

**No. 41. An act relating to telecommunications.**

*See Revision note at end of Act*

(H.117)

It is hereby enacted by the General Assembly of the State of Vermont:

\* \* \* Division for Telecommunications and Connectivity \* \* \*

Sec. 1. REPEAL

3 V.S.A. § 2225 (creating the Division for Connectivity within the Agency of Administration) and 2014 Acts and Resolves No. 190, Secs. 12 (Division for Connectivity), 14 (creation of positions; transfer; reemployment rights), and 30(a)(2) and (b) (statutory revision authority regarding the Division for Connectivity) are repealed.

Sec. 2. 30 V.S.A. § 1 is amended to read:

§ 1. COMPOSITION OF DEPARTMENT

(a) The ~~department of public service~~ Department of Public Service shall consist of the ~~commissioner of public service, a director for regulated utility planning, a director for public advocacy, a director for energy efficiency,~~ Commissioner of Public Service, a Director for Regulated Utility Planning, a Director for Public Advocacy, a Director for Energy Efficiency, a Director for Telecommunications and Connectivity, and such other persons as the ~~commissioner~~ Commissioner considers necessary to conduct the business of the ~~department~~ Department.

(b) The ~~commissioner of public service~~ Commissioner shall be appointed by the ~~governor~~ Governor with the advice and consent of the ~~senate~~ Senate. The ~~commissioner of public service~~ Commissioner shall serve for a term of two years beginning on February 1 of the year in which the appointment is made. The ~~commissioner~~ Commissioner shall serve at the pleasure of the ~~governor~~ Governor. The ~~directors for regulated utility planning, for energy efficiency and for public advocacy~~ Directors for Regulated Utility Planning, for Public Advocacy, and for Energy Efficiency shall be appointed by the ~~commissioner~~ Commissioner. The Director for Telecommunications and Connectivity shall be appointed by the Commissioner in consultation with the Secretary of Administration.

(c) The ~~director for public advocacy~~ Directors for Public Advocacy and for Telecommunications and Connectivity may employ, with the approval of the ~~commissioner~~ Commissioner, legal counsel and other experts, and clerical assistance, and the ~~directors of regulated utility planning and energy efficiency~~ Directors for Regulated Utility Planning and for Energy Efficiency may employ, with the approval of the ~~commissioner~~ Commissioner, experts and clerical assistance.

Sec. 3. 30 V.S.A. § 202d is amended to read:

§ 202d. TELECOMMUNICATIONS PLAN

(a) The Department of Public Service shall constitute the responsible planning agency of the State for the purpose of obtaining for all consumers in

the State stable and predictable rates and a technologically advanced telecommunications network serving all service areas in the State. The Department shall be responsible for the provision of plans for meeting emerging trends related to telecommunications technology, markets, financing, and competition.

(b) The Department shall prepare a Telecommunications Plan for the State. The Department of Innovation and Information, ~~the Division for Connectivity~~ and the Agency of Commerce and Community Development, and the Agency of Transportation shall assist the Department of ~~Public Service~~ in preparing the Plan. The Plan shall be for a ten-year period and shall serve as a basis for State telecommunications policy. Prior to preparing the Plan, the Department shall prepare:

(1) an overview, looking ten years ahead, of future requirements for telecommunications services, considering services needed for economic development, technological advances, and other trends and factors which, as determined by the Department of Public Service, will significantly affect State telecommunications policy and programs;

(2) a survey of Vermont residents and businesses, conducted in cooperation with the Agency of Commerce and Community Development ~~and the Division for Connectivity~~, to determine what telecommunications services are needed now and in the succeeding ten years;

(3) an assessment of the current state of telecommunications infrastructure;

(4) an assessment, conducted in cooperation with the Department of Innovation and Information and the ~~Division for Connectivity~~ Agency of Transportation, of the current State telecommunications system and evaluation of alternative proposals for upgrading the system to provide the best available and affordable technology for use by government; and

(5) an assessment of the state of telecommunications networks and services in Vermont relative to other states, including price comparisons for key services and comparisons of the state of technology deployment.

(c) In developing the Plan, the Department shall take into account the State telecommunications policies and goals of section 202c of this title.

(d) In establishing plans, public hearings shall be held and the Department shall consult with members of the public, representatives of telecommunications utilities with a certificate of public good, other providers, including the Vermont Electric Power Co., Inc. (VELCO), and other interested State agencies, particularly the Agency of Commerce and Community Development, ~~the Division for Connectivity~~, the Agency of Transportation, and the Department of Innovation and Information, whose views shall be considered in preparation of the Plan. To the extent necessary, the Department shall include in the Plan surveys to determine existing, needed, and desirable plant improvements and extensions, access and coordination between

telecommunications providers, methods of operations, and any change that will produce better service or reduce costs. To this end, the Department may require the submission of data by each company subject to supervision by the Public Service Board.

(e) Before adopting a Plan, the Department shall conduct public hearings on a final draft and shall consider the testimony presented at such hearings in preparing the final Plan. At least one hearing shall be held jointly with Committees of the General Assembly designated by the General Assembly for this purpose. The Plan shall be adopted by September 1, 2014, and then reviewed and updated as provided in subsection (f) of this section.

(f) The Department, from time to time, but in no event less than every three years, shall institute proceedings to review a the Plan and make revisions, where necessary. The three-year major review shall be made according to the procedures established in this section for initial adoption of the Plan. For good cause or upon request by a Joint Resolution passed by the General Assembly, an interim review and revision of any section of the Plan may be made after conducting public hearings on the interim revision. At least one hearing shall be held jointly with Committees of the General Assembly designated by the General Assembly for this purpose.

(g) The Department shall review and update the minimum technical service characteristic objectives not less than every three years beginning in 2017. In the event such review is conducted separately from an update of the Plan, the

Department shall issue revised minimum technical service characteristic objectives as an amendment to the Plan.

Sec. 4. 30 V.S.A. § 202e is added to read:

§ 202e. TELECOMMUNICATIONS AND CONNECTIVITY

(a) Among other powers and duties specified in this title, the Department of Public Service, through the Division for Telecommunications and Connectivity, shall promote:

(1) access to affordable broadband service to all residences and businesses in all regions of the State, to be achieved in a manner that is consistent with the State Telecommunications Plan;

(2) universal availability of mobile telecommunication services, including voice and high-speed data along roadways, and near universal availability statewide;

(3) investment in telecommunications infrastructure in the State that creates or completes the network for service providers to create last-mile connection to the home or business and supports the best available and economically feasible service capabilities;

(4) the continuous upgrading of telecommunications and broadband infrastructure in all areas of the State to reflect the rapid evolution in the capabilities of available broadband and mobile telecommunications technologies, the capabilities of broadband and mobile telecommunications services needed by persons, businesses, and institutions in the State; and

(5) the most efficient use of both public and private resources through State policies by encouraging the development, funding, and implementation of open access telecommunications infrastructure.

(b) To achieve the goals specified in subsection (a) of this section, the Division shall:

(1) provide resources to local, regional, public, and private entities in the form of grants, technical assistance, coordination, and other incentives;

(2) prioritize the use of existing buildings and structures, historic or otherwise, as sites for visually-neutral placement of mobile telecommunications and wireless broadband antenna facilities;

(3) inventory and assess the potential to use federal radio frequency licenses held by instrumentalities of the State to enable broadband service in unserved areas of the State; take steps to promote the use of those licensed radio frequencies for that purpose; and recommend to the General Assembly any further legislative measures with respect to ownership, management, and use of these licenses as would promote the general good of the State;

(4) coordinate telecommunications initiatives among Executive Branch agencies, departments, and offices;

(5) identify the types and locations of infrastructure and services needed to carry out the goals stated in subsection (a) of this section;

(6) formulate, with the advice and assistance of the Telecommunications and Connectivity Board and with input from the Regional Planning

Commissions, an action plan that conforms with the State Telecommunications Plan, as updated and revised, and carries out the goals stated in subsection (a) of this section;

(7) coordinate the agencies of the State to make public resources available to support the extension of broadband and mobile telecommunications infrastructure and services to all unserved and underserved areas;

(8) support and facilitate initiatives to extend the availability of broadband and mobile telecommunications, and promote development of the infrastructure that enables the provision of these services;

(9) work cooperatively with the Agency of Transportation and the Department of Buildings and General Services to assist in making available transportation rights-of-way and other State facilities and infrastructure for telecommunications projects in conformity with applicable federal statutes and regulations; and

(10) receive all technical and administrative assistance as deemed necessary by the Director for Telecommunications and Connectivity.

