

PART W

Sec. W-1. 5 MRSA §21, sub-§6, ¶B, as enacted by PL 2011, c. 616, Pt. A, §1, is amended to read:

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

Sec. W-2. 5 MRSA §12004-G, sub-§33-F, as enacted by PL 2005, c. 665, §1, is amended to read:

33-F.

Technology ~~ConnectME~~Broadband Development Not Authorized 35-A MRSA §9203
Authority

Sec. W-3. 35-A MRSA §9202, sub-§§1 and 2, as enacted by PL 2005, c.665, §3, are amended to read:

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 ~~ConnectME~~Broadband Development Authority established in section 9203.

Sec. W-4. 35-A MRSA §9202, sub-§6, is enacted to read:

6. Office. "Office" means the Office of Broadband Development in the Department of Economic and Community Development established in section 9203-A.

Sec. W-5. 35-A MRSA §9203, as amended by PL 2015, c. 284, §4, is further amended to read:

§9203. ~~ConnectME~~Broadband Development Authority

1. Establishment; membership. The ~~ConnectME~~Broadband Development 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.

Sec. W-6. 35-A MRSA §9203-A is enacted to read:

§9203-A. Office Established

1. Office of Broadband Development. The Office of Broadband Development is established within the Department of Economic and Community Development. The director of the Office of Broadband Development shall administer the office in accordance with the policies of the commissioner and the provisions of this chapter, emphasizing a program that seeks to encourage, foster, develop, and improve broadband within the state in order to:

A. Expand and improve information and broadband service that lead to job creation, an innovative economy, as well as increase market opportunities for Maine businesses;

B. Serve the ongoing and growing needs of Maine’s education systems, health care system, public safety system, industries and businesses, governmental operations, and citizens; and

C. Improve accessibility for unserved and underserved communities and populations.

2. Organization. The office shall consist of a director of the Office of Broadband Development, as well as any staff necessary to carry out the office’s duties under subsection 3. The director shall report to the commissioner in the execution of the director's responsibilities and to the Broadband Development Authority in the execution of the State’s broadband policy established in section 9202-A.

3. Duties. The office shall have the power and duty to serve as the central broadband planning body for the state of Maine and to support the Broadband Development Authority in its duties outlined in section 9204-A.

4. Administer funds. The office shall administer the Broadband Development Fund as established pursuant to section 9211, the Municipal Gigabit Broadband Network Access Fund as established pursuant to section 9211-A, as well as any state or federal funding to support the programs of the office.

Sec. W-7. 35-A MRSA §9204-A, sub-§3, as enacted by PL 2015, c. 284, §7, is amended to read:

3. Support local and regional broadband planning. The authority shall ~~approve~~^{provide} ~~technical and financial assistance to communities in the State~~ from the Broadband Development Fund ~~that include unserved and underserved areas to~~ identify the need for broadband infrastructure and services and develop and implement plans to meet those needs.

Sec. W-8. 35-A MRSA §9204-A, sub-§5, as enacted by PL 2015, c. 284, §7, is amended to read:

5. Facilitate state support of deployment of broadband infrastructure. The authority shall review, recommend and facilitate changes in laws, rules, programs and policies of the State and its agencies to further deployment of broadband infrastructure to all unserved and underserved areas of the State. The authority shall assist in identifying opportunities to use broadband infrastructure to achieve the state policies and goals as set out in section 9202-A and support coordination between communications providers and state departments and local governmental entities on initiatives where broadband infrastructure could be advanced ~~including coordination with the statewide emergency radio network.~~

Sec. W-9. 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 approve expenditures in ~~administer~~ the ~~ConnectME~~Broadband Development Fund as established pursuant to section 9211.

Sec. W-10. 35-A MRSA §9205, sub-§19, as enacted by PL 2005, c. 665, §3, is repealed.

Sec. W-11. 35-A MRSA §9207, sub-§1, as enacted by PL 2005, c. 665, §3, is amended to read:

Subject to the provisions in this section, the office and 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.

