

**SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH SESSION**

S.F. No. 2225

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DATE	D-PG	OFFICIAL STATUS
03/03/2014	5932	Introduction and first reading Referred to Jobs, Agriculture and Rural Development

A bill for an act

1.1 relating to telecommunications; providing authority for broadband infrastructure
1.2 development and bonding; authorizing the state to guarantee debt of local units
1.3 of government incurred for broadband infrastructure development; authorizing
1.4 local units of government to establish certain entities to deliver broadband
1.5 services; abolishing limits on contributions to regional or local organizations by
1.6 cities or towns; requiring a report; amending Minnesota Statutes 2012, sections
1.7 446A.086, subdivision 1; 469.191; Minnesota Statutes 2013 Supplement, section
1.8 275.066; proposing coding for new law in Minnesota Statutes, chapter 237;
1.9 repealing Minnesota Statutes 2012, section 237.19.
1.10

1.11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.12 Section 1. **[237.90] BROADBAND INFRASTRUCTURE DEVELOPMENT;**
1.13 **BONDING.**

1.14 Subdivision 1. **Definitions.** (a) For the purposes of this section and sections 237.91
1.15 and 237.92, the following terms have the meanings given them.

1.16 (b) "Broadband" or "broadband service" has the meaning given in section 116J.39,
1.17 subdivision 1, paragraph (b).

1.18 (c) "Broadband infrastructure" has the meaning given in section 116J.391,
1.19 subdivision 1, paragraph (c).

1.20 (d) "Local unit of government" has the meaning given in section 116G.03,
1.21 subdivision 3.

1.22 Subd. 2. **Legislative intent; purpose.** The legislature finds that the goal of
1.23 increasing access to and speed of broadband service is crucial to the state's present and
1.24 future economic development and competitiveness. The legislature further finds that the
1.25 need for improved broadband service is particularly acute in rural areas, where private
1.26 investment in broadband infrastructure has consistently lagged behind metropolitan areas.

2.1 It is thus the policy of the state of Minnesota to encourage, foster, develop, and improve
 2.2 broadband within the state in order to:

2.3 (1) drive job creation, promote innovation, and expand markets for Minnesota
 2.4 businesses;

2.5 (2) serve the ongoing and growing needs of Minnesota's education systems, health
 2.6 care system, public safety system, industries and businesses, governmental operations,
 2.7 and citizens; and

2.8 (3) improve accessibility for underserved communities and populations.

2.9 Subd. 3. **General eligibility; state general obligation bond funds.** The Minnesota
 2.10 Constitution, article XI, section 5, clause (a), requires that state general obligation bonds
 2.11 be issued to finance only the acquisition or betterment of public land, buildings, and other
 2.12 public improvements of a capital nature. The legislature finds broadband infrastructure
 2.13 projects constitute betterments and capital improvements within the meaning of the
 2.14 Constitution and capital expenditures under generally accepted accounting principles.

2.15 Subd. 4. **Local authority; broadband infrastructure bonding.** (a) Each local
 2.16 unit of government may by resolution authorize the issuance of bonds to provide funds
 2.17 for the acquisition or betterment of its broadband infrastructure, or for refunding any
 2.18 outstanding bonds issued for that purpose.

2.19 (b) The local unit of government may pledge to the payment of the bonds and
 2.20 interest, its full faith, credit, and taxing powers, or the proceeds of any designated tax
 2.21 levies, or the gross or net revenues or charges to be derived from any broadband service
 2.22 operated by or for the local unit of government, or any combination thereof. Taxes levied
 2.23 for the payment of the bonds and interest shall not reduce the amounts of other taxes
 2.24 which the local unit of government is authorized by law to levy.

2.25 (c) The proceeds of the bonds may be used in part to establish a reserve as further
 2.26 security for the payment of the principal and interest of the bonds when due.

2.27 (d) Bonds issued under this section may be sold at public or private sale upon the terms
 2.28 and conditions the local unit of government determines. Except as otherwise provided, the
 2.29 bonds shall be issued and sold in accordance with the provisions of chapter 475.

2.30 (e) No election shall be required to authorize the issuance of the bonds under this
 2.31 section.