(c)(1) The Director may request from telecommunications service providers voluntary disclosure of information regarding deployment of broadband, telecommunications facilities, or advanced metering infrastructure that is not publicly funded. Such information may include data identifying projected coverage areas, projected average speed of service, service type, and

the anticipated date of completion in addition to identifying the location and routes of proposed cables, wires, and telecommunications facilities.

(2) The Director may enter into a nondisclosure agreement with respect to any voluntary disclosures under this subsection, and the information disclosed pursuant thereto shall remain confidential. Alternatively, entities that voluntarily provide information requested under this subsection may select a third party to be the recipient of such information. The third party may aggregate information provided by the entities, but shall not disclose provider-specific information it has received under this subsection to any person, including the Director. The third party shall only disclose the aggregated information to the Director. The Director may publicly disclose aggregated information based upon the information provided under this subsection. The confidentiality requirements of this subsection shall not affect whether information provided to any agency of the State or a political subdivision of the State pursuant to other laws is or is not subject to disclosure.

(d) The Division shall only promote the expansion of broadband services that offer actual speeds that meet or exceed the minimum technical service characteristic objectives contained in the State's Telecommunications Plan.

(e) Notwithstanding 2 V.S.A. § 20(d), on or before January 15 of each year, the Director, with the advice and assistance of the Telecommunications and Connectivity Board, shall submit a report of its activities pursuant to this section and duties of title 30 V.S.A. subsection 202f (f) for the preceding fiscal

year to the General Assembly. Each report shall include an operating and financial statement covering the Division's operations during the year, including a summary of all grant awards and contracts and agreements entered into by the Division, as well as the action plan required under subdivision (b)(6) of this section. In addition, the report shall include an accurate map and narrative description of each of the following:

(1) the areas served and the areas not served by broadband that has a download speed of at least 4 Mbps and an upload speed of at least 1 Mbps, and cost estimates for providing such service to unserved areas;

(2) the areas served and the areas not served by broadband that has a download speed of at least 25 Mbps and an upload speed of at least 3 Mbps, or as defined by the FCC in its annual report to Congress required by section 706 of the Telecommunications Act of 1996, whichever is higher, and the cost estimates for providing such service to unserved areas;

(3) the areas served and the areas not served by broadband that has a download speed of at least 100 Mbps and is symmetrical, and the cost estimates for providing such service to unserved areas; and

(4) if monetarily feasible, the areas served and the areas not served by wireless communications service, and cost estimates for providing such service to unserved areas.

Sec. 5. 30 V.S.A. § 202f is added to read:

§ 202f. TELECOMMUNICATIONS AND CONNECTIVITY ADVISORY

BOARD

(a) There is created a Telecommunications and Connectivity Advisory Board for the purpose of making recommendations to the Commissioner of Public Service regarding his or her telecommunications responsibilities and duties as provided in this section. The Connectivity Advisory Board shall consist of eight members, seven voting and one nonvoting, selected as follows:

(1) the State Treasurer or designee;

(2) the Secretary of Commerce and Community Development or designee;

(3) five at-large members appointed by the Governor, who shall not be employees or officers of the State at the time of appointment; and

(4) the Secretary of Transportation or designee, who shall be a nonvoting member.

(b) A quorum of the Connectivity Advisory Board shall consist of four voting members. No action of the Board shall be considered valid unless the action is supported by a majority vote of the members present and voting and then only if at least four members vote in favor of the action. The Governor shall select, from among the at-large members, a Chair and Vice Chair.

(c) In making appointments of at-large members, the Governor shall give consideration to citizens of the State with knowledge of telecommunications

technology, telecommunications regulatory law, transportation rights-of-way and infrastructure, finance, environmental permitting, and expertise regarding the delivery of telecommunications services in rural, high-cost areas.

However, the five at-large-members may not be persons with a financial interest in or owners or employees of an enterprise that provides broadband or cellular service or that is seeking in-kind or financial support from the Department of Public Service. The conflict of interest provision in this subsection shall not be construed to disqualify a member who has ownership in a mutual fund, exchange traded fund, pension plan, or similar entity that owns shares in such enterprises as part of a broadly diversified portfolio. The at-large members shall serve terms of two years beginning on February 1 in odd-numbered years, and until their successors are appointed and qualified. However, three of the five at-large members first appointed by the Governor shall serve an initial term of three years. Vacancies shall be filled for the balance of the unexpired term. A member may be reappointed for up to three consecutive terms. Upon completion of a term of service for any reason, including the term's expiration or a member's resignation, and for one year from the date of such completion, a former Board member shall not advocate before the Connectivity Board, Department of Public Service, or the Public Service Board on behalf of an enterprise that provides broadband or cellular service.

(d) Except for those members otherwise regularly employed by the State, the compensation of the Board's members is that provided by 32 V.S.A. § 1010(a). All members of the Board, including those members otherwise regularly employed by the State, shall receive their actual and necessary expenses when away from home or office upon their official duties.

(e) In performing its duties, the Connectivity Advisory Board may use the legal and technical resources of the Department of Public Service. The Department of Public Service shall provide the Board with administrative services.

(f) The Connectivity Advisory Board shall:

(1) have review and nonbinding approval authority with respect to the awarding of grants under the Connectivity Initiative. The Commissioner shall have sole authority to make the final decision on grant awards, as provided in subsection (g) of this section.

(2) function in an advisory capacity to the Commissioner on the development of State telecommunications policy and planning, including the action plan required under subdivision 202e(b)(6) of this chapter and the State Telecommunications Plan.

(3) annually advise the Commissioner on the development of requests for proposals under the Connectivity Initiative.

(4) annually provide the Commissioner with recommendations for the apportionment of funds to the High-Cost Program and the Connectivity Initiative.

(5) annually provide the Commissioner with recommendations on the appropriate Internet access speeds for publicly funded telecommunication and connectivity projects.

(g) The Commissioner shall make an initial determination as to whether a proposal submitted under the Connectivity Initiative meets the criteria of the request for proposals. The Commissioner shall then provide the Connectivity Advisory Board a list of all eligible proposals and recommendations. The Connectivity Advisory Board shall review the recommendations of the Commissioner and may review any proposal submitted, as it deems necessary, and either approve or disapprove each recommendation and may make new recommendations for the Commissioner's final consideration. The Commissioner shall have final decision-making authority with respect to the awarding of grants under the Connectivity Initiative. If the Commissioner does not accept a recommendation of the Board, he or she shall provide the Board with a written explanation for such decision.

(h) On September 15, 2015, and annually thereafter, the Commissioner shall submit to the Connectivity Advisory Board an accounting of monies in the Connectivity Fund and anticipated revenue for the next year. On or before January 1 of each year, the Commissioner, after consulting with the

Connectivity Advisory Board, shall recommend to the relevant legislative committees of jurisdiction a plan for apportioning such funds to the High-Cost Program and the Connectivity Initiative.

(i) The Chair shall call the first meeting of the Connectivity Advisory Board. The Chair or a majority of Board members may call a Board meeting. The Board may meet up to six times a year.

(j) At least annually, the Connectivity Advisory Board and the Commissioner or designee shall jointly hold a public meeting to review and discuss the status of State telecommunications policy and planning, the Telecommunications Plan, the Connectivity Fund, the Connectivity Initiative, the High-Cost Program, and any other matters they deem necessary to fulfill their obligations under this section.