Sec. W-12. 35-A MRSA §9207, sub-§§1 and 2, as enacted by PL 2005, c. 665, §3, are amended to read:

1. Confidential information. If the office and 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. 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 confidential 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 office and the authority under subsection 1 not be viewed by those members of the office or 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. W-13. 35-A MRSA §9208, as amended by PL 2015, c. 284, §9, is further amended to read:

No later than January 15th of each year, the Office of Broadband Development in consultation with the authority shall provide a report to the Governor and the joint standing committee of the Legislature having jurisdiction over utilities matters that:

1. Budget. Includes a report on the budget of the authority office;

2. Activities. Documents the activities of the office and the authority, including a detailed description of the progress toward the goals and objectives established in the triennial strategic

plan under section 9218;

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

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 office and the authority.

Sec. W-14. 35-A MRSA §9211, as enacted by PL 2015, c. 665, §3, is amended to read:

§9211. ~~CONNECTME~~ Broadband Development Fund

1. ~~ConnectME~~ Broadband Development Fund established. The ~~ConnectME~~ Broadband Development Fund, referred to in this section as "the fund," is established as a nonlapsing fund in the Department of Economic and Community Development administered by the office in consultation with the authority for the purposes of supporting the activities and projects of the authority under this chapter.

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 office and 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.

3. Explicit identification 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~~ Broadband Development Fund.

Sec. W-15. 35-A MRSA §9211-A, as enacted by PL 2015, c. 323, §1, is amended to read:

§9211-A. Municipal Gigabit Broadband Network Access Fund

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

- A. "Applicant" means a community, regional partnership or municipality that applies for a grant under this section.
- B. "Community" means a municipality with a population of at least 1,200 people, as determined by the office and the authority in accordance with the United States Census data, or a municipality that has received a waiver from this population requirement from the office and the authority upon a determination that the municipality is in an unserved or underserved area.
- C. "Fund" means the Municipal Gigabit Broadband Network Access Fund established in this section.
- D. "Regional partnership" means 2 or more municipalities that do not, on their own, meet the requirements of paragraph B and have joined together with one or more contiguous municipalities in the region to achieve the population requirements of paragraph B.

2. Fund established. The Municipal Gigabit Broadband Network Access Fund is established as a nonlapsing, revolving fund administered by the office in consultation with the authority for the purposes of supporting the activities and projects of the authority under this section. All money in the fund must be continuously applied by the authority to carry out this section. The authority may receive and deposit in the fund funds from the following sources:

- A. Federal funds and awards that may be used for the purposes of this section;
- B. The proceeds of bonds issued for the purposes of this section; and
- C. Any other funds from public or private sources received in support of the purposes for which the fund is established.

3. Purpose of the fund. The fund is established to address the need in the State for access to ultra high-speed broadband infrastructure that will enhance the State's competitiveness in national and international economies. To the extent funds are available, the fund must be used to provide grants to communities, regional partnerships and municipalities to support public-private partnerships to support a municipal gigabit fiber-optic broadband network in their regions with the following goals:

- A. Provide high-speed broadband access to attract, create and grow the State's economy and market the products and services of businesses in the State in national and international markets with ultra high-speed symmetric connectivity and address challenges in geography;
- B. Provide expanded health care services by facilitating access to telemedicine, as defined in Title 24-A, section 4316, subsection 1, and state and local services for senior citizens and persons with disabilities;
- C. Expand educational opportunities for students across the State through virtual and distance learning;

D. Facilitate broader access for the public to services provided by municipal and county governments, including, but not limited to, law enforcement entities, the judicial system and child, youth and family social services; and

E. Provide expanded residential services to support employment opportunities.

In order to facilitate the achievement of the goals and policies of this section, the authority shall establish and regularly update, after opportunity for public comment and taking into consideration relevant federal policies, definitions of "gigabit fiber-optic broadband network" and "ultra high-speed broadband infrastructure."

4. Implementation grants; maximum awards. To the extent funds are available, the office in consultation with the authority shall award implementation grants to achieve the purpose of the fund as described in subsection 3 as follows.

A. An implementation grant to an applicant may not exceed \$200,000 for each eligible project selected for funding.

B. An implementation grant may be awarded only to an applicant that has demonstrated to the satisfaction of the office and the authority that it has participated in a planning grant process as described in subsections 5, 6 and 7.

