

Senate Election Law and Municipal Affairs Committee

Tricia Melillo 271-3077

SB 222, relative to the definition of broadband infrastructure as a revenue-producing facility eligible for municipal revenue bonds.

Hearing Date: February 14, 2023

Members of the Committee Present: Senators Gray, Murphy and Abbas

Members of the Committee Absent : Senators Soucy and Perkins Kwoka

Bill Analysis: This bill eliminates broadband municipal bonding restrictions to unserved areas only.

Sponsors:

Sen. Bradley
Sen. Gendreau
Rep. Leishman

Sen. Gray
Sen. Lang

Sen. Perkins Kwoka
Rep. J. MacDonald

Who supports the bill: Senator Bradley, Senator Gray, Senator Lang, Senator Perkins Kwoka, Glenn Coppelman, Roberta Boudman, Katherine Heck- NH Municipal Association, Rick Hiland, David Cuzzi- NH Electric Co-Op, Matthew Plache

Who opposes the bill: Maura Weston - NECTA

Summary of testimony presented in support:

Grant Bosse

- Two years ago the Legislature came together to create the Broadband Matching Grant Initiative.
- This innovative program leverages state and federal funds to help cities and towns expand their broadband coverage.
- Reliable broadband is important to our local and state economies.
- SB 222 makes a small change to the BMGI that allows more projects to qualify.
- Currently, only areas with zero broadband coverage can apply for matching funds.
- This bill removes that restriction so that communities with some broadband coverage can undertake projects meant to bring broadband to more of their homes and businesses.

Rick Hiland – Carroll County Broadband Committee

- SB 222 eliminates the limitation on municipal bonding for broadband that restricts their availability to “unserved” areas only.
- It will expand the broadband bonding opportunities in municipalities and communication districts where commercial providers cannot invest.
- This may allow added opportunities for a municipality or communication district to partner with a commercial provider.
- It is the intent of the Carroll County Broadband Committee to be able to partner with providers to bring high speed to all residents.

Matthew Plache – Carroll County Board of Commissioners

- SB 222 creates a very important opportunity for municipalities.
- Two years ago the legislature allowed municipalities to bond for broadband.
- It is limited to only unserved areas.

- The problem with that, is that any area that has “broadband” is considered served.
- The definition of broadband set by the FCC, is outdated and inadequate.
- A minimum of 25/3 is archaic in the real world of rapidly increasing bandwidth and speed demands.
- State of the art broadband in cities is 1000/1000 and they are starting to see that deployed in rural areas of New Hampshire.
- They need the tools to support this deployment and one of the tools is the ability to issue municipal bonds.
- This bill will allow municipalities to issue bonds for broadband whenever it is needed.
- The FCC chairwoman said, “ the 25/3 metric is not just behind the times, it’s a harmful one because it masks the extent to which low-income neighborhoods and rural communities are being left behind and left offline.”
- By limiting the ability to bond to unserved areas they are leaving out a lot of people the opportunity to get state of the art broadband.
- The Communications Act, Section 254, says that people living in rural areas are entitled to the same advanced services available to citizens in urban areas.
- In Carroll County it is mostly rural areas and they are not getting advanced broadband.
- Senator Gray asked how he would answer the people that would say they are allowing government to use it’s funding to circumvent providers already in the area.
 - Mr. Plache replied that if someone comes into the community and offers a service that provides what the residents need, then municipalities will not have their thumb on the scale. Those providers that are introducing high speed in communities will not have municipalities issuing bonds unless it is for the rural areas of the community where it is too expensive to deploy. Fidium has told them they are willing to pay \$500 per passing.
- Senator Gray asked if it is not financially responsible for a company to run cable to a rural area why is it responsible for the city or town to provide internet there.
 - Mr. Hiland replied that he does not see an issue with that in rural New Hampshire. People will not be overbuilding each other. His district was approached by some of the providers who asked about a revenue bond. The burden will not be placed on the taxpayer it will be paid from revenues. That was discussed in relation to a possible partnership with the provider.
 - Mr. Plache added that one of the limitations is that the district will not be able to issue general obligation bonds. If this bill passes they would be able to issue revenue bonds which are paid for by the proceeds of the network. The district would be happy to partner with any provider that is interested.