(k) Information and materials submitted by a telecommunications service provider concerning confidential financial or proprietary information shall be exempt from public inspection and copying under the Public Records Act, nor shall any information that would identify a provider who has submitted a proposal under the Connectivity Initiative be disclosed without the consent of the provider, unless a grant award has been made to that provider. Nothing in this subsection shall be construed to prohibit the publication of statistical information, determinations, reports, opinions, or other information so long as the data are disclosed in a form that cannot identify or be associated with a particular telecommunications service provider.

Sec. 6. CREATION OF POSITIONS; TRANSFER OF VACANT

POSITIONS; REEMPLOYMENT RIGHTS; TRANSITIONAL  
PROVISIONS

(a) Up to three additional exempt full-time positions are created within the Division for Telecommunications and Connectivity, as deemed necessary by the Secretary of Administration.

(b) The positions created under subsection (a) of this section shall only be filled to the extent there are existing vacant positions in the Executive Branch available to be transferred and converted to the new positions in the Division for Telecommunications and Connectivity, as determined by the Secretary of Administration and the Commissioner of Human Resources, so that the total number of authorized positions in the State shall not be increased by this act.

(c) All full-time personnel of the Vermont Telecommunications Authority (VTA) employed by the VTA on the day immediately preceding the effective date of this act who do not obtain a position in the Division for Telecommunications and Connectivity pursuant to subsection (a) of this section shall be entitled to the same reemployment or recall rights available to nonmanagement State employees under the existing collective bargaining agreement entered into between the State and the Vermont State Employees' Association.

(d) The Department of Public Service shall assume possession and responsibility for all assets and liabilities of the VTA.

(e) The VTA shall not enter into any new contracts without the approval of the Commissioner of Public Service.

\* \* \* Universal Service Fund \* \* \*

Sec. 7. 30 V.S.A. § 7503 is amended to read:

§ 7503. FISCAL AGENT

(a) A fiscal agent shall be selected to receive and distribute funds under this chapter.

(b) The fiscal agent shall be selected by the ~~Public Service Board~~ Commissioner of Public Service after competitive bidding. No telecommunications service provider shall be eligible to be the fiscal agent. The duties of the fiscal agent shall be determined by a contract with a term not greater than three years.

(c) In order to finance grants and other expenditures that have been approved by the ~~Public Service Board~~ Commissioner of Public Service, the fiscal agent may borrow money from time to time in anticipation of receipts during the current fiscal year. No such note shall have a term of repayment in excess of one year, but the fiscal agent may pledge its receipts in the current and future years to secure repayment. Financial obligations of the fiscal agent are not guaranteed by the State of Vermont.

(d) The fiscal agent shall be audited annually by a certified public accountant in a manner determined by and under the direction of the ~~Public Service Board~~ Commissioner of Public Service.

(e) The financial accounts of the fiscal agent shall be available at reasonable times to any telecommunications service provider in this State. The ~~Public Service Board~~ Commissioner of Public Service may investigate the accounts and practices of the fiscal agent and may enter orders concerning the same.

(f) The fiscal agent acts as a fiduciary and holds funds in trust for the ratepayers until the funds have been disbursed as provided pursuant to ~~sections 7511 through 7515~~ section 7511 of this chapter.

Sec. 8. REPEAL

30 V.S.A. § 7515a (additional program support for Executive Branch activities) is repealed.

Sec. 9. 30 V.S.A. § 7511 is amended to read:

§ 7511. DISTRIBUTION GENERALLY

(a)(1) As directed by the ~~Public Service Board~~ Commissioner of Public Service, funds collected by the fiscal agent, and interest accruing thereon, shall be distributed as follows:

~~(1)(A)~~ to pay costs payable to the fiscal agent under its contract with the ~~Board~~ Commissioner;

~~(2)(B)~~ to support the Vermont telecommunications relay service in the manner provided by section 7512 of this title;

~~(3)(C)~~ to support the Vermont Lifeline program in the manner provided by section 7513 of this title;

~~(4)(D)~~ to support Enhanced-911 services in the manner provided by section 7514 of this title; and

~~(5)(E)~~ to support the Connectivity Fund established in section 7516 of ~~this chapter; and of this title;~~ and

(2) For fiscal year 2016 only, any personnel or administrative costs associated with the Connectivity Initiative shall come from the Connectivity Fund, as determined by the Commissioner in consultation with the Connectivity Board.

(b) If insufficient funds exist to support all of the purposes contained in subsection (a) of this section, the ~~Board~~ Commissioner shall ~~conduct an expedited proceeding to~~ allocate the available funds, giving priority in the order listed in subsection (a).

Sec. 9a. FUNDING FOR CONNECTIVITY PERSONNEL; GROSS RECEIPTS TAX

On or before January 15, 2016, the Commissioner shall determine whether the revenues raised from the existing gross receipts tax on public service companies, 30 V.S.A. § 22, is sufficient to finance the personnel and administrative costs associated with the Connectivity Initiative, beginning in fiscal year 2017. If the Commissioner determines the revenues are not sufficient for this purpose, he or she shall recommend to the General Assembly a new rate of tax applicable to one or more categories of public service companies, as he or she deems necessary and appropriate.

Sec. 10. 30 V.S.A. § 7516 is amended to read:

§ 7516. CONNECTIVITY FUND

There is created a Connectivity Fund for the purpose of providing support to the High-Cost Program established under section 7515 of this chapter and the Connectivity Initiative established under section 7515b of this chapter. The fiscal agent shall determine annually, on or before September 1, the amount of monies available to the Connectivity Fund. Such funds shall be apportioned ~~equally~~ as follows: 45 percent to the High-Cost Program and 55 percent to the Connectivity Initiative ~~referenced in this section~~.

Sec. 11. 30 V.S.A. § 7515 is amended to read:

§ 7515. HIGH-COST PROGRAM

(a) The Universal Service Charge shall be used as a means of keeping basic telecommunications service affordable in all parts of this State, thereby maintaining universal service, and as a means of supporting access to broadband service in all parts of the State.

(b) The Public Service Board, after review of a petition of a company holding a certificate of public good to provide telecommunications service in Vermont, and upon finding that the company meets all requirements for designation as an “eligible telecommunications carrier” as defined by the FCC, may designate the company as a Vermont-eligible telecommunications carrier (VETC).

(c) The supported services a designated VETC must provide are voice telephony services, as defined by the FCC, and broadband Internet access, directly or through an affiliate. A VETC receiving support under this section shall use that support for capital improvements in high cost areas, as defined in subsection (f) of this section, to build broadband capable networks.

(d) The Board may designate multiple VETCs for a single high cost area, but each designated VETC shall:

(1) offer supported services to customers at all locations throughout the ~~service~~ high cost area or areas for which it has been designated; and

(2) for its voice telephone services, meet service quality standards set by the Board.

(e) A VETC shall receive support as defined in subsection (i) of this section from the fiscal agent of the Vermont Universal Service Fund for each telecommunications line in service or service location, whichever is greater in number, in each high cost area it services. Such support may be made in the form of a net payment against the carrier's liability to the Fund. If multiple VETCs are designated for a single area, then each VETC shall receive support for each line it has in service.

(f) As used in this section, a Vermont telephone exchange is a "high cost area" if the exchange is served by a rural telephone company, as defined by federal law, or if the exchange is designated as a rural exchange in the wholesale tariff of a regional bell operating company (RBOC), as defined by

the FCC, or of a successor company to an RBOC. An exchange is not a high cost area if the Public Service Board finds that the supported services are available to all locations throughout the exchange from at least two service providers.

(g) Except as provided in subsection (h) of this section, a VETC shall provide broadband Internet access at speeds no lower than 4 Mbps download and 1 Mbps upload in each high cost area it serves within five years of designation. A VETC need not provide broadband service to a location that has service available from another service provider, as determined by the Department of Public Service.

