

1 State of Arkansas
2 93rd General Assembly
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4

As Engrossed: S4/6/21

A Bill

HOUSE BILL 1788

5 By: Representative L. Fite
6 By: Senator K. Hammer
7

For An Act To Be Entitled

9 AN ACT TO ESTABLISH BROADBAND IMPROVEMENT DISTRICTS;
10 AND FOR OTHER PURPOSES.
11

Subtitle

12
13 TO ESTABLISH BROADBAND IMPROVEMENT
14 DISTRICTS.
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code Title 14, Chapter 88, Subchapter 2, is
21 amended to add an additional section to read as follows:

22 14-88-213. Broadband internet service.

23 (a) A municipal improvement district may enter into a partnership with
24 a private actor as provided by § 14-96-201 et seq. to:

25 (1) Contract for, or provide, promote, and support broadband
26 internet service through, a public-private partnership under § 14-96-201 et
27 seq.; and

28 (2) Finance public capital facilities or projects that include
29 broadband internet service.

30 (b) A municipal improvement district in existence on and after January
31 1, 2021, may conduct any of the activities under subsection (a) of this
32 section using the notice and voting procedures under § 14-88-203.
33

34 SECTION 2. Arkansas Code § 14-92-219, concerning the purposes for
35 which a suburban improvement district may be organized, is amended to add an
36 additional subdivision to read as follows:



1 (12)(A) To enter into a partnership with a private actor as
2 provided by § 14-96-201 et seq. to do the following:

3 (i) Contract for, or provide, promote, and support
4 broadband internet service through, a public-private partnership under § 14-
5 96-201 et seq.; and

6 (ii) Finance public capital facilities or projects
7 that include broadband internet service.

8 (B) A suburban improvement district created after March
9 16, 1981, and in existence on and after January 1, 2021, may conduct any of
10 the activities under subdivision (12)(A) of this section using the notice and
11 voting procedures for the creation of a suburban improvement district under
12 this subchapter.

13 (C) A suburban improvement district created before March
14 16, 1981, may conduct any of the activities under subdivision (12)(A) of this
15 section using the notice and voting procedures for the creation of a suburban
16 improvement district that were used before March 16, 1981.

17
18 SECTION 3. Arkansas Code § 14-93-110, concerning the reasons for which
19 a property owners' improvement district is organized, is amended to add an
20 additional subdivision to read as follows:

21 (9)(A) To enter into a partnership with a private actor as
22 provided by § 14-96-201 et seq. to do the following:

23 (i) Contract for, or provide, promote, and support
24 broadband internet service through, a public-private partnership under § 14-
25 96-201 et seq.; and

26 (ii) Finance public capital facilities or projects
27 that include broadband internet service.

28 (B) A district in existence on and after January 1, 2021,
29 may conduct any of the activities under subdivision (9)(A) of this section
30 using the notice and voting procedures for the creation of a district under
31 this chapter.

32
33 SECTION 4. Arkansas Code § 14-94-105, concerning the purposes for
34 which a municipal property owners' improvement district is organized, is
35 amended to add an additional subsection to read as follows:

36 (f)(1) A district may enter into a partnership with a private actor as

1 provided by § 14-96-201 et seq. to:

2 (A) Contract for, or provide, promote, and support
3 broadband internet service through, a public-private partnership under § 14-
4 96-201 et seq.; and

5 (B) Finance public capital facilities or projects that
6 include broadband internet service.

7 (2) A district in existence on and after January 1, 2021, may
8 conduct any of the activities under subdivision (f)(1) of this section using
9 the notice and voting procedures under this chapter.

10
11 SECTION 5. Arkansas Code Title 14 is amended to add an additional
12 chapter to read as follows:

13 CHAPTER 96

14
15 BROADBAND IMPROVEMENT DISTRICTS

16
17 Subchapter 1 – General Provisions

18 [Reserved.]

19
20 Subchapter 2 – Broadband Improvement Districts Generally

21
22 14-96-201. Definitions.

23 As used in this subchapter:

24 (1) “Broadband improvement district” means an improvement
25 district established for the purpose of providing or aiding in the
26 development and maintenance of broadband internet service and deemed a
27 special-purpose unit of local government under 41 C.F.R. § 105-50.001-4;

28 (2) “Broadband internet service” means the provision of
29 regulated or nonregulated connectivity to a high-speed, high-capacity
30 transmission medium that can carry signals from multiple independent network
31 carriers over electric power lines, communication lines, antennas, and
32 related facilities, whether above or below ground;

33 (3) “Broadband system” means the infrastructure, materials,
34 equipment, and other facilities installed to facilitate the provision of
35 broadband internet service;

36 (4) “Party” means:

1 (A) A municipal improvement district formed under § 14-88-
2 201 et seq.;

3 (B) A suburban improvement district formed under § 14-92-
4 201 et seq.;

5 (C) A property owners' improvement district formed under
6 the Property Owners' Improvement District Law, § 14-93-101 et seq.;

