

SB 88 - AS AMENDED BY THE SENATE

03/18/2021 0742s

2021 SESSION

21-0924

06/05

SENATE BILL **88**

AN ACT adopting omnibus legislation relative to broadband.

SPONSORS: Sen. Kahn, Dist 10

COMMITTEE: Election Law and Municipal Affairs

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ANALYSIS

This bill adopts legislation relative to:

I. The creation of communications district planning committees.

II. Public utility regulation of utility pole attachments.

III. The issuance of bonds for financing broadband infrastructure.

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Explanation: Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears ~~in brackets and struckthrough.~~  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty One*

AN ACT adopting omnibus legislation relative to broadband.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 Sponsorship. This act consists of the following proposed legislation:

2 Part I: LSR 21-0924, relative to the creation of communications district planning committees,  
3 sponsored by Sen. Kahn, Prime/Dist 10; Sen. Prentiss, Dist 5.

4 Part II: LSR 21-0444, relative to public utility regulation of utility pole attachments, sponsored  
5 by Sen. Bradley, Prime/Dist 3; Rep. McConkey, Carr. 3; Rep. Umberger, Carr. 2; Rep. Marsh, Carr.  
6 8; Rep. Deshaies Carr. 6.

7 Part III: LSR 21-0959, relative to the issuance of bonds for financing broadband infrastructure,  
8 sponsored by Sen. Ward, Prime/Dist 8.

9 2 Legislation Enacted. The general court hereby enacts the following legislation:

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11 PART I

12 Relative to the creation of communications district planning committees.

13 1 Communications District Planning Committee; Formation and Responsibilities. Amend RSA  
14 53-G:2, I to read as follows:

15 I. The governing bodies of 2 or more municipalities may at their discretion~~[- and shall upon~~  
16 ~~a vote of their respective legislative bodies,]~~ create a special unpaid committee to be known as a  
17 communications district planning committee, consisting of at least 2 persons from each municipality  
18 appointed by the respective governing bodies. The committee shall elect a chairperson, clerk, and  
19 treasurer. Members may be reimbursed by the committee for costs of performing duties directly  
20 related to the committee.

21 2 Effective Date. Part I of this act shall take effect 60 days after its passage.

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23 PART II

24 Relative to public utility regulation of utility pole attachments.

25 1 Public Utilities; Pole Attachments. Amend RSA 374:34-a, III-V to read as follows:

26 III. The commission shall adopt rules under RSA 541-A to carry out the provisions of this  
27 section, including appropriate formula or formulae for apportioning costs, **and shall adopt rules**  
28 **under RSA 541-A implementing the provisions of One Touch Make Ready (OTMR) as**  
29 **adopted by the Federal Communications Commission in 47 CFR 1.1411(j).**

IV. In exercising its authority under this subdivision, the commission shall consider the interests of the subscribers and users of the services offered via such attachments, as well as the interests of the consumers of any pole owner providing such attachments.

V. Nothing in this subdivision shall prevent parties from entering into pole attachment agreements voluntarily, without commission approval. ***In entering into pole attachment agreements, all parties shall abide by the timelines established by the commission in rules adopted pursuant to RSA 541-A, for negotiating and implementing pole attachments. The failure of any party to do so may be considered a lack of good faith negotiation, unless each party agrees to following alternate timelines.***

2 Effective Date. Part II of this act shall take effect 60 days after its passage.

### PART III

Relative to the issuance of bonds for financing broadband infrastructure.

1 Broadband Infrastructure Bonds. Amend RSA 33:3-g, III and IV to read as follows:

III. A municipality, ***county, or communications district*** shall not issue bonds for the purpose of financing the development, construction, reconstruction, renovation, improvement, and acquisition of broadband infrastructure in any location within a municipality, ***county, or communications district*** unserved by broadband as defined in RSA 38:38, I(c) unless a request for information has been issued, at a minimum, to all providers serving the issuing community ***in accordance with RSA 33:3-g, IV*** and such providers have been given [~~2-months~~] ***30 days*** to respond to the request. The request for information [~~may~~] ***shall*** include, but is not limited to, information identifying [~~locations~~] ***addresses*** within a municipality, ***county, or communications district***, served by broadband as defined in RSA 38:38, I(c). ***A response shall meet the requirements of this paragraph if it includes, in either map or spreadsheet form, street level information identifying the first and last serviceable address.*** After completing, issuing, and receiving responses to such request for information, a municipality, ***county, or communications district*** may issue a request for proposals for the purpose of engaging in a public-private partnership pursuant to RSA 33:3 or RSA 33-B for the deployment of broadband infrastructure, as defined in RSA 38:38, I(e), and the provision of broadband service as defined in RSA 38:38, I(f). A municipality, ***county, or communications district*** may select a proposal based on criteria including, but not limited to, provider ability to deploy, manage, and maintain a broadband network. ***Requests for proposals shall include, in either map or spreadsheet form, street level information identifying the first and last serviceable address.*** A municipality, ***county, or communications district*** may determine that no provider has met the criteria included in the request for proposals and may issue bonds for purposes pursuant to RSA 33:3 and RSA 33-B, including but not limited to, open networks. If a broadband provider does not respond to a request for information pursuant to this paragraph, the locations served by that broadband provider shall be

1 considered unserved, unless those locations are served by a broadband provider who responded to  
2 that municipality's request for information.

3 IV. ~~[Any request for information issued pursuant to this section after December 31, 2020~~  
4 ~~shall conform with a model request for information issued by the New Hampshire department of~~  
5 ~~business and economic affairs.]~~ ***The office of strategic initiatives shall maintain a list by town***  
6 ***of all providers interested in receiving requests for information. The list shall include***  
7 ***physical and electronic address information for interested providers and shall be updated***  
8 ***as needed, but at least annually. For purposes of issuing requests for information***  
9 ***pursuant to paragraph III, a municipality, county, or communications district shall***  
10 ***reference the interested provider list maintained by the office of strategic initiatives and***  
11 ***shall issue requests for information to all interested providers in that municipality,***  
12 ***county, or communications district, both electronically and by United States mail.***

13 2 Effective Date. Part III of this act shall take effect 60 days after its passage.