(h) The Public Service Board may modify the build out requirements of subsection (d) of this section as it relates to broadband Internet access to be the geographic area that could be reached using one-half of the funds to be received over five years. A VETC may seek such waiver of the build out requirements ~~in subsection (e)~~ within one year of designation and shall demonstrate the cost of meeting broadband Internet access requirements on an exchange basis and propose an alternative build out plan.

(i) The amount of the monthly support under this section shall be the pro rata share of available funds ~~as provided in subsection (e) of this section~~ based on the total number of incumbent local exchange carriers in the State and reflecting each carrier's lines in service or service locations in its high-cost area or areas, as determined under subsection (e) of this section. If an

incumbent local exchange carrier does not petition the Board for VETC designation, or is found ineligible by the Board, the share of funds it otherwise would have received under this section shall be used to support the Connectivity Initiative established in section 7515b of this chapter.

(j) The Public Service Board shall adopt by rule standards and procedures for ensuring projects funded under this section are not competitive overbuilds of existing wired telecommunications services.

(k) Each VETC shall submit certification that it is meeting the requirements of this section and an accounting of how it expended the funds received under this section in the previous calendar year, with its annual report to the Department of Public Service. For good cause shown, the Public Service Board may investigate submissions required by this subsection and may revoke a company's designation if it finds that the company is not meeting the requirements of this subsection.

Sec. 12. 30 V.S.A. § 7515b is amended to read:

§ 7515b. CONNECTIVITY INITIATIVE

(a) The purpose of the Connectivity Initiative is to provide each service location in Vermont access to Internet service that is capable of speeds of at least ~~4~~ 10 Mbps download and 1 Mbps upload, or the FCC speed requirements established under Connect America Fund Phase II, whichever is higher, beginning with locations not served as of December 31, 2013 according to the minimum technical service characteristic objectives applicable at that time.

Within this category of service locations, priority shall be given first to unserved and then to underserved locations. As used in this section, “unserved” means a location having access to only satellite or dial-up Internet service and “underserved” means a location having access to Internet service with speeds that exceed satellite and dial-up speeds but are less than 4 Mbps download and 1 Mbps upload. Any new services funded in whole or in part by monies ~~in this Fund~~ from this Initiative shall be capable of being continuously upgraded to reflect the best available, most economically feasible service capabilities.

(b) The Department of Public Service shall publish annually a list of census blocks eligible for funding based on the Department’s most recent broadband mapping data. The Department annually shall solicit proposals from service providers, ~~the Vermont Telecommunications Authority, and the Division for Connectivity~~ to deploy broadband to eligible census blocks. The Department shall give priority to proposals that reflect the lowest cost of providing services to unserved and underserved locations; however, the Department also shall consider:

- (1) the proposed data transfer rates and other data transmission characteristics of services that would be available to consumers;
- (2) the price to consumers of services;
- (3) the proposed cost to consumers of any new construction, equipment installation service, or facility required to obtain service;

(4) whether the proposal would use the best available technology that is economically feasible;

(5) the availability of service of comparable quality and speed; and

(6) the objectives of the State's Telecommunications Plan.

\* \* \* 248a; Meteorological Station Conversions \* \* \*

Sec. 13. 30 V.S.A. § 246(e) is added to read:

(e) Notwithstanding any contrary provisions of this section, the holder of a certificate of public good for a constructed meteorological station may apply under section 248a of this title or 10 V.S.A. chapter 151 to convert the station to a wireless telecommunications facility, provided the application is filed at least 90 days before the expiration of the certificate for the station. Any such application shall constitute a new application to be reviewed under the facts and circumstances as they exist at the time of the review.

\* \* \* Agency of Transportation; State-owned Rights-of-Way; Leasing;

Telecommunications Providers \* \* \*

Sec. 14. 19 V.S.A. § 26a is amended to read:

§ 26A. DETERMINATION OF RENT TO BE CHARGED FOR LEASING  
OR LICENSING STATE-OWNED PROPERTY UNDER THE  
AGENCY'S JURISDICTION

\* \* \*

(b) Unless otherwise required by federal law, the Agency shall assess, collect, and deposit in the Transportation Fund a reasonable charge or payment

with respect to leases or licenses for access to or use of State-owned rights-of-way by providers of broadband or wireless communications facilities or services. ~~The Vermont Telecommunications Authority, established by 30 V.S.A. chapter 91, Authority~~ Agency may waive such charge or payment in whole or in part if the provider offers to provide comparable value to the State so as to meet the public good as determined by the ~~Authority~~ Agency and the Department of Public Service. For the purposes of this section, the terms “comparable value to the State” shall be construed broadly to further the State’s interest in ubiquitous broadband and wireless service availability at reasonable cost. Any waiver of charges or payments for comparable value to the State granted by the ~~Authority~~ Agency may not exceed five years. Thereafter, the ~~Authority~~ Agency may extend any waiver granted for an additional period not to exceed five years if the ~~Authority~~ Agency makes affirmative written findings demonstrating that the State has received and will continue to receive value that is comparable to the value to the provider of the waiver, or it may revise the terms of the waiver in order to do so. ~~The Authority, in consultation with the Agency of Transportation, shall adopt rules under 3 V.S.A. chapter 25 to implement this section. For the purpose of establishing rules to implement 30 V.S.A. chapter 91 by July 1, 2007, or as soon thereafter as possible, the authority is authorized to adopt initial rules under this section using emergency rulemaking procedures of 3 V.S.A. chapter~~

~~25. Any emergency rules initially adopted may remain in effect longer than 120 days, but in no event shall they remain in effect for more than six months.~~

\* \* \*

\* \* \* Retransmission Fees; Reporting \* \* \*

Sec. 15. 30 V.S.A. § 518 is amended to read:

§ 518. RETRANSMISSION FEES; REPORTING

(a) Purpose. The purpose of this section is to provide the Attorney General with information necessary to investigate certain conduct within the cable and broadcast network industries to determine whether unfair methods of competition ~~or unfair or deceptive acts or practices~~ are occurring in violation of 9 V.S.A. chapter 63.

(b) Reporting. Annually, beginning on January 1, 2015, each commercial broadcasting station doing business with a Vermont cable company shall report to the Attorney General any fees charged for program content retransmitted on the cable network under a retransmission consent agreement entered into pursuant to 47 U.S.C. § 325, for the prior calendar year.

(c) Investigations. The Attorney General may investigate retransmission fees charged by commercial broadcasting stations, pursuant to his or her investigatory powers established under 9 V.S.A. chapter 63.

(d) Public disclosure. The information received ~~under this section~~ by the Attorney General under subsection (b) of this section ~~shall be disclosed to the public at a time and in a manner determined by the Attorney General to be~~

~~consistent with and permitted by the Public Records Act and relevant provisions of federal law shall be kept confidential and is exempt from public inspection and copying under the Public Records Act, unless otherwise ordered by a court.~~

(e) Enforcement. A violation of this section constitutes ~~an unfair and deceptive act and practice in commerce~~ unfair competition under 9 V.S.A. § 2453.

(f) The Attorney General may adopt rules he or she deems necessary to implement this section. The rules, as well as any finding of unfair ~~or deceptive practices~~ competition with regard to retransmission consent fees, shall not be inconsistent with the rules, regulations, and decisions of the Federal Communications Commission and the federal courts interpreting the Communications Act of 1934, as amended.

\* \* \* E-911 System; Operations; Savings \* \* \*

#### Sec. 16. E-911 OPERATIONS AND SAVINGS

(a) The General Assembly finds as follows:

(1) 2014 Acts and Resolves No. 190, Sec. 24 directed the Secretary of Administration to submit a report to the General Assembly proposing a plan for transferring the responsibilities and powers of the Enhanced 911 Board, including necessary positions, to either the Division for Connectivity, the Department of Public Service, or the Department of Public Safety.