2.32 **Sec. 2. [237.91] BROADBAND SERVICE DELIVERY.**

2.33 Subdivision 1. **Local authority; broadband service.** A local unit of government
 2.34 may finance, acquire, construct, maintain, and operate a broadband service in the territory
 2.35 within its jurisdiction.

3.1 Subd. 2. **Formation of nonprofit broadband corporation.** (a) Notwithstanding
3.2 sections 465.717 and 465.719, a local unit of government or a broadband joint powers
3.3 board under subdivision 3 may create and operate a nonprofit corporation organized
3.4 under chapter 317A for the sole and limited purpose of financing, acquiring, constructing,
3.5 maintaining, and operating broadband service in the territory within its jurisdiction.

3.6 (b) A nonprofit corporation under this subdivision shall not afford pecuniary
3.7 gain, incidental or otherwise, to any private individual, firm, or corporation (except the
3.8 payment of reasonable fees for goods and services rendered and approved in accordance
3.9 with the bylaws of the corporation) and no part of the net income or net earnings of the
3.10 corporation shall, directly or indirectly, be distributable to or otherwise inure to the benefit
3.11 of any individual.

3.12 (c) A nonprofit corporation under this subdivision is authorized to partner or contract
3.13 with other incorporated organizations, partnerships, cooperatives, political subdivisions,
3.14 or Indian tribal governments to deliver broadband service.

3.15 Subd. 3. **Broadband joint powers board.** (a) A local unit of government may enter
3.16 into agreements under section 471.59 with other local units of government to finance,
3.17 acquire, construct, maintain, and operate broadband service in the territory within the
3.18 jurisdiction of the participating local units of government.

3.19 (b) An agreement entered into under section 471.59 as provided by this section
3.20 may provide that:

3.21 (1) each local unit of government shall issue bonds to pay their respective shares of
3.22 the cost of the projects;

3.23 (2) one of the local units of government shall issue bonds to pay the full costs of
3.24 the project and that the other participating local units of government shall levy the tax
3.25 authorized under this subdivision and pledge the collections of the tax to the local unit
3.26 of government that issues the bonds; or

3.27 (3) the joint powers board shall issue revenue bonds to pay the full costs of the
3.28 project and that the participating local units of government shall levy the tax authorized
3.29 under this subdivision and pledge the collections of the tax to the joint powers entity for
3.30 payment of the revenue bonds.

3.31 (c) Bonds issued under this section may be issued without an election and shall not
3.32 constitute net debt of any participating local unit of government.

3.33 Subd. 4. **Broadband service district.** A broadband service district operating
3.34 under section 237.92 is authorized to acquire, finance, construct, maintain, and operate
3.35 broadband service in the territory within its jurisdiction.

4.1 Sec. 3. [237.92] BROADBAND SERVICE DISTRICT.

4.2 Subdivision 1. Districts authorized; members. A local unit of government,
4.3 together with other local units of government, may create a broadband service district.
4.4 For purposes of this chapter, "broadband service" means a governmental entity created
4.5 pursuant to this section for the purpose of financing, acquiring, establishing, constructing,
4.6 maintaining, improving, and operating broadband service within the jurisdiction of the
4.7 participating local units of government.

4.8 Subd. 2. Process to establish; resolution; approval. (a) A local unit of
4.9 government, by joint resolution together with other willing governmental units, may
4.10 create a broadband service district that is authorized to exercise its functions upon passage
4.11 of a joint resolution by each of their governing bodies, including a proposed date for the
4.12 first meeting of the broadband service district's board.

4.13 (b) The local units of government seeking to establish a broadband service district
4.14 must petition and receive authorization from the Office of Broadband Development prior
4.15 to commencing operations.

4.16 (c) The broadband service district is created or reorganized on the effective date
4.17 of the last resolution required to authorize it, and subject to approval by the Office of
4.18 Broadband Development under subdivision 8. Certified copies of each resolution must be
4.19 sent by the clerk or other recording officer of the governing body or board adopting it to
4.20 the county auditor of each county containing territory in the broadband service district.
4.21 On receiving the required resolutions, each county auditor shall record certified copies
4.22 of them as a public record with the county recorder of the auditor's county. The county
4.23 auditor of the county containing most of the population of the district shall send a certified
4.24 copy of each resolution to the secretary of state to be filed as a public record.

