

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
93rd General Assembly
Regular Session, 2021

A Bill

HOUSE BILL 1918

By: Representative Hawks

For An Act To Be Entitled

AN ACT TO CREATE BROADBAND IMPROVEMENT DISTRICTS; AND
FOR OTHER PURPOSES.

Subtitle

TO CREATE BROADBAND IMPROVEMENT
DISTRICTS.

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

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

14-88-213. Broadband internet service.

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

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

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

(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.

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:

(12)(A) To enter into a partnership as provided by § 14-96-201



et seq. to do the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER 96

BROADBAND IMPROVEMENT DISTRICTS

Subchapter 1 – General Provisions

[Reserved.]

Subchapter 2 – Broadband Improvement Districts Generally

14-96-201. Definitions.

As used in this subchapter:

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

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

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

(4) “Party” means:

(A) A municipal improvement district formed under § 14-88-

201 et seq.;

(B) A suburban improvement district formed under § 14-92-

201 et seq.;

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

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

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

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

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

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

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

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

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

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

(b) A broadband improvement district:

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

internet service and will provide the broadband internet service.

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

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

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

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

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

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

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

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

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

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

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

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

(c) A party may receive federal, state, county, or municipal funding

through grants, transfers, appropriations, and other legal forms of payment to accomplish the purposes of this section.

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

(e) Without limiting the powers, privileges, or authority that may be jointly or cooperatively exercised under current law, a party may enter into a partnership agreement with a governmental entity experienced in the provision of broadband services upon such terms and conditions as the parties may agree to:

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

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

(f) A partnership under this section may include a municipality as an additional party.

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

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

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

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

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

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

(7) “Consolidated utility system”, “consolidated system”, or “system” means any system of public utilities together with any facilities

related to or necessary or appropriate to the construction, operation, or maintenance ~~consisting~~ of any two (2) or more of the following if consolidated or combined:

- (A) ~~A combined water system and sewer system; or~~
- (B) A sewer system;
- (C) ~~An electric system consolidated or combined with a water system or with a sewer system; or~~
- (D) A broadband system;

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

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

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

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

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

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

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

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