

Compilation, in part, of Vermont Telecommunications Laws

Secretary of Administration

- **3 V.S.A. § 2222b. Telecommunications; coordination and planning**
[Repealed July 1, 2015]

(a) The Secretary of Administration or designee shall be responsible for the coordination of telecommunications initiatives among Executive Branch agencies, departments, and offices.

(b) In furtherance of the goals set forth in 30 V.S.A. § 8060(b), the Secretary shall have the following duties:

(1) from information reasonably available after public notice to and written requests made of mobile telecommunications and broadband service providers, to develop and maintain an inventory of locations at which mobile telecommunications and broadband services are not available within the State, develop and maintain an inventory of infrastructure that is available or reasonably likely to be available to support provision of services to unserved areas, and develop and maintain an inventory of infrastructure necessary for provision of these services to the unserved areas;

(2) to identify the types and locations of infrastructure and services needed to accomplish the goals of this chapter;

(3) to formulate, on or before December 15, 2014, an action plan to accomplish the goals of universal availability of broadband and mobile telecommunications services;

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

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

(6) *through the Department of Innovation and Information, to aggregate and broker access at reduced prices to services and facilities required to provide wireless telecommunications and broadband services; and to waive or reduce State fees for access to State-owned*

rights-of-way in exchange for comparable value to the State, unless payment for use is otherwise required by federal law;

(7) to review all financial transactions, statements, and contracts of the Vermont Telecommunications Authority established under 30 V.S.A. § 8061; and

(8) to receive all technical and administrative assistance as deemed necessary by the Secretary of Administration.

(c) Deployment tracking.

(1) Not later than 30 days after the effective date of this act, all persons proposing to construct or install Vermont cables, wires, or telecommunications facilities as defined in 30 V.S.A. § 248a(b)(1) shall file plans with the Secretary if the construction or installation relates to the deployment of broadband infrastructure and is funded in whole or in part pursuant to the American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5, or by funds granted or loaned by the State of Vermont or one of its instrumentalities.

(2) The plans filed pursuant to subdivision (1) of this subsection shall include data identifying the projected coverage area, the 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, and shall be updated every 90 days.

(3) The Secretary shall use the information provided pursuant to this subsection in performing the duties set forth in subsection (b) of this section.

(4) The Secretary shall keep confidential the plans submitted to him or her under this subsection except that, pursuant to a nondisclosure agreement, the Secretary may disclose the information to an entity for the purpose of aggregating the information. Information so disclosed shall remain confidential.

(5) The Secretary may request voluntary disclosure of information such as that set forth in subdivision (2) of this subsection regarding deployment of broadband, telecommunications facilities, or advanced metering infrastructure that is not publicly funded. The Secretary may enter into a nondisclosure agreement with respect to any such voluntary disclosures and the information disclosed pursuant thereto shall remain

confidential. Alternatively, entities that voluntarily provide information requested pursuant to this subdivision may select a third party to be the recipient of such information. That third party may aggregate information provided by the entities, but shall not disclose the information it has received to any person, including the Secretary. The third party may only disclose the aggregated information to the Secretary.

(6) The Secretary may publicly disclose aggregated information based upon the information provided pursuant to this subsection.

(7) The confidentiality requirements of subdivisions (4) and (5) of this subsection shall not affect whether information provided to an agency of the State or a political subdivision of the State pursuant to other laws is or is not subject to disclosure.

- **3 V.S.A. § 2222c. Broadband and wireless deployment**

[Repealed July 1, 2015]

(a) Definitions. In this section:

(1) "Broadband" means high speed Internet access and includes all facilities, equipment, and apparatus used by a person or entity to provide such access to an end user.

(2) "Mbps" means megabits per second.

(3) "Wireless communications service" means retail communications service that allows for two-way transmission of voice and data using a local, state, national, or international network and in which the end user connects to the network using a circuit-switched handheld device with a built-in antenna that transmits voice or data through radio waves to a receiver that is located at or on a telecommunications facility as defined in section 248a of this title.

(b) Report; broadband and wireless deployment; underserved and unserved areas. On or before December 15, 2014, the Secretary of Administration or designee shall report to the General Assembly each of the following:

(1) As of December 15, 2014, based upon data submitted by the providers, the areas of the State that will not be served by broadband. The report shall reflect both areas currently served as of the date of the report, as well as areas proposed to be served on or before January 1,

2016, including broadband and wireless communications services funded in whole or in part pursuant to the American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5. The report shall include a map and a narrative description of each of the following, as of December 15, 2014:

(A) The areas served and the areas not served by broadband that has a download speed of at least 0.768 Mbps and an upload speed of at least 0.2 Mbps.

(B) The areas served and the areas not served by broadband that has a combined download and upload speed of at least five Mbps.

(C) The areas served and the areas not served by wireless communications service.

