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2 93rd General Assembly

A Bill

3 Regular Session, 2021

HOUSE BILL 1924

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5 By: Representative Hawks

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For An Act To Be Entitled

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AN ACT TO CREATE BROADBAND IMPROVEMENT DISTRICTS; AND

9

FOR OTHER PURPOSES.

10

11

12

Subtitle

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TO CREATE BROADBAND IMPROVEMENT

14

DISTRICTS.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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SECTION 1. Arkansas Code Title 14, Chapter 88, Subchapter 2, is

20

amended to add an additional section to read as follows:

21

14-88-213. Broadband internet service.

22

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

24

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

26

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

28

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

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

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

36



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

4 (ii) Finance public capital facilities or projects
5 that include broadband internet service.

6 (B) A suburban improvement district created after March
7 16, 1981, and in existence on and after January 1, 2021, may conduct any of
8 the activities under subdivision (12)(A) of this section using the notice and
9 voting procedures for the creation of a suburban improvement district under
10 this subchapter.

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

15
16 SECTION 3. Arkansas Code § 14-93-110, concerning the reasons for which
17 a property owners' improvement district is organized, is amended to add an
18 additional subdivision to read as follows:

19 (9)(A) To enter into a partnership as provided by § 14-96-201 et
20 seq. to do the following:

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

24 (ii) Finance public capital facilities or projects
25 that include broadband internet service.

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

30
31 SECTION 4. Arkansas Code § 14-94-105, concerning the purposes for
32 which a municipal property owners' improvement district is organized, is
33 amended to add an additional subsection to read as follows:

34 (f)(1) A district may enter into a partnership as provided by § 14-96-
35 201 et seq. to:

36 (A) Contract for, or provide, promote, and support

1 broadband internet service through, a partnership under § 14-96-201 et seq.;
2 and

3 (B) Finance public capital facilities or projects that
4 include broadband internet service.

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

8
9 SECTION 5. Arkansas Code Title 14, is amended to add an additional
10 chapter to read as follows:

11 CHAPTER 96

12
13 BROADBAND IMPROVEMENT DISTRICTS

14
15 Subchapter 1 – General Provisions

16 [Reserved.]

17
18 Subchapter 2 – Broadband Improvement Districts Generally

19
20 14-96-201. Definitions.

21 As used in this subchapter:

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

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

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

34 (4) “Party” means:

35 (A) A municipal improvement district formed under § 14-88-
36 201 et seq.;

1 (B) A suburban improvement district formed under § 14-92-
2 201 et seq.;

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

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

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

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

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

18 (6) "Public-private partnership" means a partnership between a
19 party and a private actor.

20
21 14-96-202. Establishment of broadband improvement district – Powers
22 and duties.

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

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

30 (2) Finance public capital facilities or projects that include
31 broadband internet service.

32 (b) A broadband improvement district:

33 (1)(A) May enter into a negotiated agreement with a private
34 actor in which the private actor will construct, finance, implement,
35 maintain, and operate a broadband system necessary to provide broadband
36 internet service and will provide the broadband internet service.

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

3 (i) The construction, financing, implementation, and
4 operation of the broadband system;

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

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

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

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

18 (vi) Providing high speed and high capacity
19 broadband internet service;

20 (vii) Responding to requests from broadband internet
21 service customers; and

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

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

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

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

35 (c) A party may receive federal, state, county, or municipal funding
36 through grants, transfers, appropriations, and other legal forms of payment

1 to accomplish the purposes of this section.

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

5 (e) Without limiting the powers, privileges, or authority that may be
6 jointly or cooperatively exercised under current law, a party may enter into
7 a partnership agreement with a *municipal electric utility* experienced in the
8 provision of broadband services upon such terms and conditions as the parties
9 may agree to:

10 (1) Contract for, or provide, promote, and support broadband
11 internet service; and

12 (2) Finance public capital facilities or projects that include
13 broadband internet service.

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

18 (9)(A) To enter into a partnership as provided by § 14-96-201 et
19 seq. to do the following:

20 (i) Contract for, or provide, promote, and support
21 broadband internet service through, a partnership under § 14-96-201 et seq.;
22 and

23 (ii) Finance public capital facilities or projects
24 that include broadband internet service.

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

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30 SECTION 7. Arkansas Code § 14-217-103(7), concerning the definition of
31 a consolidated utility system, is amended to read as follows:

32 (7) "Consolidated utility system", "consolidated system", or
33 "system" means any system of public utilities together with any facilities
34 related to or necessary or appropriate to the construction, operation, or
35 maintenance ~~consisting~~ of an electric system and any two (2) or more of the
36 following if consolidated or combined:

- 1 (A) ~~A combined water system and sewer system; or~~
- 2 (B) A sewer system; or
- 3 (C) A broadband system;

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5 SECTION 8. Arkansas Code § 14-217-103, concerning definitions, is
6 amended to add additional subdivisions to read as follows:

7 (18) "Broadband system" means the infrastructure, materials,
8 equipment, and other facilities installed to facilitate the provision of
9 broadband internet service; and

10 (19) "Broadband internet service" means the provision of
11 regulated or nonregulated connectivity to a high-speed, high-capacity
12 transmission medium that can carry signals from multiple independent network
13 carriers over electric power lines and related facilities, whether above or
14 below ground.

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16 SECTION 9. Arkansas Code § 18-13-108, concerning the administration
17 and bylaws of a horizontal property regime, is amended to add an additional
18 subsection to read as follows:

19 (c)(1) A horizontal property regime may enter into a partnership as
20 provided by § 14-96-201 et seq. to:

21 (A) Contract for, or provide, promote, and support
22 broadband internet service through, a partnership under § 14-96-201 et seq.;
23 and

24 (B) Finance public capital facilities or projects that
25 include broadband internet service.

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

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/s/Hawks