

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

SECOND REGULAR SESSION-2022

Legislative Document

No. 1949

S.P. 686

In Senate, January 26, 2022

An Act To Amend the Caribou Utilities District Charter To Include Broadband Services

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Reference to the Committee on Energy, Utilities and Technology suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by President JACKSON of Aroostook.

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

2 **Sec. 1. P&SL 1945, c. 83, §1**, as corrected by RR 2009, c. 1, §33, is amended to
3 read:

4 **Sec. 1. Territorial limits and corporate name and purposes.** The inhabitants
5 and territory within the City of Caribou in the County of Aroostook constitute a body politic
6 and corporate under the name of the Caribou Utilities District, referred to in this Act as "the
7 district," for the ~~purpose~~ purposes of supplying the City of Caribou and the inhabitants of
8 the city or any part of the city with pure water for domestic, commercial, sanitary and
9 municipal purposes, including the extinguishment of fires, ~~and~~ of supplying the City of
10 Caribou and the inhabitants of the city or any part of the city with suitable and adequate
11 sewerage facilities and of providing broadband services pursuant to section 22.

12 **Sec. 2. P&SL 1945, c. 83, §22** is enacted to read:

13 **Sec. 22. Broadband services.** This section governs broadband services provided
14 by the district.

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

17 A. "Broadband services" includes both broadband services and Internet services as
18 those terms are used in the Maine Revised Statutes, Title 30-A, section 2203,
19 subsection 9.

20 B. "Business investment group" means a nonprofit entity exempt from federal income
21 taxation pursuant to the United States Internal Revenue Code of 1986, Section
22 501(c)(3) that is incorporated in the City of Caribou for the purpose of promoting local
23 economic development.

24 C. "Caribou economic growth council" means a nonprofit corporation exempt from
25 federal income taxation pursuant to the United States Internal Revenue Code of 1986,
26 Section 501(c)(6) that administers its programming using the City of Caribou's director
27 of economic and community development.

28 D. "Municipality" means any unit of municipal government, including towns, cities,
29 plantations and unorganized territories.

30 E. "Open-access fiber-optic network" or "network" means an open-access dark fiber
31 network that provides broadband services throughout the district.

32 F. "User" includes but is not limited to a resident, business, nonprofit organization or
33 government entity located within the district.

34 **2. Powers.** The district may:

35 A. Obtain, by mutual agreement, a detailed engineering or technical design for an
36 open-access fiber-optic network from the business investment group, Caribou
37 economic growth council or City of Caribou;

38 B. Construct, operate and maintain a network;

39 C. Apply for all licenses and permits required to provide all services authorized under
40 this section;

41 D. Own land, and own, construct, manage and maintain associated facilities, necessary
42 to provide broadband services by means of a network, including, but not limited to, a

1 so-called headend facility and office necessary for the operation of the network. The
2 district may transfer properties and issue easements required for those facilities;

3 E. Enter any contracts associated with providing broadband services for users and
4 associated with designing, constructing, maintaining, replacing, expanding and
5 operating the open-access fiber-optic network and associated facilities; and

6 F. Establish and administer a regional municipal utility district pursuant to the Maine
7 Revised Statutes, Title 30-A, section 2203, subsection 9 authorized to make provisions
8 for broadband services, including establishing rates, collecting revenues and
9 undertaking all other actions necessary and appropriate for a regional municipal utility
10 district of this nature consistent with this section and the general law.

11 **3. Development.** After a detailed engineering and technical design is completed, the
12 district may contract to establish or expand the network and operate or provide broadband
13 services to the City of Caribou and to any other municipality that applies for broadband
14 services membership and that the board of trustees accepts pursuant to subsection 8.

15 **4. Property.** All real property and improvements acquired or developed pursuant to
16 this section must be held by the district. A municipality may assign property to the district.
17 The district may own and encumber any property contributed to it, directly or indirectly,
18 by municipalities.

19 **5. Operation and costs.** The costs of the design, construction and operation of an
20 open-access fiber-optic network must be paid by the district from the funds provided for
21 the development of the network and from any fees or charges assessed on users of the
22 network. Pursuant to the Maine Revised Statutes, Title 30-A, section 2203, subsection 9,
23 paragraph B, the district may issue revenue bonds in support of any of the activities
24 undertaken pursuant to this section. The district may seek grants and contributions to fund
25 its operations and capital expenditures and acquire, lease, encumber and sell property in
26 furtherance of its purposes under this section.