(2) The plan was to include budgetary recommendations, striving to achieve annual operational savings of at least \$300,000.00, as well as enhanced coordination and efficiency, and reduction in operational redundancies.

(3) On December 15, 2014, the Secretary of Administration made a recommendation to the General Assembly to transfer responsibilities and powers of the Enhanced 911 Board to the Department of Public Safety. In the report, the Secretary estimated that such transfer could be expected to save between \$210,000.00 and \$350,000.00 each year on an ongoing basis by virtue of personal services savings.

(4) During the 2015 legislative session, a representative of the Enhanced 911 Board testified before the Senate Committee on Appropriations that the Board's current, administrative expenses could be reduced by approximately \$300,000.00.

(b) In fiscal year 2016, the E-911 Board shall transfer \$300,000.00 from the Enhanced 911 Fund for distribution to the Department of Public Safety PSAPs (public safety answering points); and, in addition, the Board shall eliminate not less than one, full-time employee position in the E-911 system. On or before September 1, 2015, the E-911 Board shall report to the Joint Fiscal Committee how the \$300,000.00 in E-911 savings was achieved and provide a description of the eliminated position.

Sec. 17. [Deleted.]

Sec. 18. [Deleted.]

Sec. 19. [Deleted.]

\* \* \* Communications Union Districts \* \* \*

Sec. 20. 30 V.S.A. chapter 82 is added to read:

CHAPTER 82. COMMUNICATIONS UNION DISTRICT

§ 3051. FORMATION

(a) Two or more towns and cities may elect to form a communications union district for the delivery of communications services and the operation of a communications plant, which district shall be a body politic and corporate.

(b) A town or city electing to form a district under this chapter shall submit to the eligible voters of such municipality a proposition in substantially the following form: “Shall the Town of \_\_\_\_\_ enter into a communications union district to be known as \_\_\_\_\_, under the provisions of Chapter 82 of Title 30, Vermont Statutes Annotated?” at an annual or special meeting of such town or city.

(c) Additional towns or cities may be admitted to the district in the manner provided in section 3082 of this chapter.

(d) As used in this chapter:

(1) “Communications plant” means any and all parts of any communications system owned by the district, whether using wires, cables, fiber optics, wireless, other technologies, or a combination thereof, and used for the purpose of transporting or storing information, in whatever forms, directions, and media, together with any improvements thereto hereafter

constructed or acquired, and all other facilities, equipment, and appurtenances necessary or appropriate to such system. However, the term “communications plant” and any regulatory implications or any restrictions under this chapter regarding a “communications plant” shall not apply to facilities or portions of any communications facilities intended for use by, and solely used by, a district member and its own officers and employees in the operation of municipal departments or systems of which such communications are merely an ancillary component.

(2) “Communications union district” or “district” means a communications union district formed under this chapter.

(3) “District member” or “member municipality” means a town or city that elects to form or join a communications union district under this chapter.

(4) “Governing board” or “board” means the governing board of the communications union district as established under this chapter.

#### § 3052. DISTRICT COMPOSITION

A district formed under this chapter shall be composed of and include all of the lands and residents within a member municipality, and any other town or city subsequently admitted to the district as provided in this chapter except for those towns and cities that withdraw as provided in this chapter. Registered voters in each member municipality are eligible to vote in all district meetings, but only district member representatives are eligible to vote in meetings of the district’s governing board.

§ 3053. CREATION; DURATION; NONCONTESTABILITY

(a) Following the organizational meeting called for in section 3060 of this chapter, the district's governing board shall cause to be filed with the Office of the Secretary of State a certificate attesting to the vote conducted under subsection 3051(b) of this chapter.

(b) A district formed under this chapter shall continue as a body politic and corporate unless and until dissolved according to the procedures set forth in this chapter.

(c) An action shall not be brought directly or indirectly challenging, questioning, or in any manner contesting the legality of the formation, or the existence as a body corporate and politic of any communications union district created under this chapter after six months from the date of the recording in the Office of the Secretary of State of the certificate required by subsection (a) of this section. An action shall not be brought directly or indirectly challenging, questioning, or in any manner contesting the legality or validity of any bonds issued to defray costs of communications plant improvements approved by the board, after six months from the date upon which the board voted affirmatively to issue such bonds. This section shall be liberally construed to effect the legislative purpose to validate and make certain the legal existence of all communications union districts in this State and the validity of bonds issued or authorized for communications plant improvements, and to bar every remedy therefor notwithstanding any defects or irregularities, jurisdictional or

otherwise, after expiration of the six-month period. The provisions of this subsection shall also pertain to financial contracts directly related to the district's bonding authority.

(d) To the extent a district constructs communications infrastructure with the intent of providing communications services, the district shall ensure that any and all losses from these services, or in the event these services are abandoned or curtailed, any and all costs associated with the investment in communications infrastructure, are not borne by the taxpayers of district members.

#### § 3054. DISTRICT POWERS

(a) In addition to the powers enumerated in 24 V.S.A. § 4866, and, subject to the limitations and restrictions set forth in section 3056 of this chapter, a district created under this chapter shall have the power to:

(1) operate, cause to be operated, or contract for the construction, ownership, management, financing, and operation of a communications plant for the delivery of communications services, as provided in 24 V.S.A. chapter 54, and all enactments supplementary and amendatory thereto;

(2) purchase, sell, lease, own, acquire, convey, mortgage, improve, and use real and personal property in connection with its purpose;

(3) hire and fix the compensation and terms of employment of employees;

(4) sue and be sued;

(5) enter into contracts for any term or duration;

(6) contract with architects, engineers, financial and legal consultants, and others for professional services;

(7) contract with individuals, corporations, associations, authorities, and agencies for services and property, including the assumption of the liabilities and assets thereof;

(8) provide communications services for its district members, including the residential and business locations located therein; and also provide communications services for such other residential and business locations as its facilities and obligations may allow, provided such other locations are in a municipality that is contiguous with the town limits of a district member, and further provided such other locations do not have access to Internet service capable of speeds that meet or exceed the current speed requirements for funding eligibility under the Connectivity Initiative, 30 V.S.A. § 7515b.

(9) contract with the State of Vermont, the United States of America, or any subdivision or agency thereof for services, assistance, and joint ventures;

(10) contract with any municipality for the services of any officers or employees of that municipality useful to it;

(11) promote cooperative arrangements and coordinated action among its members and other public and private entities;

(12) make recommendations for review and action to its members and other public agencies which perform functions within the region in which its members are located;

(13) exercise any other powers which are necessary or desirable for dealing with communications matters of mutual concern and that are exercised or are capable of exercise by any of its members;

(14) enter into financing agreements as provided by 24 V.S.A. § 1789 and chapter 53, subchapter 2, or other provisions of law authorizing the pledge of net revenue, or alternative means of financing capital improvements and operations;

(15) establish a budget to provide for the funding thereof out of general revenue of the district;

(16) appropriate and expend monies;

(17) establish sinking and reserve funds for retiring and securing its obligations;

(18) establish capital reserve funds and make appropriations thereto for communications plant improvements and the financing thereof;

(19) enact and enforce any and all necessary or desirable bylaws for the orderly conduct of its affairs for carrying out its communications purpose and for protection of its communications property;

(20) solicit, accept, and administer gifts, grants, and bequests in trust or otherwise for its purpose;

(21) exercise all powers incident to a public corporation;

(22) adopt a name under which it shall be known and shall conduct business; and

(23) establish an effective date of its creation.

(b) Before a district may sell any service using a communications plant subject to Public Service Board jurisdiction and for which a certificate of public good is required under chapter 5 or 13 of this title, it shall obtain a certificate of public good for such service. Each such certificate of public good shall be nonexclusive and shall not contain terms or conditions more favorable than those imposed on existing certificate holders authorized to serve the municipality.

§ 3055. COMMUNICATIONS PLANT; SITES

Each member shall make available for lease to the district one or more sites for a communications plant or components thereof within such member municipality.

