CHAPTER 94-A

CONNECTIVITY INFRASTRUCTURE

§9401. Short title

This chapter may be known and cited as "the Connectivity Infrastructure Act." [PL 2021, c. 364, §3 (NEW).]

SECTION HISTORY

PL 2021, c. 364, §3 (NEW).

§9402. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2021, c. 364, §3 (NEW).]

1. Advanced communications technology infrastructure. "Advanced communications technology infrastructure" means any communications technology infrastructure or infrastructure improvement that expands the deployment of, or improves the quality of, broadband availability and wireless service coverage.
[PL 2021, c. 364, §3 (NEW).]

2. Authority. "Authority" means the Maine Connectivity Authority established in section 9404.
[PL 2021, c. 364, §3 (NEW).]

3. Bonds. "Bonds" means bonds, debts, notes or other evidences of indebtedness.
[PL 2021, c. 364, §3 (NEW).]

4. Communications service. "Communications service" means any wireline voice, satellite, data, fixed wireless data or video retail service or cellular voice or data service.
[PL 2021, c. 364, §3 (NEW).]

5. Project. "Project" means real property, personal property, equipment, fixtures, materials, wires, cables, labor and other improvements necessary and proper for the provision of advanced communications technology infrastructure.
[PL 2021, c. 364, §3 (NEW).]

SECTION HISTORY

PL 2021, c. 364, §3 (NEW).

§9403. State connectivity goals

1. Goals. The goals of the State related to connectivity are that:

A. High-speed connectivity be universally available in the State, including to all residents, businesses and community anchor institutions; [PL 2021, c. 364, §3 (NEW).]

B. There be secure, affordable, reliable, competitive and sustainable forward-looking advanced communications technology infrastructure that can meet current and future needs; [PL 2021, c. 364, §3 (NEW).]

C. All residents, businesses and institutions in the State be able to take full advantage of the economic, health, educational and other opportunities available through connectivity services; and [PL 2021, c. 364, §3 (NEW).]

D. Existing public and private infrastructure be used effectively and efficiently in the public interest to provide advanced communications technology infrastructure in all areas of the State. [PL 2021, c. 364, §3 (NEW).]

[PL 2021, c. 364, §3 (NEW).]

SECTION HISTORY

PL 2021, c. 364, §3 (NEW).

§9404. Maine Connectivity Authority

1. Establishment; membership. The Maine Connectivity Authority is established as a body corporate and politic and a public instrumentality of the State, and the exercise by the authority of the powers conferred by this chapter is deemed and held to be the performance of essential governmental functions. The authority consists of the following members:

A. Seven voting members appointed by the Governor and confirmed by the Legislature as follows:

(1) Three members who possess expertise in advanced communications technology infrastructure or communications service, including, but not limited to, expertise in network design, network operations and middle mile infrastructure;

(2) One member representing communities in the State;

(3) One member who possesses expertise in banking or financial lending, including, but not limited to, expertise in the provision of loans or other capital investments for infrastructure deployment in the State;

(4) One member who possesses expertise in education system needs; and

(5) One member who possesses expertise in telehealth delivery and telehealth system needs; and [PL 2021, c. 364, §3 (NEW).]

B. Four ex officio voting members as follows:

(1) The Commissioner of Economic and Community Development or the commissioner's designee;

(2) The Chancellor of the University of Maine System or the chancellor's designee;

(3) The Chief Executive Officer of the Finance Authority of Maine or the officer's designee; and

(4) The Chief Information Officer within the Department of Administrative and Financial Services or the officer's designee. [PL 2021, c. 364, §3 (NEW).]

[PL 2021, c. 364, §3 (NEW).]

2. Terms; reappointments; vacancies; chair. Members appointed by the Governor serve 3-year terms, except that 2 such members first appointed serve a one-year term, 2 such members first appointed serve a 2-year term and 3 such members first appointed serve a 3-year term. Members appointed by the Governor are eligible for reappointment. If a member appointed by the Governor fails to serve until the expiration of the member's term, the Governor may appoint a replacement member for the remainder of that member's term. The Governor shall appoint one member to serve as chair of the authority.
[PL 2021, c. 364, §3 (NEW).]

