

## §XXXX. Short title

This chapter may be known and cited as "the Connectivity Infrastructure Act."

## §XXXX. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**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.

**2. Authority.** "Authority" means the Maine Connectivity Authority established in section XXXX.

**3. Communications service.** "Communications service" means any wireline voice, satellite, data, fixed wireless data or video retail service, cellular voice or data.

## §XXXX. State broadband policy

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

A. High speed connectivity be universally available in this State, including to all residential and business locations and community anchor institutions;

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

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.

D. Leverage existing public and private infrastructure

## §XXXX. Maine Connectivity Authority

**1. Establishment; membership.** The Authority is 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 shall be deemed and held to be the performance of essential governmental functions. The Authority will consist of 7 members who possess expertise in communications infrastructure and usage rural economic development; telehealth and education; and/or utility structures.

**2. Terms; chair; vacancies.** All members are appointed for 3-year terms, beginning on the date of appointment, and may continue to serve until a successor is appointed. Four members will be appointed by the Governor, 1 member will be appointed by the Senate President, 1 member will be appointed by the Speaker. Members of the Authority are eligible for reappointment. Members must be confirmed by the Legislature. The Governor may appoint the chair from the members appointed to the Authority. The Commissioner of the Department of Economic and Community Development will hold one seat.

**3. Employees:** The President will be appointed to a 4-year term by the Governor and confirmed by the Legislature. Staffing will be determined by the Authority President and board.

**4. 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.

**5. Remote 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 and otherwise participate in or observe the proceedings of the Authority.

**6. 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.

**§XXXX. Duties of authority.** In order 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 for the performance of these powers:

**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;

**2. Official seal.** To adopt and have an official seal and alter the seal at pleasure;

**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;

**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 threat of foreclosure;

**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 equipment for a project and attendant facilities and from time to time to modify or cause to be modified those plans, specifications, designs or estimates;

**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;

**7. Maintain, reconstruct and operate.** To maintain, reconstruct and operate, or cause to be maintained, reconstructed and operated, a project;

**8. Fix and collect fees.** To fix and collect fees, lease-rentals and other charges for the use of equipment and services.

**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;

**10. Incur indebtedness.** To borrow money for any of the purposes authorized in this chapter, incur debt, which includes the issuance of bonds, debts, notes, or other evidences of indebtedness, whether secured or unsecured and secure the same by mortgage, pledge, deed of trust or other lien on the authority's property, rights and privileges of every kind and nature or any part of or interest in any of them.

**11. Equity investments; loans, contractual arrangements.** In addition to disbursement of funds through grants as described above to make alone or in participation or cooperation with others direct equity investments, loans or any other contractual arrangement allowed by law with public or private

entities for the same purposes for which grants may be made.

**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;

**13. Agreements; acceptions; contributions; aid; grants.** To enter into agreements with and 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 loans, aid, contributions, grants and cooperation;

**14. 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;

**15. 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;

**16. 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 and may be considered a liability of the State;

**17. 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;

**18. Appearances.** To appear on the Authority's own behalf before boards, commissions, departments or agencies of a municipality or the State Government or the Federal Government;

**19. President; other employees.** To employ or contract with a President, consulting engineers, architects, attorneys, accountants, construction and financial experts and such other employees and agents as may be necessary in the Authority's judgment; and

**20. 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;

**21. ConnectMaine.** As part of its statewide goals, the authority shall direct, oversee, and manage the ConnectMaine Authority established in PL 2019, c. 625, §6; and

**22. Report.** Beginning December 15, 2021, the authority shall provide an annual report to the joint standing committee of the Legislature having jurisdiction over energy and utility matters on the grants distributed from the fund and an analysis of the fund's activities that have addressed the need for expansion of high-speed broadband access in the State.

#### **§XXXX. Collection of data**

Subject to the provisions in this section, the Authority may collect data from communications service providers and any wireless provider that own or operate advanced communications technology infrastructure in the State concerning infrastructure deployment and costs, revenues and subscribership.

**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 and the legitimate competitive or proprietary interests of a communications service provider. The Authority may not designate any information as confidential under this subsection until it has adopted rules to implement this section.

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 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.

1. **Rules.** The Authority shall adopt routine technical rules pursuant to section 9205, subsection 3 establishing the criteria it will use to determine what constitutes confidential information for the purposes of Section 9207(1), and the standards and methods by which members of the Authority who could gain a competitive advantage from viewing information submitted to the Authority will be screened from viewing such information pursuant to Section 9207(2).

#### **§XXXX. Legislative oversight; report to committee**

No later than January 15th of each year, the Authority shall provide a report to the joint standing committee of the Legislature having jurisdiction over utilities matters that:

1. **Budget.** Includes a report on the budget of the Authority;
2. **Activities.** Documents the activities of the Authority, including a detailed description of the progress toward the goals and objectives established in the triennial strategic plan;
3. **Investments.** Contains a listing of any investments of money in the Authority, while maintaining confidentiality for organizations working with the Authority; and
4. **Market conditions.** 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.

#### **§XXXX. 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.

#### **§XXXX. Members not Personally Liable**

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.

#### **§XXXX. Use of revenues**

The revenues derived by the Authority from any assessment, transfer of funds, lease, assignment, rental agreement or other disposition or any other revenue must be used for the purposes of this chapter and applied in a competitively neutral fashion and without giving preference to any one form of

technology over another.

**Report.** The Authority will report to the joint standing committee of the Legislature having jurisdiction over connectivity matters in 2030. This report will include a proposal to facilitate the future of the future or termination of the Authority. It must include recommendations addressing:

1. Whether the Authority has fulfilled its intended purpose;
2. Whether the powers and duties of the Authority should be extended, and if so for what term;
3. Whether the Authority's enabling legislation should be amended, and if so how;
4. An analysis of whether the Authority should be abolished, and if so, how to provide for an orderly transition following the termination of the Authority's work, including the appropriate disposition of the Authority's assets;
5. An analysis of whether the Authority should be transformed, and if so, recommendations to allow for an orderly transformation, including any necessary implementing legislation; and
6. Any other issue requiring resolution to optimize the Authority's effectiveness.

The Joint Standing Committee of the Legislature having jurisdiction over connectivity matters in 2030 is authorized to submit legislation related to the report.