§ 3056. LIMITATIONS; TAXES; INDEBTEDNESS

(a) Notwithstanding any grant of authority in this chapter to the contrary, a district shall not accept funds generated by a member's taxing or assessment power.

(b) Notwithstanding any grant of authority in this chapter to the contrary, a district shall not have the power to levy, assess, apportion, or collect any tax

upon property within the district, nor upon any of its members, without specific authorization of the General Assembly.

(c) Notwithstanding any grant of authority in this chapter to the contrary, every issue of a district's notes and bonds shall be payable only out of any revenues or monies of the district.

§ 3057. BOARD AUTHORITY

The legislative power and authority of a district and the administration and the general supervision of all fiscal, prudential, and governmental affairs thereof shall be vested in a legislative body known as the governing board, except as specifically provided otherwise in this chapter.

§ 3058. BOARD COMPOSITION

The district governing board shall be composed of one representative from each member and one or more alternates to serve in the absence of the designated representative.

§ 3059. APPOINTMENT

Annually on or before the last Monday in April commencing in the year following the effective date of the district's creation, the legislative body of each member shall appoint a representative and one or more alternates to the governing board for one-year terms. Appointments of representatives and alternates shall be in writing, signed by the chair of the legislative body of the appointing member, and presented to the clerk of the district. The legislative body of a member, by majority vote, may replace its appointed representative

or alternate at any time and shall promptly notify the district clerk of such replacement.

§ 3060. ORGANIZATIONAL MEETING

Annually, on the second Tuesday in May following the appointments contemplated in section 3059 of this chapter, the board shall hold its organizational meeting. At such meeting, the board shall elect from among its appointed representatives a chair and a vice chair, each of whom shall hold office for one year and until his or her successor is duly elected.

§ 3061. QUORUM

For the purpose of transacting business, the presence of delegates or alternates representing more than 50 percent of district members shall constitute a quorum. However, a smaller number may adjourn to another date. Any action adopted by a majority of the votes cast at a meeting of the board at which a quorum is present shall be the action of the board, except as otherwise provided in this chapter.

§ 3062. VOTING

Each district member's delegation shall be entitled to cast one vote.

§ 3063. TERM

Unless replaced in the manner provided in section 3059 of this chapter, a representative on the governing board shall hold office until his or her successor is duly appointed. Any representative or alternate may be reappointed to successive terms without limit.

§ 3064. VACANCY

Any vacancy on the board shall be filled within 30 days after such vacancy occurs by appointment by the authority which appointed the representative or alternate whose position has become vacant. An appointee to a vacancy shall serve until the expiration of the term of the representative or alternate to whose position the appointment was made and may thereafter be reappointed.

§ 3065. RULES OF PROCEDURE

Except as otherwise provided by law, or as may be agreed upon by the board, Robert's Rules of Order shall govern at all meetings.

§ 3066. COMPENSATION OF REPRESENTATIVES

Each district member may reimburse its representative to the governing board for expenses as it determines reasonable, except as provided in section 3072 of this chapter with respect to district officers.

§ 3067. OFFICERS; BOND

(a) The officers of the district shall be the chair and the vice chair of the board, the clerk of the district, and the treasurer of the district. Prior to assuming their offices, officers may be required to post bond in such amounts as shall be determined by resolution of the board. The cost of such bond shall be borne by the district.

(b) The chair shall preside at all meetings of the board and shall make and sign all contracts on behalf of the district upon approval by the board. The

chair shall perform all duties incident to the position and office as required by the general laws of the State.

(c) During the absence of or inability of the chair to render or perform his or her duties or exercise his or her powers, the same shall be performed and exercised by the vice chair and when so acting, the vice chair shall have all the powers and be subject to all the responsibilities hereby given to or imposed upon the chair.

(d) During the absence or inability of the vice chair to render or perform his or her duties or exercise his or her powers, the board shall elect from among its membership an acting vice chair who shall have the powers and be subject to all the responsibilities hereby given or imposed upon the vice chair.

(e) Upon the death, disability, resignation, or removal of the chair or vice chair, the board shall forthwith elect a successor to such vacant office until the next annual meeting.

§ 3068. CLERK

The clerk of the district shall be appointed by the board, and shall serve at its pleasure. The clerk is not required to be a member of the governing board. The clerk shall have the exclusive charge and custody of the records of the district and the seal of the district. The clerk shall record all votes and proceedings of the district, including district and board meetings, and shall prepare and cause to be posted and published all warnings of meetings of such meetings. Following approval by the board, the clerk shall cause the annual

report to be distributed to the legislative bodies of the district members. The clerk shall prepare and distribute any other reports required by State law and resolutions or regulations of the board. The clerk shall perform all duties and functions incident to the office of secretary or clerk of a body corporate.

§ 3069. TREASURER

The treasurer of the district shall be appointed by the board, and shall serve at its pleasure. The treasurer shall not be a member of the governing board. The treasurer shall have the exclusive charge and custody of the funds of the district and shall be the disbursing officer of the district. When authorized by the board, the treasurer may sign, make, or endorse in the name of the district all checks and orders for the payment of money and pay out and disburse the same and receipt therefor. The treasurer shall keep a record of every obligation issued and contract entered into by the district and of every payment thereon. The treasurer shall keep correct books of account of all the business and transactions of the district and such other books and accounts as the board may require. The treasurer shall render a statement of the condition of the finances of the district at each regular meeting of the board and at such other times as shall be required of the treasurer. The treasurer shall prepare the annual financial statement and the budget of the district for distribution, upon approval of the board, to the legislative bodies of district members. The treasurer shall do and perform all of the duties appertaining to the office of treasurer of a body politic and corporate. Upon removal or the treasurer's

termination from office by virtue of removal or resignation, the treasurer shall immediately pay over to the successor all of the funds belonging to the district and at the same time deliver to the successor all official books and papers.

§ 3070. AUDIT

Once the district becomes operational, the board shall cause an audit of the financial condition of the district to be performed annually by an independent professional accounting firm.

§ 3071. COMMITTEES

The board has authority to establish one or more committees and grant and delegate to them such powers as it deems necessary. Members of an executive committee shall serve staggered terms and shall be board members.

Membership on other committees established by the board is not restricted to board members.

§ 3072. COMPENSATION OF OFFICERS

Officers of the district shall be paid from district funds such compensation or reimbursement of expenses, or both, as determined by the board.

§ 3073. RECALL OF OFFICERS

An officer may be removed by a two-thirds' vote of the board whenever, in its judgment, the best interest of the district shall be served.

§ 3074. FISCAL YEAR

The fiscal year of the district shall commence on January 1 and end on December 31 of each year.

§ 3075. BUDGET

(a) Annually, not later than September 15, the board shall approve and cause to be distributed to the legislative body of each district member for review and comment an annual report of its activities, together with a financial statement, a proposed district budget for the next fiscal year, and a forecast presenting anticipated year-end results. The proposed budget shall include reasonably detailed estimates of:

(1) deficits and surpluses from prior fiscal years;

(2) anticipated expenditures for the administration of the district;

(3) anticipated expenditures for the operation and maintenance of any district communications plant;

(4) payments due on obligations, long-term contracts, leases, and financing agreements;

(5) payments due to any sinking funds for the retirement of district obligations;

(6) payments due to any capital or financing reserve funds;

(7) anticipated revenues from all sources; and

(8) such other estimates as the board deems necessary to accomplish its purpose.

(b) Coincident with a regular meeting thereof, the board shall hold a public hearing not later than November 1 of each year to receive comments from the legislative bodies of district members and hear all other interested persons

regarding the proposed budget. Notice of such hearing shall be given to the legislative bodies of district members at least 30 days prior to such hearing. The board shall give consideration to all comments received and make such changes to the proposed budget as it deems advisable.

(c) Annually, not later than December 1, the board shall adopt the budget and appropriate the sums it deems necessary to meet its obligations and operate and carry out the district's functions for the next ensuing fiscal year.

