

MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

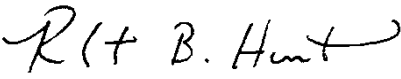
No. 1323

H.P. 901

House of Representatives, April 14, 2015

An Act To Expand Rural Broadband

Reference to the Committee on State and Local Government suggested and ordered printed.


ROBERT B. HUNT
Clerk

Presented by Representative McCABE of Skowhegan.
Cosponsored by Senator DILL of Penobscot and
Representatives: DEVIN of Newcastle, DUCHESNE of Hudson, KUMIEGA of Deer Isle,
POWERS of Naples, SAUCIER of Presque Isle, STANLEY of Medway.

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

2 **Sec. 1. 30-A MRSA c. 233** is enacted to read:

3 **CHAPTER 233**

4 **BROADBAND REVENUE BONDS**

5 **§6231. Definitions**

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

8 **1. Authority.** "Authority" means an entity with bonding authority created by a
9 municipality under section 6232.

10 **2. Board of trustees.** "Board of trustees" means the governing board of an
11 authority.

12 **3. Municipality.** "Municipality" means a county, city or town in the State.

13 **§6232. Bonding authority**

14 **1. Bonding authority.** A municipality may create an authority that is a body both
15 corporate and politic and a public instrumentality of the municipality established for the
16 purpose of issuing revenue bonds under section 6233 for the development of broadband
17 infrastructure to serve that municipality. In implementing the authority's powers, duties
18 and responsibilities, the municipality shall consider the state policy under Title 35-A,
19 chapter 93.

20 **2. Board of trustees; employees.** An entity created under this section must have a
21 board of trustees of at least 3 members and adopt bylaws consistent with the provisions of
22 this chapter and Title 13-B. A member of the board of trustees or an employee of the
23 authority may not acquire or hold a direct or an indirect personal financial interest in an
24 authority activity or property or facility included or planned to be included in or expected
25 to directly benefit from an authority activity or in a contract or proposed contract in
26 connection with an authority activity. A member of the board of trustees or an employee
27 of the authority may not be subject to any personal liability for having acted within the
28 course and scope of that person's membership or employment to carry out any power or
29 duty under this chapter. The authority shall indemnify any member of the board of
30 trustees and any employee of the authority against expenses actually and necessarily
31 incurred by that person in connection with the defense of any action or proceeding in
32 which that person is made a party by reason of past or present association with the
33 authority.

34 **3. Disclosure and confidentiality of records.** The provisions of Title 5, section
35 13120-M regarding Maine Rural Development Authority records apply to records of an
36 authority created under this chapter.

1 **§6233. Bonds**

2 **1. Authorization.** An authority may provide by resolution for the issuance of bonds
3 for the purpose of funding the construction of broadband infrastructure or providing a
4 loan to construct broadband infrastructure to serve and ensure comprehensive broadband
5 coverage in the municipality. The bonds of the authority do not constitute a debt of the
6 State, of the municipality or of any other agency or political subdivision of the State but
7 are payable solely from the revenue of the authority, and neither the faith nor credit nor
8 taxing power of the State, the municipality or any other political subdivision of the State
9 is pledged to payment of the bonds. Notwithstanding any other provision of law, any
10 bonds issued pursuant to this chapter are fully negotiable. If any member of the board of
11 trustees whose signature appears on the bond or coupons ceases to be a member of the
12 board of trustees before the delivery of those bonds, that signature is valid and sufficient
13 for all purposes as if that member of the board of trustees had remained a member of the
14 board of trustees until delivery.

15 **2. Resolution; prospective issues.** An authority may, by resolution authorizing
16 prospective issues, provide:

17 A. The manner of executing bonds and coupons;

18 B. The form and denomination of bonds or coupons;

19 C. Maturity dates;

20 D. Interest rates on bonds or coupons;

21 E. For redemption prior to maturity and the premium payable;

22 F. The place or places for the payment of interest and principal;

23 G. For registration if the authority determines it to be desirable;

24 H. For the pledge of all or any of the revenue for securing payment;

25 I. For the replacement of lost, destroyed or mutilated bonds;

26 J. For the setting aside and the regulation and disposition of reserve and sinking
27 funds;

28 K. For limitation on the issuance of additional bonds;

29 L. For the procedure, if any, by which the contract with a bondholder may be
30 abrogated or amended;

31 M. For the manner of sale and purchase of bonds;

32 N. For covenants against pledging of any of the revenue of the authority;

33 O. For such other covenants as to rates and charges as the board of trustees
34 determines;

35 P. For covenants as to the rights, liability, powers and duties arising upon the breach
36 by the authority of any covenant, condition or obligation;

37 Q. For covenants as to the bonds to be issued, as to the issuance of those bonds in
38 escrow and otherwise and as to the use and disposition of the proceeds;

- 1 R. For the issuance of bonds in series;
2 S. For the performance of any acts as may be in the discretion of the board of
3 trustees necessary, convenient or desirable to secure bonds or that tend to make bonds
4 more marketable; and
5 T. For the issuance of bonds on terms and conditions to effectuate the purposes of
6 this chapter.

7 **3. Money received.** All money received from any bonds issued under this chapter
8 must be applied solely for construction or loans for construction of broadband
9 infrastructure that will serve the municipality. There is created a lien upon the money
10 until so applied in favor of the bondholders or any member of the board of trustees as
11 may be provided in respect of the bonds.

12 **4. Trust indenture.** In the discretion of a board of trustees, bonds may be secured
13 by a trust indenture by and between the authority and a corporate trustee, which may be a
14 trust company or bank having the powers of a trust company located either within or
15 outside the State. The trust indenture may pledge or assign the revenues of the authority
16 or any part of it. The trust indenture may set forth the rights and remedies of the
17 bondholders and the trustee, restrict the individual right of action of bondholders and
18 contain such other provisions as the board of trustees may consider reasonable and proper
19 for the security of bondholders. Expenses incurred in carrying out the trust indenture may
20 be treated as a part of maintenance.

21 **5. Rights of bondholders.** A board of trustees may make provisions for protecting
22 and enforcing the rights and remedies of bondholders, including covenants as to
23 acquisition of property, construction, maintenance, operation and repair, insurance and
24 the custody, security and application of all money.

25 **6. Depositories.** A trust company or bank having the powers of a trust company and
26 located either within or outside the State may act as a depository of the proceeds of bonds
27 and revenue and may furnish such indemnity or pledge such securities as may be required
28 by an authority.

29 **7. Tax free.** The purposes of this chapter being public and for the benefit of the
30 people of the State, bonds of an authority are free from taxation by the State.

31 **8. Revenue refunding bonds.** An authority may issue revenue refunding bonds for
32 the purpose of refunding revenue bonds issued under this chapter. The issuance of any
33 refunding bonds is the same as provided for in this chapter relating to revenue bonds.

34 **9. Default.** In the event of default on bonds and in the event the default continues
35 for a period of 3 months, action may be brought to enforce the rights of the bondholders
36 by ensuring that the operation by a board of trustees is in conformity with the covenants
37 of the bonds or the trust indenture.

38 **Sec. 2. 35-A MRSA §7104, sub-§9** is enacted to read:

39 **9. Expansion of broadband.** The expansion of broadband through use of optical
40 fiber is an authorized expense under the state universal service fund in subsection 3.

1 ConnectME Authority define "broadband" to have at least the same speed as the current
2 Federal Communications Commission standard and to create a standard providing that
3 upload and download speeds are the same.