27 **6. Assessment; collection; payments.** The district is responsible for assessments,
28 collections and payments associated with the open-access fiber-optic network.

29 **7. Distribution of nontax revenues; reserves.** The district shall determine the
30 amount of revenues to be retained as reserves to fund future expenditures for maintenance,
31 improvements and expansion of the network. Any remaining revenues must be retained or
32 distributed in a manner determined by the board of trustees.

33 **8. Admission of new municipalities for broadband services membership.** A
34 municipality may apply for broadband services membership with the district. In order to
35 be accepted, a municipality:

36 A. Must have obtained the approval of its legislative body to become a broadband
37 services member and to be bound by this section, such municipal approval to be
38 demonstrated by the provision of attested copies of resolutions in substantially the
39 following form:

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41 AUTHORITY OF THE [TOWN/CITY/PLANTATION/UNORGANIZED
42 TERRITORY] OF _____ TO ENTER INTO
43 AGREEMENT

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WHEREAS, the [legislative body of town/city/plantation/unorganized territory] of _____ has determined it is in the best interest of _____ to join the Caribou Utilities District in order to design, construct and operate an open-access fiber-optic network in _____; and

WHEREAS, there is a need in _____ for an open-access fiber-optic network; and

WHEREAS, municipalities including Caribou, _____, _____ and _____ have agreed to the terms contained in the charter for the Caribou Utilities District for the purpose of establishing and operating an open-access fiber-optic network in these municipalities; and

WHEREAS, for the Caribou Utilities District Board of Trustees to vote and approve membership, the [Town/City/Plantation/Unorganized Territory] of _____ must first approve membership;

NOW, THEREFORE, BE IT RESOLVED BY THE [legislative body of town/city/plantation/unorganized territory] OF _____, MAINE THAT:

The [Town/City/Plantation/Unorganized Territory] of _____ has accepted broadband services membership into the Caribou Utilities District; and

The [Town/City/Plantation/Unorganized Territory] of _____ authorizes the Caribou Utilities District to issue revenue bonds in accordance with the Maine Revised Statutes, Title 30-A, section 2203, subsection 9 and to acquire, lease and sell property in furtherance of its purpose.

ADOPTED this _____ day of _____, 20_____.

[Authorized signature]

A true copy, Attest:

[Town/City/Plantation/Unorganized Territory] Clerk
[Town/City/Plantation/Unorganized Territory] of _____;

B. Must have agreed to make an initial contribution consisting of an amount equal to 110% of the cost of extending the network to and constructing a network in the

1 municipality, the amount of the initial contribution to be determined by the board of
2 trustees in advance of accepting broadband services membership; and

3 C. Must have agreed to a starting date for broadband services membership that will
4 enable the municipality either to have appropriated the funds to meet its initial
5 contribution or to have made other arrangements satisfactory to the board of trustees
6 to ensure the initial contribution can and will be paid upon acceptance.

7 The board of trustees may, by majority vote at a public meeting, accept the application of
8 the municipality outright or conditionally upon fulfillment of one or more of the
9 requirements of this subsection. The board of trustees shall, as part of its vote of
10 acceptance, enter an assessment for the municipality for the ensuing year. The assessment
11 for the municipality must be determined by the board of trustees.

12 **9. Withdrawal of municipalities.** A municipality may withdraw from its broadband
13 services membership with the district after meeting all of the conditions described in this
14 subsection.

15 A. The municipality shall make the withdrawal pursuant to the approval of its
16 legislative body.

17 B. The municipality shall give written notice of its intent to withdraw at least 90 days
18 prior to the commencement of the district's budgetary year.

19 C. At or prior to the time of withdrawing, the municipality shall pay the entire amount
20 of its outstanding obligations incurred pursuant to this section.

21 **SUMMARY**

22 This bill allows the Caribou Utilities District to provide broadband services to
23 residents, businesses, nonprofit organizations and government entities within the district
24 and provides for municipalities other than Caribou the opportunity to be admitted for
25 broadband services membership with the district.