(2) Estimates as can reasonably be identified of the cost to:

(A) Provide broadband that has a download speed of at least 0.768 Mbps and an upload speed of at least 0.2 Mbps to areas not served by such broadband.

(B) Provide broadband that has a combined download and upload speed of at least five Mbps to areas not served by such broadband.

(C) Provide wireless communications service to the areas identified under subdivision (1)(C) of this subsection as not receiving such service.

- **3 V.S.A. § 2225. Division for Connectivity**

[Effective July 1, 2015]

(a) Creation. The Division for Connectivity is created within the Agency of Administration as the successor in interest to and the continuation of the Vermont Telecommunications Authority. A Director for Connectivity shall be appointed by the Secretary of Administration. The Division shall receive administrative support from the Agency.

(b) Purposes. The purposes of the Division are to 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 is to reflect the rapid evolution in the capabilities of available mobile telecommunications and broadband technologies, and in the capabilities of mobile telecommunications and broadband 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 of open access telecommunications infrastructure that can be shared by multiple service providers.

(c) Duties. To achieve its purposes, 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) from information reasonably available after public notice to and written requests made of mobile telecommunications and broadband service providers, develop and maintain an inventory of locations at

which mobile telecommunications and broadband services are not available within the State, develop and maintain an inventory of infrastructure that is available or reasonably likely to be available to support the provision of services to unserved areas, and develop and maintain an inventory of infrastructure necessary for the provision of these services to the unserved areas;

(6) identify the types and locations of infrastructure and services needed to carry out the purposes stated in subsection (b) of this section;

(7) formulate an action plan that conforms with the State Telecommunications Plan and carries out the purposes stated in subsection (b) of this section;

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

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

(10) *through the Department of Innovation and Information, aggregate and broker access at reduced prices to services and facilities required to provide wireless telecommunications and broadband services; and waive or reduce State fees for access to State-owned rights-of-way in exchange for comparable value to the State, unless payment for use is otherwise required by federal law; and*

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

(d)(1) Deployment. The Director may request 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 the information it has received 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.

(e) Minimum technical service characteristics. The Division only shall 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.

(f) Annual Report. Notwithstanding 2 V.S.A. § 20(d), on or before January 15 of each year, the Director shall submit a report of its activities 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 (c)(7) 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 wireless communications service, as identified by the Department of Public Service, 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 0.768 Mbps and an upload speed of at least 0.2 Mbps, as identified by the Department of Public Service, and cost estimates for providing such service to unserved areas;

(3) the areas served and the areas not served by broadband that has a combined download and upload speed of at least 5 Mbps, as identified by the Department of Public Service, and the costs for providing such service to unserved areas; and

(4) the areas served and the areas not served by broadband that has a download speed of at least 100 Mbps and is symmetrical, as identified

by the Department of Public Service, and the costs for providing such service to unserved areas.

30 V.S.A. § 227e. Leasing or licensing of State land; public notice

(a) Beginning July 1, 2011, State land may not be leased or licensed for the purpose of construction or installation of a wireless telecommunications facility, as defined in subsection 248a(b) of this title, unless authorized by the Secretary of Administration pursuant to the requirements of this section. For purposes of this section, "State land" means land owned in fee or interests in land owned by the Agency of Natural Resources. No initial lease or license, including any renewal thereof, entered into pursuant to this section shall exceed 25 years.

(b) Prior to entering into or renewing a lease or license, the Secretary shall:

(1) publish notice of the proposed telecommunications facility site in one daily newspaper of general circulation in the region of the proposed site and on the website maintained by the Agency of Administration, with appropriate hyperlinks to that website on all relevant, State-maintained websites; and

(2) send by certified mail, return receipt requested, a written notice of the proposed lease or license or renewal to the legislative body of each municipality in which such leased or licensed land is located. The notice shall include a description of the land to be leased or licensed and of the proposed telecommunications facility to be sited on the land, including the facility's height and location.

Vermont Telecommunications Authority

[Period of Dormancy July 1, 2015]

• **30 V.S.A. § 8060. Legislative findings and purpose**

(a) The General Assembly finds that:

(1) The availability of mobile telecommunications and broadband services is essential for promoting the economic development of the State, the education of its young people and lifelong learning, the delivery of cost-effective health care, the public safety, and the ability of citizens to participate fully in society and civic life.

(2) Private entities have brought mobile telecommunications and broadband services to many households, businesses, and locations in the State. Nevertheless, significant gaps remain in 99 target communities for broadband service, and in community hubs and along the routes which connect them for mobile telecommunications service.

(3) A new level of creative and innovative strategies (including partnerships and collaborations among and between State entities, nonprofit organizations, municipalities, the federal government, and the private sector) is necessary to extend and complete broadband coverage in the State, and to ensure that Vermont maintains a telecommunications infrastructure that allows residents and businesses to compete fairly in the national and global economy.

