representative of consumers, appointed by the Governor; ~~and~~
- 13 D. Two members with significant knowledge of communications technology,
14 appointed by the Governor;
- 15 E. The Commissioner of Economic and Community Development or the
16 commissioner's designee; and
- 17 F. One member with significant knowledge of telemedicine as defined in Title 24-A,
18 section 4316, subsection 1, appointed by the Governor.

19 Compensation of members is as provided in Title 5, section 12004-G, subsection 33-F.

20 **2. Terms; chair; vacancies.** All members are appointed for 3-year terms. The
21 Governor shall appoint a chair from among the ~~3~~ 4 members appointed by the Governor.
22 In the event of a vacancy in the membership, the Governor shall appoint a replacement
23 member for the remainder of that vacated term. Each member of the authority serves until
24 that member's successor is appointed and qualified. Any member of the authority is
25 eligible for reappointment.

26 **3. Officers; quorum.** The authority may elect a secretary and a treasurer, who may,
27 but need not, be members of the authority. ~~Three~~ Four members of the authority
28 constitute a quorum, and the affirmative vote of ~~3~~ 4 members is necessary for any action
29 taken by the authority.

30 **Sec. 5. 35-A MRSA §9203, sub-§6**, as enacted by PL 2005, c. 665, §3, is
31 repealed.

32 **Sec. 6. 35-A MRSA §9204**, as amended by PL 2009, c. 63, §§1 and 2, is repealed.

33 **Sec. 7. 35-A MRSA §9204-A** is enacted to read:

34 **§9204-A. Duties of authority**

35 **1. Establish criteria defining unserved and underserved areas.** The authority, by
36 rule adopted pursuant to section 9205, subsection 3, shall establish criteria to define
37 unserved and underserved areas with respect to broadband service. Criteria established
38 by the authority to define unserved and underserved areas must include the percentage of

1 households with access to broadband service within a municipality or other appropriate
2 geographic area. The authority shall use these criteria to determine those areas of the
3 State that are unserved or underserved.

4 **2. Promote use of broadband service.** The authority shall promote use of
5 broadband service by identifying and sharing best practices that encourage use of
6 broadband service, eliminating barriers to use of broadband service and facilitating and
7 supporting public-private partnerships to increase use of broadband service.

8 **3. Support local and regional broadband planning.** The authority shall provide
9 technical and financial assistance to communities in the State that include unserved and
10 underserved areas to identify the need for broadband infrastructure and services and
11 develop and implement plans to meet those needs.

12 **4. Support broadband investment.** The authority shall expand the availability of
13 broadband service to residential and small business customers in unserved or underserved
14 areas by identifying, developing and providing funding for broadband investments that
15 will benefit multiple unserved and underserved communities and may be used by multiple
16 providers.

17 **5. Facilitate state support of deployment of broadband infrastructure.** The
18 authority shall review, recommend and facilitate changes in laws, rules, programs and
19 policies of the State and its agencies to further deployment of broadband infrastructure to
20 all unserved and underserved areas of the State. The authority shall assist in identifying
21 opportunities to use broadband infrastructure to achieve the state policies and goals as set
22 out in section 9202-A and support coordination between communications providers and
23 state and local governmental entities, including coordination with the statewide
24 emergency radio network.

25 **6. Collect and disseminate information.** The authority shall collect, aggregate,
26 coordinate and disseminate information regarding the availability of and need for
27 advanced communications technology infrastructure in the State and opportunities for
28 funding for broadband infrastructure and education.

29 **7. Administer funds.** The authority shall administer the ConnectME Fund as
30 established pursuant to section 9211.

31 **8. Limitations on activities of the authority.** The authority may not develop,
32 acquire, fund, coordinate or otherwise undertake any project or make any grant, direct
33 investment or loan under this chapter unless the authority determines that without the
34 authority's action the installation of adequate advanced communications technology
35 infrastructure in an unserved or underserved area would not occur within the same time
36 period. Notwithstanding any other provision of this chapter, the authority may not
37 provide any wireline, wireless, satellite, voice, data or video service at retail or wholesale.

38 **Sec. 8. 35-A MRSA §9206,** as enacted by PL 2005, c. 665, §3, is repealed.