3. President. Upon the recommendation of the authority, the Governor shall appoint a president of the authority subject to confirmation by the Legislature. The president serves a 4-year term and is eligible for reappointment. The president shall manage the authority's programs, services and staff and shall perform other duties the authority considers appropriate.
[PL 2021, c. 364, §3 (NEW).]

4. Officers; quorum. The authority may elect a secretary and a treasurer, who may but need not be members of the authority. Six members of the authority constitute a quorum, and the affirmative vote of 6 members is necessary for any action taken by the authority.
[PL 2021, c. 364, §3 (NEW).]

5. Remote participation by members. A member of the authority 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 and otherwise participate in or observe the proceedings of the authority.
[PL 2021, c. 364, §3 (NEW).]

6. Members not personally liable; indemnification. A member of the authority, while acting within the scope of this chapter, is not subject to any personal liability resulting from the exercise or carrying out of any of the authority's purposes or powers. 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.
[PL 2021, c. 364, §3 (NEW).]

7. Conflicts. A member of the authority may not participate in any decision on any contract entered into by the authority under this chapter if that member has any interest, direct or indirect, in any firm, partnership, corporation or association that is party to the contract. The interest must be disclosed to the authority in writing and must be set forth in the minutes of the authority.
[PL 2021, c. 364, §3 (NEW).]

SECTION HISTORY

PL 2021, c. 364, §3 (NEW).

§9405. Powers and duties of authority

To carry out the purposes of this chapter, the authority has the following powers with respect to a project together with all powers incidental to or necessary or proper for the performance of these powers and for carrying out its responsibilities in accordance with this chapter: [PL 2021, c. 364, §3 (NEW).]

1. Power to sue and be sued. To sue or initiate or appear in any proceeding. The authority may be sued on its written contracts or to the extent permitted by Title 1, section 409; Title 5, chapter 375; or Title 14, chapter 741;
[PL 2021, c. 364, §3 (NEW).]

2. Official seal. To adopt and have an official seal and alter the seal at pleasure;
[PL 2021, c. 364, §3 (NEW).]

3. Bylaws; rules. To adopt bylaws and any rule necessary or useful for carrying out any of the authority's powers or duties pursuant to this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A;
[PL 2021, c. 364, §3 (NEW).]

4. Acquire real or personal property. To acquire real or personal property or any interest in real or personal property, including rights or easements, on either a temporary or long-term basis by gift, purchase, transfer, foreclosure, lease or otherwise; to improve, hold, sell with or without public bidding, assign, lease, rent, encumber, mortgage or otherwise dispose of any real or personal property, any interest in real or personal property or mortgage interests owned or in its control, custody or possession; and to release or relinquish any right, title claim, lien, interest, easement or demand, however acquired, including upon threat of foreclosure;
[PL 2021, c. 364, §3 (NEW).]

5. Prepare and plan projects and facilities. To prepare or cause to be prepared plans, specifications, designs and estimates of costs for the construction and equipping of a project and attendant facilities and from time to time to modify or cause to be modified those plans, specifications, designs or estimates;
[PL 2021, c. 364, §3 (NEW).]

6. Improve and equip project and attendant facilities. By contract or contracts to construct, acquire, alter, repair, reconstruct, rehabilitate, improve and equip a project and necessary and usual attendant facilities;
[PL 2021, c. 364, §3 (NEW).]

7. Maintain, reconstruct and operate. To maintain, reconstruct and operate, or cause to be maintained, reconstructed and operated, a project;
[PL 2021, c. 364, §3 (NEW).]

8. Fix and collect fees. To fix and collect fees, lease-rentals and other charges for the use of any project, equipment or services;
[PL 2021, c. 364, §3 (NEW).]

9. Provide for financing or refinancing. To provide financing for a project or to provide for refinancing of existing indebtedness and for the financing of the project and of other necessary and usual attendant facilities;
[PL 2021, c. 364, §3 (NEW).]

