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H.160

Introduced by Representative Sabilia of Dover

Referred to Committee on

Date:

Subject: Telecommunications; broadband Internet access service; deployment

Statement of purpose of bill as introduced: This bill proposes to develop programs and initiatives designed to facilitate the deployment of broadband Internet access service throughout Vermont.

An act relating to support for enhanced broadband deployment in Vermont

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

* * * Municipalities; Communications Plant; Capital Improvement; General
Obligation Bonds * * *

Sec. 1. 24 V.S.A. § 1913 is amended to read:

§ 1913. COMMUNICATIONS PLANT; OPERATION AND REGULATION

(a) A municipality shall operate its communications plant in accordance with the applicable State and federal law and regulation, and chapter 53 of this title, relating to municipal indebtedness, with regard to the financing, improvements, expansion, and disposal of the municipal communications plant and its operations. However, the powers conferred by such provisions of law

1 shall be supplemental to, construed in harmony with, and not in restriction of,
2 the powers conferred in this chapter.

3 (b) A municipality's operation of any communications plant shall be
4 supported solely by the revenues derived from the operation of such
5 communications plant, except that portion which is used for its own municipal
6 purposes.

7 (c) A municipality may finance any capital improvement related to its
8 operation of such communications plant for the benefit of the people of the
9 municipality in accordance with the provisions of chapter 53 of this title,
10 provided that revenue-backed bonds shall be paid from net revenues derived
11 from the operation of the communications plant, except as provided for in
12 subsection (d) of this section.

13 (d) A municipality may finance with general obligation bonds any capital
14 improvement related to the operation of a communications plant for the benefit
15 of the persons of the municipality in accordance with the provisions of chapter
16 53 of this title provided all of the following criteria are met:

17 (1) The improvements to a communications plant are capable of
18 providing Internet service at speeds that are not less than the speed
19 requirements established under 30 V.S.A. § 7515b(a), pertaining to the
20 Connectivity Initiative.

1 (2) The improvements to a communications plant are made for the sole
2 purpose of providing Internet service to any location or locations within the
3 issuing municipality that are “unserved” or “underserved” as those terms are
4 defined in 30 V.S.A. § 7515b(a), pertaining to the Connectivity Initiative, and
5 are substantiated as underserved by the Department of Public Service.

6 (3) The issuing municipality first issues a request for proposals seeking
7 an Internet service provider to serve unserved and underserved locations
8 targeted by the issuing municipality. A communications union district
9 established under 30 V.S.A. chapter 82, or its agent, may respond to a request
10 for proposal if the issuing municipality is located within the district or is
11 contiguous with the town limits of a district member, pursuant to 30 V.S.A.
12 § 3054(a)(8). Prior to issuance of any bonds, the municipality shall select from
13 among respondents a vendor to manage and maintain the communications
14 plant and provide Internet service. The municipality’s contract with such
15 vendor shall be for a minimum term of five years.

16 (4) The issuing municipality shall retain ownership of the
17 communications plant for the duration of the bond repayment period, unless
18 sale or transfer of the assets results in full repayment of the outstanding debt.

19 (5) To every extent possible, bonds issued pursuant to this subsection
20 shall be repaid with net revenues generated by the communications plant and
21 accruing to the municipality.

1 (e) Any restriction regarding the maximum outstanding debt that may be
2 issued in the form of general obligation bonds shall not restrict the issuance of
3 any bonds issued by a municipality and payable out of the net revenues from
4 the operation of a public utility project under chapter 53, subchapter 2 of
5 ~~chapter 53~~ of this title.

6 ~~(e)~~(f) To the extent that a municipality constructs communication
7 infrastructure with the intent of providing communications services, whether
8 wholesale or retail, the municipality shall ensure that any and all losses from
9 these businesses, or in the event these businesses are abandoned or curtailed,
10 any and all costs associated with the investment in communications
11 infrastructure, are not borne by the municipality's taxpayers.

12 * * * Section 248a; Sunset Repeal * * *

13 Sec. 2. 30 V.S.A. § 248a(i) is amended to read:

14 (i) ~~Sunset of Commission authority. Effective on July 1, 2020, no new~~
15 ~~applications for certificates of public good under this section may be~~
16 ~~considered by the Commission. [Repealed.]~~

17 * * * Think Vermont Innovation Fund; Connectivity Fund; Appropriation * * *

18 Sec. 3. 3 V.S.A. § 2471e is added to read:

19 § 2471e. THINK VERMONT INNOVATION FUND

20 There is established the Think Vermont Innovation Fund that shall be
21 managed in accordance with 32 V.S.A. chapter 7, subchapter 5. The Fund

1 shall comprise monies appropriated by the General Assembly. The Fund shall
2 be used to provide technical assistance grants to Vermont communities
3 planning broadband projects.