39 **Sec. 9. 35-A MRSA §9208, sub-§2,** as enacted by PL 2005, c. 665, §3, is
40 amended to read:

1 **2. Activities.** Documents the activities of the authority, including ~~review of~~
2 ~~applications for funding received by the authority~~ a detailed description of the progress
3 toward the goals and objectives established in the triennial strategic plan under section
4 9218;

5 **Sec. 10. 35-A MRSA §9211, sub-§2,** as enacted by PL 2005, c. 665, §3, is
6 amended to read:

7 **2. Assessment.** After receiving authorization pursuant to Title 5, section 8072 to
8 finally adopt major substantive rules under section 9205, subsection 3 or after January 15,
9 2007, whichever is later, the authority may require every communications service
10 provider to contribute on a competitively neutral basis to the fund. The assessment may
11 not exceed 0.25% of the revenue received or collected for all communications services
12 provided in this State by the communications service provider. ~~A facilities-based~~
13 ~~provider of wireless voice or data retail service may voluntarily agree to be assessed by~~
14 ~~the authority as a communications service provider under this subsection.~~

15 **Sec. 11. 35-A MRSA §9216, sub-§4, ¶A,** as enacted by PL 2009, c. 612, §10, is
16 amended to read:

17 A. Deposit 5% of the funds received under subsection 3 into the ConnectME Fund
18 established under section 9211 and may use these funds to support the activities of
19 the authority under this section and for the purposes of section ~~9204~~ 9204-A; and

20 **Sec. 12. 35-A MRSA §§9217 and 9218** are enacted to read:

21 **§9217. Community broadband planning**

22 The authority shall provide funds for broadband planning grants to municipalities,
23 groups of municipalities in the same region of the State or private or public organizations
24 to develop plans to expand the availability of broadband services in unserved and
25 underserved areas.

26 **1. Requirements of plans.** Plans funded through grants under this section must:

27 A. Define local broadband needs and goals;

28 B. Inventory existing broadband infrastructure assets within the municipality,
29 municipalities or region;

30 C. Include a gap analysis defining the additional broadband infrastructure necessary
31 to meet identified needs and goals;

32 D. Include initial network design, cost estimate, operating models and potential
33 business models and partners to support the investment necessary to fill any
34 broadband gap identified in paragraph C; and

35 E. Include an assessment of all municipal procedures, policies, rules and ordinances
36 that have the effect of delaying or increasing the cost of broadband infrastructure
37 deployment.

1 The authority shall make all plans developed using grant funds under this section
2 available on the authority's publicly accessible website.

3 **2. Rules.** The authority shall adopt rules to ensure that grants are equitably
4 distributed throughout the unserved and underserved areas of the State and that the grants
5 encourage collaboration between multiple communities. Rules adopted pursuant to this
6 subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

7 **3. Precertification.** The authority may establish a precertification process to
8 determine eligibility for grants pursuant to this section to encourage adoption of identified
9 best practices by participating municipalities.

10 **§9218. Broadband service strategic plan**

11 **1. Broadband service strategic plan.** The authority shall draft a detailed, triennial
12 strategic plan for broadband service that includes quantifiable measures of performance
13 to carry out the duties in section 9204-A and to further the goals and policies in section
14 9202-A. The strategic plan must include, but is not limited to, budget allocations,
15 objectives, targets, measures of performance, implementation strategies, timelines, a
16 definition of "broadband" and other relevant information.

17 **2. Public input.** The authority shall post the draft of the triennial strategic plan
18 pursuant to subsection 1 on the authority's publicly accessible website 90 days before the
19 date on which the plan will be voted on and provide opportunity for written comments
20 and a public hearing at least 30 days prior to voting.

21 **3. Approval of triennial strategic plan.** The authority shall approve the triennial
22 strategic plan pursuant to subsection 1 by affirmative vote of 2/3 of its members upon a
23 finding that the plan is consistent with the policies, duties and requirements of the
24 authority as set forth in this chapter.

25 **Sec. 13. Triennial strategic plan for broadband service.** By December 31,
26 2015, the ConnectME Authority shall establish and approve the first triennial strategic
27 plan for broadband service pursuant to the Maine Revised Statutes, Title 35-A, section
28 9218.

29 **SUMMARY**

30 This bill amends the Advanced Technology Infrastructure Act. It amends the
31 definitions of "communications service" and "communications service provider." It
32 makes changes to the State's goals and policies in the Act. It amends the membership of
33 the ConnectME Authority and amends the duties of the authority. It requires the
34 authority to provide funds for broadband planning grants. It abolishes the ConnectME
35 Advisory Council. It requires the authority to establish a triennial strategic plan for
36 broadband service and to report to the Legislature on progress toward meeting the plan's
37 goals and objectives.