(d) Actions or resolutions of the board for the annual appropriations of any year shall not cease to be operative at the end of the fiscal year for which they were adopted. Appropriations made by the board for the various estimates of the budget shall be expended only for such estimates, but by majority vote of the board the budget may be amended from time to time to transfer funds between or among such estimates. Any balance left or unencumbered in any such budget estimate, or the amount of any deficit at the end of the fiscal year, shall be included in and paid out of the operating budget and appropriations in the next fiscal year. All such budget amendments shall be reported by the district treasurer to the legislative bodies of each district member within 14 days of the end of the fiscal year.

(e) Financial statements and audit results shall be delivered to the legislative bodies of each district member within 10 days of delivery to the board.

§ 3076. INDEBTEDNESS

The board may borrow money through the issuance of notes of the district for the purpose of paying current expenses of the district. Such notes shall mature within one year, and may be refunded in the manner provided by law, and shall be payable solely from the district's operating revenues. The governing board may borrow money in anticipation of the receipt of grants-in-aid from any source and any revenues. Such notes shall mature within one year, but may be renewed as provided by general law.

§ 3077. PLEDGE OF REVENUES

(a) When the board, at a regular or special meeting called for such purpose, determines by resolution passed by a vote of a majority of members present and voting that the public interest or necessity demands communications plant improvements, or a long-term contract, and that the cost of the same will be too great to be paid out of the ordinary annual income and revenue of the district, the board may pledge communications plant net revenues and enter into long-term contracts to provide for such improvements. A "long-term contract" means an agreement in which the district incurs direct or conditional obligations for which the costs are too great to be paid out of the ordinary annual income and revenues of the district, in the judgment of the board. It includes an agreement authorized under 24 V.S.A. § 1789, wherein performance by the district is conditioned upon periodic appropriations. The term "communications plant improvements" includes improvements that may

be used for the benefit of the public, whether or not publicly owned or operated.

(b) The pledge of communications plant net revenues, and other obligations allowed by law, may be authorized for any purpose permitted by this chapter, 24 V.S.A. chapter 53, subchapter 2, and chapter 54, or any other applicable statutes. A communications plant is declared to be a project within the meaning of 24 V.S.A. § 1821(4).

§ 3078. SINKING AND RESERVE FUNDS

(a) The board may establish and provide for sinking and reserve funds, however denominated, for the retirement and security of pledges of communications plant net revenue, or for long-term contracts. When so established, such funds shall be kept intact and separate from other monies at the disposal of the district, and shall be accounted for as a pledged asset for the purpose of retiring or securing such obligations or contracts. The cost of payments to any sinking or reserve fund shall be included in the annual budget of the district.

(b) The board shall establish and provide for a capital reserve fund to pay for communications plant improvements, replacement of worn out buildings and equipment, and planned and unplanned major repairs in furtherance of the purpose for which the district was created. Any such capital reserve fund shall be kept in a separate account and invested as are other public funds and shall

be expended for such purposes for which established. The cost of payments to any capital reserve fund shall be included in the annual budget of the district.

§ 3079. SERVICE FEES

The board may from time to time establish and adjust service, subscription, access, and utility fees for the purpose of generating revenues from the operation of its communications plant.

§ 3080. SPECIAL MEETINGS

(a) The board may call a special meeting of the district when it deems it necessary or prudent to do so and shall call a special meeting of the district when action by the voters is necessary under this chapter. In addition, the board shall call a special meeting upon receipt of a petition signed by at least five percent of the registered voters within the district, or upon request of at least 25 percent of district members evidenced by formal resolutions of the legislative bodies of such members or by petitions signed by at least five percent of the member's registered voters. The board may rescind the call of a special meeting called by it but not a special meeting called as provided in this subsection. The board may schedule the date of such special meetings to coincide with the date of annual municipal meetings, primary elections, general elections, or similar meetings when the electorate within the district members will be voting on other matters.

(b) At any special meeting of the district, voters of each district member shall cast their ballots at such polling places within the municipality of their

residence as shall be determined by the board of the district in cooperation with the boards of civil authority of each district member.

(c) Not less than three nor more than 14 days prior to any special meeting, at least one public hearing shall be held by the board at which time the issues under consideration shall be presented and comments received. Notice of such public hearing shall include the publication of a warning in a newspaper of general circulation in the district at least once a week, on the same day of the week, for three consecutive weeks, the last publication not less than five nor more than 10 days before the public hearing. Such notice may be included in the warning called for in subsection (d) of this section.

(d) The board shall warn a special meeting by filing a notice with the clerk of each district member and by posting a notice in at least five public places in each municipality in the district not less than 30 nor more than 40 days before the meeting. In addition, the warning shall be published in a newspaper of general circulation in the district once a week on the same day of the week for three consecutive weeks before the meeting, the last publication to be not less than five nor more than 10 days before the meeting.

(e) The original warning of any special meeting of the district shall be signed by a majority of the board and shall be filed with the clerk before being posted.

(f) The posted and published warning notification shall include the date, time, place, and nature of the meeting. It shall, by separate articles,

specifically indicate the business to be transacted and the questions to be voted upon.

(g) The Australian ballot system shall be used at all special meetings of the district when voting is to take place. Ballots shall be commingled and counted under the supervision of the district clerk.

(h) All legal voters of the district members shall be legal voters of the district. The district members shall post and revise checklists in the same manner as for municipal meetings prior to any district meeting at which there will be voting.

(i) At all special meetings, the provisions of 17 V.S.A. chapter 51 regarding election officials, voting machines, polling places, absentee voting, process of voting, count and return of votes, validation, recounts and contest of elections, reconsideration or rescission of vote, and jurisdiction of courts shall apply except where clearly inapplicable. The clerk shall perform the functions assigned to the Secretary of State under that chapter. The Washington Superior Court shall have jurisdiction over petitions for recounts. Election expenses shall be borne by the district, unless within 30 days of the date of such resolution there is filed with the clerk of the district a request to call a special district meeting under this section to consider a proposition to rescind such resolution.

§ 3081. WITHDRAWAL OF A MEMBER MUNICIPALITY

A district member may withdraw from the district upon the terms and conditions herein specified:

(1) Prior to the district pledging communications plant net revenues, or entering into a long-term contract, or contract subject to annual appropriation, a district member may vote to withdraw in the same manner as the vote for admission to the district. If a majority of the voters of a district member present and voting at a meeting duly warned for such purpose votes to withdraw from the district, the vote shall be certified by the clerk of that municipality and presented to the board. Thereafter, the board shall give notice to the remaining district members of the vote to withdraw and shall hold a meeting to determine if it is in the best interest of the district to continue to exist. Representatives of the district members shall be given an opportunity to be heard at such meeting together with any other interested persons. After such a meeting, the board may declare the district dissolved or it may declare that the district shall continue to exist despite the withdrawal of such member. The membership of the withdrawing municipality shall terminate after the vote to withdraw.

(2) After the district has pledged communications plant net revenues, or entered into a long-term contract or contract subject to annual appropriations, a district member may vote to withdraw in the same manner as the vote for admission to the district.

§ 3082. ADMISSION OF DISTRICT MEMBERS

The board may authorize the inclusion of additional district members in the communications union district upon such terms and conditions as it in its sole discretion shall deem to be fair, reasonable, and in the best interests of the district. The legislative body of any nonmember municipality which desires to be admitted to the district shall make application for admission to the board. The board shall determine the financial, economic, governance, and operational effects that are likely to occur if such municipality is admitted and thereafter either grant or deny authority for admission of the petitioning municipality. If the board grants such authority, it shall also specify any terms and conditions, including financial obligations, upon which such admission is predicated. Upon resolution of the board, such applicant municipality shall become and thereafter be a district member.