4.25 Subd. 3. Operating agreement. (a) A broadband service district must adopt an
4.26 operating agreement to accomplish the purposes of this section and to implement the
4.27 powers authorized under subdivision 8.

4.28 (b) The contents of the operating agreement must include, but are not limited to:

4.29 (1) a statement describing the reasons for the broadband service district's
4.30 establishment;

4.31 (2) the roles and responsibilities of the broadband service district's board, and
4.32 provide for the general management of the district;

4.33 (3) a broadband management plan describing, in detail, the broadband service
4.34 district's plan for delivering broadband service;

4.35 (4) processes to increase in size, decrease in size, or dissolve the broadband service
4.36 district; and

5.1 (5) any other requirements specified by the Office of Broadband Development.

5.2 (c) Prior to adoption, the proposed operating agreement or amendment to the
5.3 operating agreement must be submitted to the Office of Broadband Development for
5.4 approval. The Office of Broadband Development shall have 45 days from receipt of
5.5 the proposed rule or amendment to make its determination. If the Office of Broadband
5.6 Development fails to make its determination within 45 days, the operating agreement is
5.7 deemed approved.

5.8 Subd. 4. **Territory.** No local unit of government shall be included in a broadband
5.9 service district created or reorganized under this section unless its entire territory is
5.10 included in the district and the territory is contiguous at one or more points to the territory
5.11 of one or more of the other local units of government included.

5.12 Subd. 5. **Levy authority.** (a) The broadband service district may levy ad valorem
5.13 property taxes on taxable property within the area of its jurisdiction. The proceeds of the
5.14 tax must be placed in a separate account and used only in furtherance of the purposes
5.15 specified in this section and section 237.91. A broadband service district is a special taxing
5.16 district as defined by section 275.066, with the power to adopt and certify a property tax
5.17 levy to the county auditor.

5.18 (b) A levy under this subdivision is not subject to voter referendum, or any other
5.19 limitation as provided by law.

5.20 Subd. 6. **Corporate powers of district.** (a) A broadband district created or
5.21 reorganized under this section is a municipal corporation and political subdivision of the
5.22 state and has perpetual succession.

5.23 (b) A broadband district has the power, to the extent necessary for lawful
5.24 telecommunications purposes:

5.25 (1) to contract and be contracted with;

5.26 (2) to sue and be sued;

5.27 (3) to incur debts, liabilities, and obligations, including using revenue bonds;

5.28 (4) to provide for assessments and to issue certificates, warrants, and bonds;

5.29 (5) to use a corporate seal;

5.30 (6) to acquire real and personal property as needed, and hold, manage, control, sell,
5.31 convey, or otherwise dispose of the property as its interests require;

5.32 (7) to cooperate or contract with any state or subdivision of a state or federal agency,
5.33 private corporation, political subdivision, or cooperative association, as necessary to
5.34 operate broadband service within the district; and

5.35 (8) to perform all acts expressly authorized, and all other acts necessary and proper
5.36 for the broadband service district to carry out and exercise the powers expressly vested in it.

6.1 (c) Taxable property in the district is taxable to pay any bonded debt incurred by or
6.2 on behalf of the preexisting district. Real, personal, or mixed properties that are acquired,
6.3 owned, leased, controlled, used, or occupied by a district for the purposes of sections
6.4 237.90 to 237.92 are exempt from taxation by the state or its political subdivisions.

6.5 (d) Upon reorganization of a district, real and personal assets of the preexisting
6.6 district pass to the new reorganized district. "Assets" includes all property in which the
6.7 county has held legal title for the use and benefit of the preexisting district. All legally
6.8 valid and enforceable claims and contract obligations of the preexisting district must be
6.9 assumed by the new reorganized district.

6.10 Subd. 7. **Report.** (a) A broadband service district must prepare a yearly report of
6.11 the financial conditions of the broadband district, the status of all projects, the business
6.12 transacted by the broadband district, other matters affecting the interests of the district,
6.13 and a discussion of the district's plans for the succeeding year.

6.14 (b) Copies of the report must be transmitted to the board of the broadband service
6.15 district and submitted to the Office of Broadband Development within a reasonable time.