10. Incur indebtedness. To borrow money for any of the purposes authorized in this chapter, incur debt, which includes the issuance of bonds consistent with section 9406, whether secured or unsecured and whether issued by the authority or through another entity, including, but not limited to, the Maine Municipal Bond Bank, and secure the same by mortgage, pledge, trust agreement, security agreement or other lien on or security interest in the authority's property, rights and privileges of every kind and nature or any part of or interest in any of them;
[PL 2021, c. 364, §3 (NEW).]

11. Equity investments; loans, grants, contractual arrangements. To make alone or in participation or cooperation with others direct equity investments, loans, grants or any other contractual arrangement allowed by law with public or private entities in furtherance of the purposes of this chapter, including, but not limited to, the development and financing of a project;
[PL 2021, c. 364, §3 (NEW).]

12. Make and execute contracts. To make and execute contracts and other instruments and enter into such transactions as reasonably necessary for the exercise of the authority's powers and functions under this chapter;
[PL 2021, c. 364, §3 (NEW).]

13. Agreements; contributions; aid; grants. To enter into agreements with and to accept loans, aid, contributions, grants and the cooperation or assistance of the United States, or any agency of the United States, or of the State or any agency or governmental subdivision in furtherance of the purposes of this chapter, including, but not limited to, the development and financing of a project, and to do all things necessary in order to avail the authority of those agreements, loans, aid, contributions, grants and cooperation;
[PL 2021, c. 364, §3 (NEW).]

14. Acceptance of federal funds and other assistance. To act as the public agency of the State for the purpose of accepting federal funds or other federal assistance or funds or other assistance from any other source in furtherance of the purposes of this chapter, including, but not limited to, the development and financing of projects;
[PL 2021, c. 364, §3 (NEW).]

15. Modification of contract, lease, indenture or agreement. To consent to any modification of any contract, lease, indenture or agreement of any kind to which the authority is a party;
[PL 2021, c. 364, §3 (NEW).]

16. Manage or operate real and personal property. To manage or operate, or cause to be managed or operated, real and personal property, to take assignments of leases and rentals or to take any other action necessary or incidental to the performance of the authority's duties under this chapter;
[PL 2021, c. 364, §3 (NEW).]

17. Lease or rent facilities or equipment used to transmit voice, data or video signals. To lease or rent any facilities or equipment for a project for such amounts as the authority determines to a communications service provider to further the purposes of this chapter, as long as the obligation of the service provider is considered a binding contract with the authority and as long as no liability on account of the authority may be incurred beyond the money available for that purpose or may be considered a liability of the State;
[PL 2021, c. 364, §3 (NEW).]

18. Investments. Except as otherwise provided in this chapter, to invest any funds not needed for immediate use, including any funds held in reserve, in property or in securities in which fiduciaries in the State may legally invest funds;
[PL 2021, c. 364, §3 (NEW).]

19. Use of revenues. To use only for the purposes of this chapter any revenues derived by the authority from any assessment, transfer of funds, lease, assignment, rental agreement or other disposition or any other revenue;
[PL 2021, c. 364, §3 (NEW).]

20. Appearances. To appear on the authority's own behalf before boards, commissions, departments or agencies of a municipality, the State or the United States;
[PL 2021, c. 364, §3 (NEW).]

21. Employees. To hire and compensate employees as well as consulting engineers, architects, attorneys, accountants and construction and financial experts and such other individuals as may be necessary in the authority's judgment; and
[PL 2021, c. 364, §3 (NEW).]

22. All acts granted or implied. To do any act necessary or convenient to exercise the powers granted in this chapter or reasonably implied by this chapter.
[PL 2021, c. 364, §3 (NEW).]

SECTION HISTORY

PL 2021, c. 364, §3 (NEW).

§9406. Issuance of bonds

1. Conclusive authorization. All bonds of the authority must be conclusively presumed to be fully authorized and issued under the laws of the State, and any person or governmental unit is estopped from questioning their authorization, sale, issuance, execution or delivery by the authority.
[PL 2021, c. 364, §3 (NEW).]