C. Municipalities selected for funding must be required to provide a 25% cash match.

5. Planning grants; requirements for applicants. In order to assist applicants with completion of the planning process necessary to achieve the goals of this section, to the extent funds are available, the authority shall award planning grants of up to \$20,000 for community applicants and up to \$25,000 for regional partnerships and municipalities, which require a cash match. The office in consultation with the authority shall establish application requirements for planning grants for community and regional applicants that require an applicant to demonstrate to the satisfaction of the authority participation with public and private institutions and local businesses in the development of the grant process. Municipal applicants must provide the officeauthority with the following information:

A. A plan that identifies how the municipality will use ultra high-speed broadband access to fulfill the economic goals of the municipality;

B. A written commitment to nondiscriminatory open access to the broadband infrastructure by all parties involved in the grant;

C. A written summary of public forums used to gather information from the public in establishing the goals for the grant that serve the goals of this section;

D. Information gathered from local public and private institutions that identifies how the broadband services will expand access to state and local services identified under subsection 3; and

E. A summary of input received from the business community to identify the services that will be used in planning the implementation grant application.

6. Planning grant requirements. An applicant awarded a planning grant under subsection 5 must provide to the officeauthority:

A. Identification of the local broadband needs and goals;

- B. An inventory of existing broadband infrastructure assets within the municipality, municipalities or region;
- C. The results of a gap analysis that defines the additional broadband infrastructure necessary to meet identified needs and goals;
- D. 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, to address any broadband gaps identified in the analysis described in paragraph C; and
- E. An assessment of all existing municipal procedures, policies, rules and ordinances that may have the effect of delaying or increasing the cost of broadband infrastructure deployment.

7. Cash match for planning grants; restrictions. The cash match required from the applicant for a planning grant under subsection 5 may consist of municipal appropriations, private funds, funding from economic development entities and funding from nonprofit entities. The cash match for planning grants may not consist of funds provided by a vendor or private business that proposes to build, operate or provide retail services using the gigabit fiber-optic broadband network.

8. Technical assistance; contract for services. The office authority may provide technical assistance to applicants that request assistance with the grant application process. The office authority may contract for services to assist in the administration, management and evaluation of the fund.

9. Rules; application procedure. The authority shall adopt rules to implement this section, including rules governing the application process for the fund. Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

10. Report. Beginning December 15, 2016, the office in consultation with 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 ultra high-speed broadband access in the State.

Sec. W-16. 35-A MRSA §9213, as enacted by PL 2005, c. 665, §3, is amended to read:

The revenues derived by the office and 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.

Sec. W-17. 35-A MRSA §9216, sub-§4, ¶ A, as amended by PL 2015, c. 284, §10, is further amended to read:

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

Sec. W-18. 35-A MRSA §9217, first ¶, as enacted by PL 2015, c. 284, §11, is amended to read:

§ 9217. Community broadband planning

The authority shall ~~provide~~approve funds for broadband planning grants to municipalities, groups of municipalities or nonprofit local or regional community organizations that are providing local or regional economic development programs to develop plans to expand the availability of broadband services in unserved and underserved areas.

Sec. W-19. 35-A MRSA §9218, sub-§1, as enacted by PL 2015, c. 284, §11, is amended to read:

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

**PART W
SUMMARY**

This Part accomplishes the following:

1. It changes the name of the ConnectME Authority to the Broadband Development Authority.
2. It creates an Office of Broadband Development within the Department of Economic and Community Development.
3. It moves administration of the ConnectME Fund and the Municipal Gigabit Broadband Network Access Fund from the Broadband Development Authority to the Office of Broadband Development, renames the ConnectME Fund the Broadband Development Fund and establishes that the funds will be administered in consultation with the authority.

PART X

Sec. X-1. Attrition savings. Notwithstanding any other provision of law, the attrition rate for the 2018-2019 biennium is increased from 1.6% to 5% for judicial branch and executive branch departments and agencies only, with the exception of the District Attorneys Salaries