4 Sec. 4. 2018 (Sp. Sess.) Acts and Resolves No. 11, Sec. D.101 is amended to
5 read:

6 Sec. D. 101 FUND TRANSFERS, REVERSIONS, AND RESERVES

7 * * *

8 (a) Notwithstanding any other provision of law, the following amounts are
9 transferred from the funds indicated:

10 * * *

11 (5) From the General Fund to the Connectivity Fund established
12 pursuant to 30 V.S.A. § 7516: \$955,000.

13 (A) The amount transferred pursuant to this subdivision (5) shall be
14 for the sole purpose of funding grants through the Connectivity Initiative as
15 provided in 30 V.S.A. §7515b(b). These monies shall not be subject to the
16 distribution requirements of 30 V.S.A. § 7511(a)(1)(A)–(D).

17 (6) From the General Fund to the Think Vermont Innovation Fund
18 established under 3 V.S.A. § 2471e: \$45,000.

19 (A) The amount transferred pursuant to this subdivision (6) shall be
20 for funding technical assistance grants for connectivity projects.

21 * * *

1 * * * VEDA; Broadband Expansion Loan Program; Appropriation for Loan
2 Reserves; Increased Bonding Authority * * *

3 Sec. 5. 10 V.S.A. chapter 12, subchapter 14 is added to read:

4 Subchapter 14. Broadband Expansion Loan Program

5 § 280ee. FINDINGS

6 The General Assembly finds that:

7 (1) Department of Public Service data indicates that seven percent of
8 Vermont addresses do not have access to the most basic high-speed Internet
9 access, which is 4 Mbps download and 1 Mbps upload. Nearly 20 percent of
10 Vermont addresses lack access to modern Internet speeds of 10 Mbps
11 download and 1 Mbps upload.

12 (2) Reaching the last mile will require a grassroots approach that is
13 founded on input and support of local communities, whose residents are best
14 situated to decide what broadband solution fits their needs.

15 (3) Existing Internet service providers are not providing adequate
16 service to many rural areas where fewer potential customers reduce the
17 profitability necessary to justify system expansion.

18 (4) Multiple communities have attempted to implement their own
19 unique solutions outside of traditional delivery methods but have been
20 hampered by a lack of access to capital. Existing broadband grant programs do
21 not offer the scale to solve this problem, and banks and investors typically shy

1 away from start-up businesses with limited revenue history and little equity or
2 collateral.

3 (5) Community broadband solutions typically mean partnering with a
4 new business that must design and build a network, which is followed by a 12-
5 to 24-month process of customer acquisition.

6 § 280ff. BROADBAND EXPANSION LOAN PROGRAM

7 (a) Creation. There is established within the Authority the Vermont
8 Broadband Expansion Loan Program (the Program), the purpose of which is to
9 enable the Authority to make loans that expand broadband Internet access
10 service to unserved and underserved Vermonters.

11 (b) Intent. It is understood that loans under the Program are high-risk loans
12 to likely start-up businesses and therefore losses in the Program will be much
13 higher than the Authority's historical loss rate. Loans shall be underwritten by
14 the Authority utilizing more lenient underwriting parameters; however, the
15 Authority shall not make a loan unless the Authority has a reasonable
16 expectation of the long-term viability of the business.

17 (c)(1) Requirements. The Program shall make loans for start-up and
18 expansion that enable the Internet service providers to expand broadband
19 availability in unserved and underserved locations.

1 (2) The Authority shall adopt by rule standards and procedures for the
2 Program necessary to ensure the expansion of broadband availability to the
3 largest number of Vermont addresses as possible. The rules shall specify that:

4 (A) loans may be made in an amount of up to \$1,800,000.00;

5 (B) eligible borrowers include units of government, nonprofit
6 organizations, cooperatives, and for-profit businesses;

7 (C) borrowers may borrow up to 90 percent of project costs;

8 (D) interest and principal may be deferred up to two years; and

9 (E) a maximum of \$10,800,000.00 in Authority loans may be made
10 under the Program commencing on the effective date of this act.

