

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY

S.P. 498 - L.D. 1563

An Act To Encourage the Development of Broadband Coverage in Rural
Maine

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

Sec. 1. 5 MRSA §12004-G, sub-§33-F, as enacted by PL 2005, c. 665, §1, is amended to read:

33-F.

Technology	ConnectME <u>ConnectMaine</u> Authority	Not Authorized	35-A MRSA §9203
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Sec. 2. 5 MRSA §12021, sub-§6, ¶B, as enacted by PL 2011, c. 616, Pt. A, §1, is amended to read:

B. The ~~ConnectME~~ ConnectMaine Authority under Title 35-A, section 9203;

Sec. 3. 30-A MRSA §5225, sub-§1, ¶C, as amended by PL 2019, c. 260, §1, is further amended by amending subparagraph (9) to read:

(9) Costs associated with broadband and fiber optics expansion projects, including preparation, planning, engineering and other related costs in addition to the construction costs of those projects. If an area within a municipality or plantation is unserved with respect to broadband service, as defined by the ~~ConnectME~~ ConnectMaine Authority as provided in Title 35-A, section 9204-A, subsection 1, broadband and fiber optics expansion projects may serve residential or other nonbusiness or noncommercial areas in addition to business or commercial areas within the municipality or plantation; and

Sec. 4. 35-A MRSA §2503, sub-§2, as amended by PL 2017, c. 344, §1, is further amended to read:

2. Notice. The applicant may give public notice of the application by publishing its description of the proposed facility once in a newspaper circulated in the municipality or municipalities encompassing the limits of the proposed location. The applicant shall send a copy of any application filed with the Department of Transportation to the municipal clerk of each municipality in which the facilities are located, or to the clerk of the county commissioners in the case of facilities within an unorganized township, except that the applicant may, without publication of its application, place its facility described in its application on receipt of a permit from the licensing authority as may be otherwise provided. If a proposed facility is located underground and is in excess of 500 feet in length, the applicant shall, within 5 business days of submitting an application to the applicable licensing authority, provide the ~~ConnectME~~ ConnectMaine Authority established in Title 5, section 12004-G, subsection 33-F a notice that includes a description and the location of the proposed facility.

Sec. 5. 35-A MRSA §7104-B, sub-§5, ¶I, as enacted by PL 2019, c. 52, §4, is amended to read:

I. To provide, within existing resources, support for qualified libraries in rural areas of the State with greatest need, as determined in consultation with the State Librarian, the Commissioner of Education and the ~~ConnectME~~ ConnectMaine Authority, to offer portable wireless access points, or hotspots, for mobile Internet access.

Sec. 6. 35-A MRSA §9202, sub-§2, as enacted by PL 2005, c. 665, §3, is amended to read:

2. Authority. "Authority" means the ~~ConnectME~~ ConnectMaine Authority established in section 9203.

Sec. 7. 35-A MRSA §9203, as amended by PL 2019, c. 343, Pt. QQ, §2, is further amended to read:

§9203. ~~ConnectME~~ ConnectMaine Authority

1. Establishment; membership. The ~~ConnectME~~ ConnectMaine Authority is established to further the goals and policies in section 9202-A. The authority is created as a body corporate and politic and a public instrumentality of the State. The exercise by the authority of powers conferred by this chapter is considered to be the performance of essential governmental functions. The authority consists of the following 7 voting members:

- A. The chair of the Public Utilities Commission or the chair's designee;
- B. The Chief Information Officer of the State or the officer's designee;
- C. One representative of consumers, appointed by the Governor;
- D. Two members with significant knowledge of communications technology, appointed by the Governor;
- E. The Commissioner of Economic and Community Development or the commissioner's designee; and

F. One member with significant knowledge of telemedicine as defined in Title 24-A, section 4316, subsection 1, appointed by the Governor.

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

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

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

4. Participation by members. A member may participate in a meeting of the authority and place a vote electronically or telephonically as long as members of the public have an opportunity to listen to the deliberations of the authority and otherwise participate in or observe the proceedings of the authority consistent with Title 1, section 405.

5. Indemnification. Each member of the authority must be indemnified by the authority against expenses actually and necessarily incurred by the member in connection with the defense of any action or proceeding in which the member is made a party by reason of being or having been a member of the authority and against any final judgment rendered against the member in that action or proceeding.

7. Staff; central broadband planning board. The Department of Economic and Community Development shall provide staff for the authority. That staff shall serve as the central broadband planning board for the State and shall support the authority in accordance with the provisions of this chapter.

Sec. 8. 35-A MRSA §9204-A, sub-§7, as enacted by PL 2015, c. 284, §7, is amended to read:

7. Administer funds. The authority shall administer the ~~ConnectME~~ ConnectMaine Fund as established pursuant to section 9211.

Sec. 9. 35-A MRSA §9207, as enacted by PL 2005, c. 665, §3, is amended to read:

§9207. Collection of data

Subject to the provisions in this section, the authority ~~may~~ shall collect ~~data annually~~ from communications service providers and any wireless ~~provider~~ providers that own or operate advanced communications technology infrastructure in the State data concerning infrastructure deployment and costs, revenues and subscribership for the purpose of developing mapping information to assist the authority in implementing the provisions of

section 9202-A; pricing data for advertised retail pricing for broadband services offered in the State; and revenue data for the purpose of assessing communications service providers subject to section 9211. The authority shall permit providers that have provided data to the authority at a level of detail that the authority has determined acceptable to continue to provide the data in the same format. For mapping data, the authority, whenever possible, shall use data formats consistent with data formats used for mapping at the federal level.

