

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-ONE

—
H.P. 1048 - L.D. 1432

An Act To Update the Municipal Gigabit Broadband Network Access Fund

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

Sec. 1. 35-A MRSA §9204-A, sub-§7, as amended by PL 2019, c. 625, §8, is further amended to read:

7. Administer funds. The authority shall administer the ConnectMaine Fund as established pursuant to section 9211 and the Municipal Gigabit Broadband Network Access Fund established pursuant to section 9211-A.

Sec. 2. 35-A MRSA §9204-A, sub-§8, as enacted by PL 2015, c. 284, §7, is amended to read:

8. Limitations on activities of the authority. The Except as provided in section 9211-A, the authority may not develop, acquire, fund, coordinate or otherwise undertake any project or make any grant, direct investment or loan under this chapter unless the authority determines that without the authority's action the installation of adequate advanced communications technology infrastructure in an unserved or underserved area would not occur within the same time period. When providing grants, direct investment or loans for broadband infrastructure investments, the authority shall give preference to those investments that provide the greatest relative improvement to existing broadband service in an unserved or underserved area. Notwithstanding any other provision of this chapter, the authority may not provide any wireline, wireless, satellite, voice, data or video service at retail or wholesale.

Sec. 3. 35-A MRSA §9211-A, as amended by PL 2019, c. 343, Pt. QQ, §§5 and 6, is further 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 or group of municipalities that applies apply for a grant under this section.

~~B. "Community" means a municipality with a population of at least 1,200 people, as determined by the authority in accordance with the United States Census data, or a municipality that has received a waiver from this population requirement from 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.~~

E. "Gigabit fiber-optic broadband network" means a network of fiber-optic cable capable of offering upload and download speeds of at least one gigabit per second.

F. "Open-access network" means an Internet network that is neutral and independent, is available to any Internet service provider based on standardized and transparent pricing and does not compete with Internet service providers to offer retail service of any kind.

G. "Symmetrical high-speed Internet" means retail Internet service that meets minimum standards defined by the authority, which, until 2025, must include at least 100 megabits per second upload and download speeds. Beginning in 2025, the standards must be defined annually by the authority and include upload and download speeds that are at least equal to or better than the minimum speeds available to residents of the majority of urban census blocks in the United States.

2. Fund established. The Municipal Gigabit Broadband Network Access Fund is established as a nonlapsing, revolving fund administered by 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 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 authority that it has a viable plan identical or similar to one created in accordance with subsections 5, 6 and 7.~~
- ~~C. Municipalities An applicant selected for funding must be required to provide a 25% cash match.~~
- ~~D. ConnectMaine funds may not be used to fund more than 50% of the total cost of a project.~~
- ~~E. An applicant must demonstrate either that no more than one Internet service provider already offers symmetrical high-speed Internet to a majority of the premises to be served or that the grant will be used to construct or expand an open-access network.~~

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 may 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~~ applicants that meet the cash match and other application requirements for the award of planning grants, as established by the authority. 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 authority 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 report requirements. An applicant awarded a planning grant under subsection 5 must provide to the authority, at a minimum:

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.~~

8. Technical assistance; contract for services. The authority may provide technical assistance to applicants that request assistance with the grant application process. The 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 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.