2. Maturity; interest. The securities of each issue of bonds must be dated, must mature at a time or times not exceeding 30 years from their date and must bear interest at a rate or rates determined by the authority. At the option of the authority, the bonds may be made redeemable before maturity at a price or prices and under terms and conditions fixed prior to their issuance.
[PL 2021, c. 364, §3 (NEW).]

3. Form. The authority shall determine the form of the bonds, including any attached interest coupons, the manner of execution of the bonds, the denomination or denominations of the bonds and

the place or places for payment of principal and interest, which may be at any financial institution within or without the State. Bonds must be executed in the name of the authority by the manual or facsimile signature of the authorized official or officials. Signatures and facsimiles of signatures on bonds are valid for all purposes even if the authorized official ceases to hold office before delivery of the bonds. The bonds may be issued in coupon or registered form or both as the authority may determine. In addition to this subsection, the authority may provide for transfer of registration of its registered bonds by book entry on the records of the entity designated for that purpose and may enter into such contractual arrangements as may be necessary to accomplish these purposes. In the event a book entry method of transfer is used, principal of and interest on those registered bonds must be payable to the registered owner shown in the book entry or the legal representatives, successors or transferees of the registered owner.
[PL 2021, c. 364, §3 (NEW).]

4. Sale. The authority may sell the bonds at a public or private sale, in a manner and at a price it determines is in the best interest of the authority.
[PL 2021, c. 364, §3 (NEW).]

5. Credit not pledged. Bonds of the authority do not constitute any debt or liability of the State or of any municipality in the State or any political subdivision of the State, or of the authority or a pledge of the faith and credit of the State or of any such municipality or political subdivision, but are payable solely from the revenues of the project or projects for which they are issued or from other eligible collateral or the revenues or proceeds of other eligible collateral pledged to the payment of the bonds and all such bonds must contain on their face a statement to that effect. The issuance of the bonds does not directly or indirectly or contingently obligate the State or any municipality or political subdivision to levy or to pledge any form of taxation or to make any appropriation for their payment.
[PL 2021, c. 364, §3 (NEW).]

6. Anticipatory borrowing. In anticipation of the sale of bonds, the authority may issue temporary notes and renewal notes, the total stated amount of which does not exceed at any one time outstanding the authorized amount of the bonds. The period of such anticipatory borrowing may not exceed 5 years and the time within which the bonds are to become due may not be extended by the anticipatory borrowing beyond the term permitted by this section.
[PL 2021, c. 364, §3 (NEW).]

SECTION HISTORY

PL 2021, c. 364, §3 (NEW).

§9407. Tax exemptions; taxable bonds

1. Bonds exempt from taxation. Bonds of the authority constitute a proper public purpose and the bonds, their transfer and the income from them, including any profits made on their sale, must at all times be exempt from taxation within the State, whether or not those bonds, their transfer or the income from them, including any profits made on their sale, are subject to taxation under the United States Internal Revenue Code of 1986, as amended.
[PL 2021, c. 364, §3 (NEW).]

2. Conveyances, leases, mortgages, deeds of trust and trust indentures exempt from taxation. Conveyances by or to the authority and leases, mortgages and deeds of trust or trust indentures by or to the authority are exempt from all taxation by the State or any of its political subdivisions, including, but not limited to, any applicable license, excise or other taxes imposed in respect of the privilege of engaging in any of the activities in which the authority may engage.
[PL 2021, c. 364, §3 (NEW).]

3. Property exempt from taxation and other assessments. Property acquired, held or transferred by the authority is exempt from all taxes and from betterments and special assessments of the city,

town, county, State or any political subdivision of the State. The authority may agree to make payments in lieu of taxes to the applicable political subdivisions.
[PL 2021, c. 364, §3 (NEW).]