1. Confidential information. ~~If the authority, on its own or upon request of any person or entity, determines that public access to specific information about communications service providers in the State could compromise the security of public utility systems to the detriment of the public interest or that specific information is of a competitive or proprietary nature, the authority shall issue an order designating that information as confidential. Information that may be designated as confidential pursuant to this subsection includes, but is not limited to, network diagrams. The authority may designate information as confidential under this subsection only to the minimum extent necessary to protect the public interest or the legitimate competitive or proprietary interests of a communications service provider. Data provided to the authority pursuant to this section is confidential. The authority, upon request or on its own motion, may initiate a proceeding to determine whether to remove the confidential designation of specific information provided under this section. The authority shall adopt rules pursuant to section 9205, subsection 3 defining the criteria it will use to satisfy the requirements of this paragraph and the types of information that would satisfy the criteria. The authority may not designate any information as remove the confidential designation under this subsection until those rules are finally adopted.~~

Information designated as confidential under this subsection is not a public record under Title 1, section 402, subsection 3.

2. Protection of information. A communications service provider may request that confidential or proprietary information provided to the authority under ~~subsection 4~~ this section not be viewed by those members of the authority who could gain a competitive advantage from viewing the information. Upon such a request, the authority shall ensure that the information provided is viewed only by those members of the authority and staff who do not stand to gain a competitive advantage and that there are adequate safeguards to protect that information from members of the authority who could gain a competitive advantage from viewing the information.

Sec. 10. 35-A MRSA §9208, sub-§3, as enacted by PL 2005, c. 665, §3, is amended to read:

3. Investments. Contains a listing of any investments of money in the ~~ConnectME~~ ConnectMaine Fund, as established pursuant to section 9211, and a tracking of the infrastructure improvements resulting from the investments; and

Sec. 11. 35-A MRSA §9211, as amended by PL 2019, c. 343, Pt. SSSS, §§3 and 4, is further amended to read:

§9211. ~~ConnectME~~ ConnectMaine Fund

1. ~~ConnectME~~ ConnectMaine Fund established. The ~~ConnectME~~ ConnectMaine Fund, referred to in this section as "the fund," is established as a nonlapsing fund administered by the authority for the purposes of supporting the activities and projects of the authority under this chapter. The ConnectMaine Fund may also be referred to as "the ConnectME Fund."

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

2-A. Surcharge; collection. Beginning January 1, 2020, in addition to the assessment imposed pursuant to subsection 2, a ConnectME surcharge of 10¢ per line or number is imposed. The assessment imposed pursuant to subsection 2 and the surcharge imposed pursuant to this subsection must be collected from the customer on a monthly basis by each communications service provider. Revenue must be deposited in the fund.

3. Explicit identification of assessment and surcharge on customer bills. A communications service provider assessed pursuant to subsection 2 may recover the amount of the assessment from the provider's customers. If a provider recovers the amount from its customers, it must explicitly identify the amount owed by a customer on the customer's bill and indicate that the funds are collected for use in the ConnectME Fund. Beginning January 1, 2020, the ConnectME surcharge imposed pursuant to subsection 2-A must be shown separately from the assessment imposed pursuant to subsection 2 as a statewide ConnectME surcharge on the customer's bill.

Sec. 12. 35-A MRSA §9216, as amended by PL 2015, c. 151, §§1 and 2 and c. 284, §10, is repealed.

Sec. 13. 35-A MRSA §9217, sub-§1, as enacted by PL 2015, c. 284, §11, is amended to read:

1. Requirements Elements of plans. Plans funded through grants under this section ~~must~~ may include:

- A. ~~Define~~ A description of local broadband needs and goals;
- B. ~~Inventory~~ An inventory of existing broadband infrastructure assets within the municipality, municipalities or region;
- C. ~~Include a~~ A gap analysis defining the additional broadband infrastructure necessary to meet identified needs and goals;
- D. ~~Include one~~ One or more potential network designs, cost estimates, operating models and potential business models based on input from broadband providers

operating within the municipality, municipalities or region and any other parties that submit a network design solution in the course of developing the plan to address any broadband gaps identified in paragraph C; and

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

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

Sec. 14. Transition provisions. The following provisions govern the transition of the ConnectME Authority to the ConnectMaine Authority.

1. The ConnectMaine Authority is the successor in every way to the powers, duties and functions of the former ConnectME Authority.

2. All existing rules, regulations and procedures in effect, in operation or adopted in or by the ConnectME Authority or any of its administrative units or officers are hereby declared in effect and continue in effect until rescinded, revised or amended by the proper authority.

3. All existing contracts, agreements and compacts currently in effect in the ConnectME Authority continue in effect.

4. Any positions authorized and allocated subject to the personnel laws to the former ConnectME Authority are transferred to the ConnectMaine Authority and may continue to be authorized.

5. All records, property and equipment previously belonging to or allocated for the use of the former ConnectME Authority become, on the effective date of this Act, part of the property of the ConnectMaine Authority.

6. All existing forms, licenses, letterheads and similar items bearing the name of or referring to the "ConnectME Authority" may be utilized by the ConnectMaine Authority until existing supplies of those items are exhausted.

Sec. 15. Rulemaking. Within 90 days of the effective date of this Act, the ConnectMaine Authority shall commence rulemaking to implement the provisions of this Act. In adopting rules to implement changes to the Maine Revised Statutes, Title 35-A, section 9207, the authority shall consider permitting providers to submit data in a shapefile format. For the purposes of this section, "shapefile" means a vector data storage format for storing the location, shape and attributes of geographic features. Rules adopted under this section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.