6.16 Subd. 8. **Oversight; Office of Broadband Development.** (a) The Office of
6.17 Broadband Development shall perform oversight of broadband service districts established
6.18 under this section.

6.19 (b) Before a broadband service district may begin operations, it must be approved by
6.20 the Office of Broadband Development. The petition by the proposed broadband service
6.21 district must be in the form and include the contents as determined by the Office of
6.22 Broadband Development.

6.23 (c) When considering a petition, the Office of Broadband Development must, at a
6.24 minimum, consider whether the proposed broadband service district has sufficient:

6.25 (1) interest from local residents who have pledged to pay a given amount for service;

6.26 (2) initial private and public investment targeted toward the infrastructure necessary
6.27 to support the district; and

6.28 (3) tax capacity available to support the district.

6.29 (d) If the Office of Broadband Development deems the establishment petition is
6.30 sufficient and the establishment of a broadband service district is appropriate, it shall:

6.31 (1) authorize the establishment of the broadband service district;

6.32 (2) define the boundaries of the broadband service district; and

6.33 (3) appoint the first board of managers of the broadband service district.

6.34 (e) The Office of Broadband Development shall review each broadband service
6.35 district's annual report submitted under subdivision 7, and shall provide comments and
6.36 technical guidance as appropriate.

7.1 Subd. 9. **Administrative procedure; appeal.** (a) In a proceeding to establish
 7.2 or terminate a broadband district, a local unit of government or 25 or more residents
 7.3 within the area affected by the proceeding may, prior to judicial appeal of the Office
 7.4 of Broadband Development's decision, demand a contested case hearing be conducted
 7.5 by the Office of Administrative Hearings.

7.6 (b) In the report of the administrative law judge, the fees of the Office of
 7.7 Administrative Hearings and transcript fees may be apportioned among the parties and the
 7.8 board. Apportionment must be based on the degree to which the parties and the board
 7.9 prevailed, or caused unnecessary delay or expense. Following receipt of the report of
 7.10 the administrative law judge, the Office of Broadband Development shall make a final
 7.11 decision in accordance with chapter 14.

7.12 (c) A party that is aggrieved by the final decision made by the board may appeal the
 7.13 decision to the Court of Appeals in the manner provided by sections 14.63 to 14.69.

7.14 Sec. 4. Minnesota Statutes 2013 Supplement, section 275.066, is amended to read:

7.15 **275.066 SPECIAL TAXING DISTRICTS; DEFINITION.**

7.16 For the purposes of property taxation and property tax state aids, the term "special
 7.17 taxing districts" includes the following entities:

- 7.18 (1) watershed districts under chapter 103D;
 7.19 (2) sanitary districts under sections 442A.01 to 442A.29;
 7.20 (3) regional sanitary sewer districts under sections 115.61 to 115.67;
 7.21 (4) regional public library districts under section 134.201;
 7.22 (5) park districts under chapter 398;
 7.23 (6) regional railroad authorities under chapter 398A;
 7.24 (7) hospital districts under sections 447.31 to 447.38;
 7.25 (8) St. Cloud Metropolitan Transit Commission under sections 458A.01 to 458A.15;
 7.26 (9) Duluth Transit Authority under sections 458A.21 to 458A.37;
 7.27 (10) regional development commissions under sections 462.381 to 462.398;
 7.28 (11) housing and redevelopment authorities under sections 469.001 to 469.047;
 7.29 (12) port authorities under sections 469.048 to 469.068;
 7.30 (13) economic development authorities under sections 469.090 to 469.1081;
 7.31 (14) Metropolitan Council under sections 473.123 to 473.549;
 7.32 (15) Metropolitan Airports Commission under sections 473.601 to 473.679;
 7.33 (16) Metropolitan Mosquito Control Commission under sections 473.701 to 473.716;
 7.34 (17) Morrison County Rural Development Financing Authority under Laws 1982,
 7.35 chapter 437, section 1;