4. Taxable bonds. The authority is authorized to agree and consent to the inclusion of interest on any of its bonds, under the United States Internal Revenue Code of 1986 or any subsequent corresponding internal revenue law of the United States, in the gross income of the holders of any such bonds to the same extent and in the same manner that the interest on bills, bonds, notes or other obligations of the United States is includable in the gross income of the holders of such bills, bonds, notes or other obligations under the United States Internal Revenue Code of 1986 or any such subsequent law.
[PL 2021, c. 364, §3 (NEW).]

SECTION HISTORY

PL 2021, c. 364, §3 (NEW).

§9408. Collection of data

Subject to the provisions of this section, the authority may collect data from communications service providers and any wireless providers that own or operate advanced communications technology infrastructure in the State concerning infrastructure deployment and costs, revenues and subscribership.
[PL 2021, c. 364, §3 (NEW).]

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 or wireless 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 that sets forth its designation of the 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 and the legitimate competitive or proprietary interests of a communications service provider or a wireless provider. The authority may not designate any information as confidential under this subsection until it has adopted rules to implement this subsection.

Information designated as confidential under this subsection is not a public record under Title 1, section 402, subsection 3.
[PL 2021, c. 364, §3 (NEW).]

2. Protection of information. A communications service provider or a wireless provider may request that information provided to the authority that the provider requests be designated as confidential under subsection 1 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.
[PL 2021, c. 364, §3 (NEW).]

SECTION HISTORY

PL 2021, c. 364, §3 (NEW).

§9409. Legislative oversight; report to committee

1. Annual report. No later than January 15, 2022, and annually thereafter, the authority shall provide a report to the joint standing committee of the Legislature having jurisdiction over utilities matters that:

A. Includes a report on the budget of the authority; [PL 2021, c. 364, §3 (NEW).]

B. Documents the activities of the authority, including a detailed description of the progress toward the state connectivity goals in section 9403; [PL 2021, c. 364, §3 (NEW).]

C. Contains a listing of any investments of money in the authority, while maintaining confidentiality for organizations working with the authority; and [PL 2021, c. 364, §3 (NEW).]

D. Contains an analysis of the availability of communications services and advanced communications technology infrastructure, including an analysis of the competitive market in the State for communications services and advanced communications technology infrastructure and whether the communications services provided in the State are reasonably comparable to services provided regionally and nationwide. [PL 2021, c. 364, §3 (NEW).]

[PL 2021, c. 364, §3 (NEW).]

2. Sunset review. As part of the report required under subsection 1 to be submitted to the joint standing committee of the Legislature having jurisdiction over utilities matters no later than January 15, 2030, the authority shall include findings and recommendations following its review of the effectiveness of the authority in furthering the purposes of this chapter, including:

A. An analysis of whether the authority has fulfilled its intended purpose under this chapter; [PL 2021, c. 364, §3 (NEW).]

B. An analysis of whether the activities of the authority should continue for a specified period of time and any recommendations, including proposed legislation, for changes to the powers and duties of the authority to better further the purposes of this chapter; and [PL 2021, c. 364, §3 (NEW).]

C. An analysis of whether the activities of the authority should be terminated and the laws governing the authority repealed within a specified time frame and any recommendations, including proposed legislation, necessary to facilitate an orderly transition following the termination of activities of the authority, including the appropriate disposition of the assets of the authority. [PL 2021, c. 364, §3 (NEW).]

[PL 2021, c. 364, §3 (NEW).]

After receiving a report under this section, the joint standing committee of the Legislature having jurisdiction over utilities matters may report out legislation relating to the authority. [PL 2021, c. 364, §3 (NEW).]

SECTION HISTORY

PL 2021, c. 364, §3 (NEW).

§9410. Liberal construction

This chapter, being necessary for the welfare of the State and its inhabitants, must be liberally construed. In the event of any conflict between this chapter and any other law, this chapter prevails, but the power and authority granted is deemed to be in addition to and not in derogation of power and authority granted by any other law. [PL 2021, c. 364, §3 (NEW).]

SECTION HISTORY

PL 2021, c. 364, §3 (NEW).

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