Katherine Heck – NH Municipal Association

- Since 2018 the state has made a huge commitment to keep adding legislation that is enabling so that municipalities can keep deploying broadband.
- SB 222 is another tool in the financial toolbox to continue that build out to address the middle and last mile broadband service.
- NH has had unprecedented levels of federal funding come in.
- Restrictions have been lifted so that private companies can apply for those funds.
- They recognize there is a massive cost to build out in certain areas.
- NH has been a leader nationwide in bringing broadband to all of its residents.
- Currently there is 40 million dollars deployed up north and they are hanging 20 miles of broadband a week according to BEA.
- The BEA mapping project is being done at the granular level so they can tell who is served and unserved in New Hampshire.
- Broadband is essential infrastructure for an economy.
- This utility, like many others, sewer, water, telephone, municipalities have run successfully.
- The PPP model is one more tool and communities are excited about the potential for this opportunity.

- Senator Gray asked her opinion on the idea that it is irresponsible for a community to spend thousands of dollars to serve a single customer with little revenue coming back and asked how long would the bonds be.
 - Ms. Heck replied just like water and sewer when they build out any infrastructure there are the people who are served and the people who are not served. Revenue bonds can be paid for by users, so the district would not necessarily have to pay. There are several ways this could be structured so that the ones paying are those that are served by the service. The American Rescue Plan Act encouraged local communities to pay for fiber to the premise for individual users who did not have access. There is a huge federal push to use federal dollars because of the digital inequity that exists.
- Senator Gray asked how long the bonds will be for.
 - Ms. Heck replied that usually they are 10-20 year bonds.
- Senator Gray commented that 20 years ago internet technology was a lot slower. If the system will not be state of the art like the people need half way through the bond, it seems financially irresponsible to have the bond when other technologies will come along.
 - Ms. Heck replied that she understands his point. She added that for telephone services we rely on private companies where we once relied on one that had a monopoly. Private companies want to serve density which leaves the rural customers out. Their hope is that if the FCC, the federal government and the state of New Hampshire are focused on making sure that everybody has digital equity, they will provide the tools necessary for municipalities to be competitive.

Summary of testimony presented in opposition:

Maura Weston – New England Connectivity and Telecommunications Association

- Their members in New Hampshire are Breezline, Charter, and Comcast who together serve approximately 485,000 customers.
- Every one of their 650,000 locations have available to them speeds of at least 1 gigabit per second.
- There is no discrepancy between what is available in rural areas versus urban areas.
- The bill speaks to unserved areas just like SB 247 did last year.
- It allows government owned networks to deploy universally to compete with the private sector using taxpayer funds.
- They believe that is risky and the risks are varied and many.
- Many of the municipal owned networks have to eventually sell due to an inability to invest, stay competitive and earn the revenues
- Burlington, VT has been the poster child for a failed network for defaulting on their bonds and an eventual sale to a private company.
- Here in New Hampshire Fast Roads received over 40 million in taxpayer funds to develop the network.
- It ended up being subsidized by the Monadnock Development Corporation and then sold for pennies on the dollar to a private company.
- Fast paced technology makes it hard for municipalities to keep up.
- Bonding for all is not a wise approach.
- Under the BMGI program, there is a requirement that a provider contribute 25% of the total cost of a project.
- The concern for municipalities is whether providers will come forward if they have to contribute that amount.
- They suggest a more surgical approach to address concerns raised by rural towns and take a look at that 25% match requirement.
- Creating a waiver process for the match requirement, avoids uncertainty of the ballot process, the cost of bond issuance and the uncertainty of ownership requirements that could result with a failed municipally owned and operated network.

- The BEAD program, (The Broadband, Equity, Access and Deployment Program) anticipates NH receiving a minimum of between \$100 and \$200 million to fund broadband planning and deployment.
- The BEAD program has a built in waiver for that 25% match.
- They believe a waiver the 25 % under BMGI which would remove any barriers to the public-private partnerships.
- They would like to work with the sponsors and stakeholders on an amendment to come up with a solution without opening up the risks and potential serious consequences to taxpayer funded competition through bonding.
- Senator Gray asked her to respond to the thought that the companies are fighting each other over who will be served and the only ones losing out are the consumers.
 - Ms. Weston stated that she would not disagree that the consumers are losing in that situation. Cable has been a very strong advocate for public-private partnership under BMGI program. BMGI is a program that allows the provider and municipality to sit down together and determine the gaps in coverage. She believes tweaking BMGI to waive the 25% is a way for everyone to get the coverage they need.

TJM

Date Hearing Report completed: February 17, 2023