- 8.1 (18) Croft Historical Park District under Laws 1984, chapter 502, article 13, section 6;
- 8.2 (19) East Lake County Medical Clinic District under Laws 1989, chapter 211,
- 8.3 sections 1 to 6;
- 8.4 (20) Floodwood Area Ambulance District under Laws 1993, chapter 375, article
- 8.5 5, section 39;
- 8.6 (21) Middle Mississippi River Watershed Management Organization under sections
- 8.7 103B.211 and 103B.241;
- 8.8 (22) emergency medical services special taxing districts under section 144F.01;
- 8.9 (23) a county levying under the authority of section 103B.241, 103B.245, or
- 8.10 103B.251;
- 8.11 (24) Southern St. Louis County Special Taxing District; Chris Jensen Nursing Home
- 8.12 under Laws 2003, First Special Session chapter 21, article 4, section 12;
- 8.13 (25) an airport authority created under section 360.0426; ~~and~~
- 8.14 (26) any other political subdivision of the state of Minnesota, excluding counties,
- 8.15 school districts, cities, and towns, that has the power to adopt and certify a property tax
- 8.16 levy to the county auditor, as determined by the commissioner of revenue; and
- 8.17 (27) a broadband service district under section 237.92.

8.18 Sec. 5. Minnesota Statutes 2012, section 446A.086, subdivision 1, is amended to read:

8.19 Subdivision 1. **Definitions.** (a) As used in this section, the following terms have

8.20 the meanings given.

8.21 (b) "Authority" means the Minnesota Public Facilities Authority.

8.22 (c) "Commissioner" means the commissioner of management and budget.

8.23 (d) "Debt obligation" means:

8.24 (1) a general obligation bond or note issued by a county, a bond or note to which the

8.25 general obligation of a county is pledged under section 469.034, subdivision 2, or a bond

8.26 or note payable from a county lease obligation under section 641.24, to provide funds

8.27 for the construction of:

8.28 (i) jails;

8.29 (ii) correctional facilities;

8.30 (iii) law enforcement facilities;

8.31 (iv) social services and human services facilities;

8.32 (v) solid waste facilities; or

8.33 (vi) qualified housing development projects as defined in section 469.034,

8.34 subdivision 2; ~~or~~

9.1 (2) a general obligation bond or note issued by a governmental unit to provide funds
9.2 for the construction, improvement, or rehabilitation of:

9.3 (i) wastewater facilities;

9.4 (ii) drinking water facilities;

9.5 (iii) storm water facilities; or

9.6 (iv) any publicly owned building or infrastructure improvement that has received
9.7 partial funding from grants awarded by the commissioner of employment and economic
9.8 development related to redevelopment, contaminated site cleanup, bioscience, small cities
9.9 development programs, and rural business infrastructure programs, for which bonds are
9.10 issued by the authority under section 446A.087; or

9.11 (3) a bond issued by a local unit of government under section 237.90.

9.12 (e) "Governmental unit" means a county or a statutory or home rule charter city.

9.13 Sec. 6. Minnesota Statutes 2012, section 469.191, is amended to read:

9.14 **469.191 CONTRIBUTIONS TO REGIONAL OR LOCAL ORGANIZATIONS.**

9.15 A home rule or statutory city or town described in section 368.01, subdivision 1 or
9.16 1a, may appropriate ~~not more than \$50,000 annually~~ money out of the general revenue
9.17 fund of the jurisdiction to be paid to any incorporated development society or organization
9.18 of this state for promoting, advertising, improving, or developing the economic and
9.19 agricultural resources of the city or town.

9.20 Sec. 7. **REPEALER.**

9.21 Minnesota Statutes 2012, section 237.19, is repealed.

237.19 MUNICIPAL TELECOMMUNICATIONS SERVICES.

Any municipality shall have the right to own and operate a telephone exchange within its own borders, subject to the provisions of this chapter. It may construct such plant, or purchase an existing plant by agreement with the owner, or where it cannot agree with the owner on price, it may acquire an existing plant by condemnation, as hereinafter provided, but in no case shall a municipality construct or purchase such a plant or proceed to acquire an existing plant by condemnation until such action by it is authorized by a majority of the electors voting upon the proposition at a general election or a special election called for that purpose, and if the proposal is to construct a new exchange where an exchange already exists, it shall not be authorized to do so unless 65 percent of those voting thereon vote in favor of the undertaking. A municipality that owns and operates a telephone exchange may enter into a joint venture as a partner or shareholder with a telecommunications organization to provide telecommunications services within its service area.