11 (3) To ensure the limited funding available through the Program
12 supports the highest-quality broadband available to the most Vermonters and
13 prioritizes delivering services to the unserved and underserved, the Authority
14 shall consult with the Department of Public Service to:

15 (A) ensure that the provider offers service at speeds of at least
16 25 Mbps download and 3 Mbps upload to all customers;

17 (B) certify that 33 percent of the provider's potential customers have
18 access to broadband at speeds that are less than 10 Mbps download and
19 1 Mbps upload; and

1 (C) certify that at least 10 percent of the potential customers of a
2 provider have access to broadband at speeds that are less than 4 Mbps
3 download and 1 Mbps upload.

4 § 280gg. FUNDING

5 (a) The State Treasurer, in consultation with the Secretary of
6 Administration, shall negotiate an agreement with the Authority incorporating
7 the provisions of this section and consistent with the requirements of this
8 subchapter.

9 (b) Repayment from or appropriation to the Authority in years 2021 and
10 until the Program terminates is based on the Authority's contributions to loan
11 loss reserves for the Program in accordance with generally accepted
12 accounting principles.

13 (1) In fiscal year 2020, an appropriation in the amount of \$540,000.00
14 shall be made to the Agency of Commerce and Community Development to
15 provide the Authority with estimated loan losses incurred by the Authority in
16 calendar year 2020. Any difference between the actual loan losses incurred by
17 the Authority in fiscal year 2020 through Program termination shall be
18 adjusted in the following year's appropriation.

19 (2) The Program shall terminate when all borrowers enrolled in the
20 Program have repaid in full or loans have been charged-off against the reserves
21 of the Authority.

1 (3) Upon termination of the Program, any remaining funds held by the
2 Authority and not used for the Program shall be repaid to the State.

3 (4) The accumulated total of the appropriation shall not exceed
4 \$8,500,000.00 over the life of the Program.

5 (5) The Authority shall absorb its historical loan loss reserve rate before
6 any State funds are expended.

7 (6) Additionally, the Authority shall absorb up to \$3,000,000.00 in
8 Program losses shared with the State on a pro rata basis.

9 Sec. 6. FISCAL YEAR 2019 ONE-TIME GENERAL FUND

10 APPROPRIATIONS

11 To the Agency of Commerce and Community Development, \$540,000.00 is
12 appropriated to grant to the Vermont Economic Development Authority to
13 serve as loan reserves to administer a Broadband Expansion Loan Program,
14 providing start-up capital to alternative broadband providers.

15 Sec. 7. 10 V.S.A. § 219(d) is amended to read:

16 (d) In order to ensure the maintenance of the debt service reserve
17 requirement in each debt service reserve fund established by the Authority,
18 there may be appropriated annually and paid to the Authority for deposit in
19 each such fund, such sum as shall be certified by the Chair of the Authority, to
20 the Governor, the President of the Senate, and the Speaker of the House, as is
21 necessary to restore each such debt service reserve fund to an amount equal to

1 the debt service reserve requirement for such fund. The Chair shall annually,
2 on or about February 1, make, execute, and deliver to the Governor, the
3 President of the Senate, and the Speaker of the House, a certificate stating the
4 sum required to restore each such debt service reserve fund to the amount
5 aforesaid, and the sum so certified may be appropriated, and if appropriated,
6 shall be paid to the Authority during the then current State fiscal year. The
7 principal amount of bonds or notes outstanding at any one time and secured in
8 whole or in part by a debt service reserve fund to which State funds may be
9 appropriated pursuant to this subsection shall not exceed ~~\$175,000,000.00~~
10 \$181,000,000.00, provided that the foregoing shall not impair the obligation of
11 any contract or contracts entered into by the Authority in contravention of the
12 Constitution of the United States.

13 Sec. 8. 30 V.S.A. § 8064(a)(1) is amended to read:

14 (a)(1) The Authority may issue its negotiable notes and bonds in such
15 principal amount as the Authority determines to be necessary to provide
16 sufficient funds for achieving any of its corporate purposes, including the
17 payment of interest on notes and bonds of the Authority, establishment of
18 reserves to secure the notes and bonds including the reserve funds created
19 under section 8065 of this title, and all other expenditures of the Authority
20 incident to and necessary or convenient to carry out its corporate purposes and
21 powers. However, the bonds or notes of the Authority outstanding at any one

1 time shall not exceed ~~\$40,000,000.00~~ \$34,000,000.00. No bonds shall be
2 issued under this section without the prior approval of the Governor and the
3 State Treasurer or their respective designees. In addition, before the Authority
4 may initially exercise its bonding authority granted by this section, it shall
5 submit to the Emergency Board of the State a current business plan, including
6 an explanation of the bond issue or issues initially proposed.

7 * * * Effective Date * * *

8 Sec. 9. EFFECTIVE DATE

9 This act shall take effect on July 1, 2019.