§ 3083. DISSOLUTION

(a) If the board by resolution approved by two-thirds of all the votes entitled to be cast determines that it is in the best interests of the public, the district members, and the district that such district be dissolved, and if the district then has no outstanding obligations under pledges of communications plant net revenue, long-term contracts, or contracts subject to annual appropriation, or will have no such debt or obligation upon completion of the plan of dissolution, it shall prepare a plan of dissolution and thereafter adopt a resolution directing that the question of such dissolution and the plan of

dissolution be submitted to the voters of the district at a special meeting thereof  
duly warned for such purpose. If a majority of the voters of the district present  
and voting at such special meeting shall vote to dissolve the district and  
approve the plan of dissolution, the district shall cease to conduct its affairs  
except insofar as may be necessary for the winding up thereof. The board shall  
immediately cause a notice of the proposed dissolution to be mailed to each  
known creditor of the district and to the Secretary of State and shall proceed to  
collect the assets of the district and apply and distribute them in accordance  
with the plan of dissolution.

(b) The plan of dissolution shall:

(1) identify and value all unencumbered assets;

(2) identify and value all encumbered assets;

(3) identify all creditors and the nature or amount of all liabilities and  
obligations;

(4) identify all obligations under long-term contracts and contracts  
subject to annual appropriation;

(5) specify the means by which assets of the district shall be liquidated  
and all liabilities and obligations paid and discharged, or adequate provision  
made for the satisfaction thereof;

(6) specify the means by which any assets remaining after discharge of  
all liabilities shall be liquidated if necessary; and

(7) specify that any assets remaining after payment of all liabilities shall be apportioned and distributed among the district members according to a formula based upon population.

(c) When the plan of dissolution has been implemented, the board shall adopt a resolution certifying that fact to the district members whereupon the district shall be terminated, and notice thereof shall be delivered to the Secretary of the Senate and the Clerk of the House of Representatives in anticipation of confirmation of dissolution by the General Assembly.

Sec. 21. EAST CENTRAL VERMONT TELECOMMUNICATIONS  
DISTRICT

The East Central Vermont Telecommunications District approved by the voters of the Towns of Norwich, Randolph, Sharon, Strafford, and Woodstock on March 3, 2015, qualifies as a communications union district under 30 V.S.A. chapter 82, if so approved by the legislative body of each municipality after enactment of 30 V.S.A. chapter 82.

\* \* \* VEDA Loans to Telecommunications Union Districts \* \* \*

Sec. 22. 10 V.S.A. § 212 is amended to read:

§ 212. DEFINITIONS

As used in this chapter:

\* \* \*

(6) “Eligible facility” or “eligible project” means any industrial, commercial, or agricultural enterprise or endeavor approved by the authority

that meets the criteria established in the Vermont Sustainable Jobs Strategy adopted by the Governor under section 280b of this title, including land and rights in land, air, or water, buildings, structures, machinery, and equipment of such eligible facilities or eligible projects, except that an eligible facility or project shall not include the portion of an enterprise or endeavor relating to the sale of goods at retail where such goods are manufactured primarily out of state, and except further that an eligible facility or project shall not include the portion of an enterprise or endeavor relating to housing. Such enterprises or endeavors may include:

\* \* \*

(N) industrial park planning, development, or improvement; ~~or~~

(O) for purposes of subchapter 5 of this chapter, a telecommunications plant, as defined in 24 V.S.A. § 1911(2), owned by a municipality individually or in concert with one or more other municipalities as a communications union district established under 30 V.S.A. chapter 82; or

(P) any combination of the foregoing activities, uses, or purposes.

An eligible facility may include structures, appurtenances incidental to the foregoing such as utility lines, storage accommodations, offices, dependent care facilities, or transportation facilities.

\* \* \*

Sec. 23. 10 V.S.A. § 261 is amended to read:

§ 261. ADDITIONAL POWERS

In addition to powers enumerated elsewhere in this chapter, the Authority may:

(1) make loans secured by mortgages, which may be subordinate to one or more prior mortgages, upon application by the proposed mortgagor, who may be a private corporation, partnership or person, or municipality financing an eligible project described in subdivision 212(6) of this title, upon such terms as the Authority may prescribe, for the purpose of financing the establishment or expansion of eligible facilities. Such loans shall be made from the Vermont Jobs Fund established under subchapter 3 of this chapter. The Authority may provide for the repayment and redeposit of such loans in the manner provided hereinafter.

\* \* \*

Sec. 24. 10 V.S.A. § 262 is amended to read:

§ 262. FINDINGS

Before making any loan, the Authority shall receive from an applicant a loan application in such form as the Authority may by regulation prescribe, and the Authority, or the Authority's loan officer pursuant to the provisions of subdivision 216(15) of this title, shall determine and incorporate findings in its minutes that:

\* \* \*

(5) The principal obligation of the Authority's mortgage does not exceed \$1,500,000.00 which may be secured by land and buildings or by machinery and equipment, or both; unless:

(A) an integral element of the project consists of the generation of heat or electricity employing biomass, geothermal, methane, solar, or wind energy resources to be primarily consumed at the project, in which case the principal obligation of the Authority's mortgage does not exceed \$2,000,000.00, which may be secured by land and by buildings, or machinery and equipment, or both; such principal obligation does not exceed 40 percent of the cost of the project; and the mortgagor is able to obtain financing for the balance of the cost of the project from other sources as provided in the following section; or

(B) a single loan for which the principal amount of the Authority's mortgage does not exceed \$3,000,000.00 for an eligible facility consisting of a municipal telecommunications plant, as defined in 24 V.S.A. § 1911(2); or

\* \* \*

Sec. 25. 10 V.S.A. § 263 is amended to read:

§ 263. MORTGAGE LOAN; LIMITATIONS

\* \* \*

(b) Any loan of the ~~authority~~ Authority under this subchapter shall be for a period of time and shall bear interest at such rate as determined by the ~~authority~~ Authority and shall be secured by a mortgage on the eligible facility

for which the loan was made or upon the assets of a municipal communications plant, including the net revenues derived from the operation thereof, or both.

The mortgage may be subordinate to one or more prior mortgages, including the mortgage securing the obligation issued to secure the commitment of funds from the independent and responsible sources and used in the financing of the economic development project. Monies loaned by the authority shall be withdrawn from the Vermont jobs fund fund and paid over to the mortgagor in such manner as provided and prescribed by the rules and regulations of the authority. All payments of principal and interest on the loans shall be deposited by the authority in the Vermont jobs fund.

\* \* \*

(h) All actions of a municipality taken under this subchapter for the financing of an eligible project described in subsection 212(b) shall be as authorized in section 245 of this title.

(i) The provisions of section 247 of this title shall apply to the financing of an eligible project described in subdivision 216(6) of this title.

\* \* \* Statutory Revision \* \* \*

#### Sec. 26. STATUTORY REVISION

In its statutory revision capacity under 2 V.S.A. § 424, the Office of Legislative Council shall, where appropriate in 30 V.S.A. chapter 88:

(1) replace the words “Public Service Board” with the words “Department of Public Service”;

(2) replace the word “Board” with the word “Commissioner”; and  
(3) make other similar amendments necessary to effect the purposes of  
this act.

\* \* \* Effective Dates \* \* \*

Sec. 27. EFFECTIVE DATES

(a) This act shall take effect on July 1, 2015, except that this section and  
Secs. 6(e) (Commissioner approval of all Vermont Telecommunications  
Contracts), 13 (conversion of a meteorological station to wireless  
telecommunications facility), 15 (retransmission fee reporting), 16 (E-911  
operations and savings), 20 (telecommunications union district), 21 (ECFiber  
qualifies as telecommunications union district), 22–25 (municipal  
telecommunications projects eligible for VEDA lending), and 26 (statutory  
revision authority) shall take effect on passage.

(b) [Deleted.]

Date Governor signed bill: June 1, 2015

*Revision note: The Office of Legislative Council corrected the name of the act  
in accordance with the language of H.117 as it passed the House and Senate.*