7 (D) A municipal property owners' improvement district
8 formed under the Municipal Property Owner's Improvement District Law, § 14-
9 94-101 et seq.;

10 (E) A horizontal property regime or property owners'
11 association formed under the Horizontal Property Act, § 18-13-101 et seq.; or

12 (F) A rural development authority formed under the Rural
13 Development Authority Act, § 14-188-101 et seq.;

14 (5) "Private actor" means a cooperative, corporation, general
15 partnership, limited liability company, limited partnership, joint
16 venture, business trust, public benefit corporation, nonprofit entity, or
17 other private business entity that is experienced in the construction,
18 financing, implementation, maintenance, or operation of the facilities to be
19 acquired or constructed; and

20 (6) "Public-private partnership" means a partnership between a
21 party and a private actor.

22
23 14-96-202. Establishment of broadband improvement district – Powers
24 and duties.

25 (a) Without limiting the powers, privileges, or authority that may be
26 jointly or cooperatively exercised under current law, any party may enter
27 into an agreement with a private actor as provided by this subchapter to
28 establish a broadband improvement district to:

29 (1) Contract for, or provide, promote, and support broadband
30 internet service through, a public-private partnership under this subchapter;
31 and

32 (2) Finance public capital facilities or projects that include
33 broadband internet service.

34 (b) A broadband improvement district:

35 (1)(A) May enter into a negotiated agreement with a private
36 actor in which the private actor will construct, finance, implement,

1 maintain, and operate a broadband system necessary to provide broadband
2 internet service and will provide the broadband internet service.

3 (B) Upon entering an agreement under subdivision (b)(1)(A)
4 of this section, the private actor shall be responsible for:

5 (i) The construction, financing, implementation, and
6 operation of the broadband system;

7 (ii) The maintenance, repair, renewal, relocation,
8 or removal of broadband system infrastructure, materials, equipment, and
9 other facilities installed to facilitate the provision of broadband internet
10 service;

11 (iii) Additional installation or construction of new
12 broadband system infrastructure, materials, equipment, and other facilities
13 necessary to ensure the continuance of providing broadband internet service;

14 (iv) The maintenance, repair, renewal, relocation,
15 renovation, or removal of any existing public capital facilities or projects
16 that include broadband internet service;

17 (v) The additional installation or construction of
18 public capital facilities or projects necessary to ensure the continuance of
19 providing broadband internet service;

20 (vi) Providing high speed and high capacity
21 broadband internet service;

22 (vii) Responding to requests from broadband internet
23 service customers; and

24 (viii) Maintaining the quality of the infrastructure
25 and equipment that is provided and owned by the private actor;

26 (2) May finance a broadband system necessary to provide
27 broadband internet service through a public-private partnership as provided
28 by this subchapter if a private actor is the entity providing the broadband
29 internet service;

30 (3) May engage in negotiations with a private actor before,
31 during, and after construction, financing, and implementation of the
32 broadband system and while broadband internet service is being provided in
33 the area; and

34 (4) May receive federal, state, county, or municipal funding
35 through grants, transfers, appropriations, and other legal forms of payment
36 to accomplish the purposes of this section.

1 (c) A party may receive federal, state, county, or municipal funding
2 through grants, transfers, appropriations, and other legal forms of payment
3 to accomplish the purposes of this section.

4 (d) A party in existence on and after January 1, 2021, may conduct any
5 of the activities in this section using the notice and voting procedures that
6 are necessary to create the party under the law applicable to that party.

7
8 SECTION 6. Arkansas Code § 14-188-109, concerning the powers and
9 responsibilities of a rural development authority, is amended to add an
10 additional subdivision to read as follows:

11 (9)(A) To enter into a partnership with a private actor as
12 provided by § 14-96-201 et seq. to do the following:

13 (i) Contract for, or provide, promote, and support
14 broadband internet service through, a public-private partnership under § 14-
15 96-201 et seq.; and

16 (ii) Finance public capital facilities or projects
17 that include broadband internet service.

18 (B) A rural development authority in existence on and
19 after January 1, 2021, may conduct any of the activities under subdivision
20 (9)(A) of this section using the notice and voting procedures for the
21 creation of a rural development authority under this chapter.

22
23 SECTION 7. Arkansas Code § 18-13-108, concerning the administration
24 and bylaws of a horizontal property regime, is amended to add an additional
25 subsection to read as follows:

26 (c)(1) A horizontal property regime may enter into a partnership with
27 a private actor as provided by § 14-96-201 et seq. to:

28 (A) Contract for, or provide, promote, and support
29 broadband internet service through, a public-private partnership under § 14-
30 96-201 et seq.; and

31 (B) Finance public capital facilities or projects that
32 include broadband internet service.

33 (2) A horizontal property regime in existence on and after
34 January 1, 2021, may conduct any of the activities in subdivision (c)(1) of
35 this section using the procedures to adopt decisions under the bylaws of the
36 horizontal property regime.

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/s/L. Fite