(4) When such partnerships and collaborations fail to achieve the goal of providing high-quality broadband access and service to all areas and households, or when some areas of the State fall behind significantly in the variety and quality of services readily available in the State, it is necessary for an authority of the State to support and facilitate the construction of infrastructure and access to broadband service through financial and other incentives.

(5) Small broadband enterprises now offering broadband service in Vermont have limited access to financial capital necessary for expansion of broadband service to unserved areas of the State. The General Assembly recognizes these locally based broadband providers for their contributions to date in providing broadband service to unserved areas despite the limitations on their financial resources.

(6) The universal availability of adequate mobile telecommunications and broadband services promotes the general good of the State.

(7) Vermonters should be served by broadband infrastructure that, to the extent practical and cost-effective, uses the best commercially available technology and does not involve widespread installation of technology that becomes outmoded within a short period after installation.

(b) Therefore, it is the goal of the General Assembly to ensure:

(1) that all residences and business in all regions of the State have access to affordable broadband services not later than the end of the year 2013, and that this goal be achieved in a manner that, to the extent

practical and cost-effective, does not negatively affect the future installation of the best commercially available broadband technology or result in widespread installation of technology that becomes outmoded within a short period after installation.

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

(3) the 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) that telecommunications and broadband infrastructure in all areas of the State is continuously upgraded to reflect the rapid evolution in the capabilities of available mobile telecommunications and broadband technologies, and in the capabilities of mobile telecommunications and broadband services needed by persons, businesses, and institutions in the State.

(5) the most efficient use of both public and private resources through State policies by encouraging the development of open access telecommunications infrastructure that can be shared by multiple service providers.

(c) The statutory purpose of the exemption for Vermont Telecommunications Authority (VTA) bonds and notes in section 8074 of this title is to lower the cost of borrowing in order to finance the expansion of broadband access across the State.

- **30 V.S.A. § 8060a. Period of dormancy**

On July 1, 2015, the Division for Connectivity established under 3 V.S.A. § 2225 shall become the successor in interest to and the continuation of the Vermont Telecommunications Authority, and the Authority shall cease all operations and shall not resume its duties as specified under this chapter or under any other Vermont law unless directed to do so by enactment of the General Assembly or, if the General Assembly is not in session, by order of the Joint Fiscal Committee. Notwithstanding 32 V.S.A. § 5, the Joint Fiscal Committee shall issue such order only upon finding that, due to an unforeseen change in circumstances, implementation of the Authority's capacity to issue revenue bonds or to accept any new gifts, grants, or contributions

would be the most effective means of furthering the State's telecommunications goals and policies. Upon the effective date of such enactment or order, the duties of the Executive Director and the Board of Directors of the Authority shall resume in accordance with chapter 91 of this title and the Director for Connectivity shall be the acting Executive Director of the Authority, until the position is filled pursuant to 8061(e) of this title.

30 V.S.A. § 8061. Establishment of Authority; organization

(a) The Vermont Telecommunications Authority is hereby created and established as a body corporate and politic and a public instrumentality of the State. The exercise by the authority of the powers conferred upon it in this chapter constitutes the performance of essential governmental functions.

(b) The Authority shall have a Board of Directors of nine members selected as follows:

- (1) The State Treasurer or his or her designee;
- (2) The Secretary of Administration or his or her designee;
- (3) One member of the House of Representatives appointed by the Speaker of the House;
- (4) One member of the Senate appointed by the Committee on Committees of the Senate; and
- (5) **Five** at-large members appointed by the Governor, who may not be employees or officers of the State at the time of appointment.

(c) The Authority's powers are vested in the Board of Directors, and a quorum shall consist of five members. No action of the Authority 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, who may not be members of the General Assembly or employees or officers of the State at the time of the appointment.

(d) In making appointments of at-large and legislative members and the Chair, the appointing authorities shall give consideration to citizens of the State with knowledge of telecommunications technology, telecommunications regulatory law, transportation rights-of-way and

infrastructure, finance, and environmental permitting. However, the legislative and 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 Authority. 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. In addition, at least one at-large member shall represent an area of Vermont determined by the Authority to be unserved by broadband at the time of his or her appointment or reappointment, and at least one at-large member shall represent an area of Vermont determined by the Authority to be unserved by mobile telecommunications at the time of his or her appointment or reappointment. The legislative and at-large members shall serve terms of two years beginning 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 by the respective appointing bodies 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 Authority on behalf of an enterprise that provides broadband or cellular service.

(e) The Authority shall hire and employ an Executive Director who shall serve as the Authority's chief administrative officer and shall direct and supervise the Authority's administrative affairs and technical activities in accordance with any rules, regulations, and policies set forth by the Authority. In addition to any other duties, the Executive Director shall:

(1) attend all meetings of the Authority, act as its secretary, and keep minutes of its proceedings;

(2) approve all accounts of the Authority, including accounts for salaries, per diems, and allowable expenses of any employee or consultant thereof and expenses incidental to the operation of the Authority;

(3) make an annual report to the Authority documenting the actions of the Authority and such other reports as the Authority may request;

(4) perform such other duties as may be directed by the Authority in the carrying out of the purposes of this chapter.

(f) Except for those members otherwise regularly employed by the State, the compensation of the Authority's members shall be the same as that provided by 32 V.S.A. § 1010(a). All members of the Authority, 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

- **30 V.S.A. § 8062. Purpose; powers and duties**

(a) To achieve the goals under subsection 8060(b) of this title, the Authority is directed:

(1) to provide resources to local, regional, public, and private entities in the form of grants and other incentives funded through bonded capital and other resources;

(2) to 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 whatever steps are consistent with the powers granted the Authority under this chapter 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 utilization of these licenses as would promote the general good of the State;

(3) to the extent not inconsistent with the goals of this chapter, to utilize existing buildings and structures, historic or otherwise, as sites for visually-neutral placement of mobile telecommunications and wireless broadband antenna facilities;

(4) to construct and install, or cause to be constructed and installed, fiber optic and wireless infrastructure through grants to providers and through direct investments in infrastructure to be owned by the Authority, in areas needed to meet the State's objectives as determined by the Secretary of Administration in the action plan developed under 3 V.S.A. § 2222b(b)(3), provided that direct investment is not undertaken

in areas served by existing providers with comparable levels of broadband quality and speed or mobile telecommunications service; and

(5) to provide technical and such other support as the Secretary of Administration deems necessary.

(b) The Authority shall have the following powers, which shall be exercised to further the Authority's purpose, and shall have all other powers necessary to carry out the duties imposed on the Authority by law:

(1) to enter into contracts with providers of telecommunications services and related facilities to serve unserved or underserved people and areas of the State; and to provide financial and other assistance to providers who agree in return to provide mobile telecommunications or broadband services to unserved or underserved people and areas of the State; and to facilitate directly or indirectly the efforts of other entities to advance the availability of mobile voice and high speed data or broadband services.

(2) to provide financial assistance in the form of grants or, in accordance with section 8064 of this title, to issue bonds backed by project revenues, the State or its political subdivisions or both for the purpose of building infrastructure capable of delivering mobile telecommunications and broadband services to all Vermonters;

(3) to consult, contract, or partner with the Vermont Economic Development Authority and the Vermont Municipal Bond Bank to provide financial assistance for purposes authorized by this chapter;

(4) to receive and accept grants, gifts, loans, or contributions from any source subject to the provisions of 32 V.S.A. § 5;

(5) to incorporate one or more nonprofit corporations in Vermont to fulfill the goals of this chapter. Such corporations shall be empowered to borrow money and to receive and accept gifts, grants, or contributions from any source, subject to the provisions of 32 V.S.A. § 5, subject to the limitations imposed by law on the Authority. The board of directors of any nonprofit corporation created under this subsection shall be the Board of Directors of the Authority. The corporation shall be organized and operate under the nonprofit corporation laws of the State of Vermont. The Authority may contract with the corporation to provide staff and management needs of the corporation;

(6) to construct, install, own, acquire, sell, trade, and lease equipment, facilities, and other infrastructure that could be accessed and used by multiple service providers, the State and local governments, including fiber optic cables, towers, shelters, easements, rights-of-way, and wireless spectrum of frequencies; provided that any agreement by the Authority to sell infrastructure that is capable of use by more than one service provider shall contain conditions that will ensure continued shared use or collocation at reasonable rates, and provided that the proposed activity will not be in areas served by existing providers with comparable levels of broadband quality and speed or mobile telecommunications service;

(7) to apply for and obtain required permits for the construction of telecommunications infrastructure;

(8) in collaboration with the Agency of Administration, to lead the marketing of State properties to encourage and expedite collocation of infrastructure;

(9) to consult with agencies and departments on establishing charges or payments for use by wireless telecommunications and broadband service providers of State property, easements, and rights-of-way to the extent such charges or payments are required by law, and establish the criteria for waiver of such charges or payments when providers offer to furnish comparable value to the State to meet the public good;

(10) to sue and be sued in its own name and plead and be impleaded;

(11) to administer its own funds and to invest or deposit funds which are not needed currently to meet the obligations of the Authority;

(12) to borrow money and give other evidence of indebtedness or obligations and security consistent with the Authority's purpose and needs; and

(13) to pursue route and site identification for fiber optic and wireless infrastructure.

(c) Nothing in this chapter shall be construed to grant power to the Authority to offer the sale of telecommunications services to the public.