STATE OF NEW YORK

8185

2025-2026 Regular Sessions

IN ASSEMBLY

May 5, 2025

Introduced by M. of A. KELLES -- read once and referred to the Committee on Local Governments

AN ACT to amend the general municipal law, in relation to authorizing the creation of broadband union districts

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The general municipal law is amended by adding a new article 17-B to read as follows:

ARTICLE 17-B

BROADBAND UNION DISTRICTS

Section 795. Definitions.

795-a. Formation; duration; non-contestability.

795-b. Governing board; bylaws.

795-c. District officers.

795-d. District powers.

795-e. Limitations.

795-f. Insurance; liability.

795-g. Financial operations and accountability.

795-h. Effect of other agreements.

795-i. State assistance.

795-j. Admission of district members.

795-k. Withdrawal of district members.

795-l. Dissolution.

795-m. Severability.

795-n. Liberal construction.

§ 795. Definitions. For the purposes of this article, the following terms shall have the following meanings:

1. "Broadband union district" or "district" means a multi-municipality district created under this article, comprising of the territory of its member municipalities.

2. "Municipality" means any county, city, town, or village.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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3. "Broadband infrastructure" means any and all parts of any broadband system owned by a broadband union district, whether using wires, cables, fiber optics, wireless, other technologies, or a combination thereof, and used for the purpose of transporting or storing information, in whatever forms, directions, and media, together with any improvements constructed or acquired later, and all other facilities, equipment, and appurtenances necessary or appropriate to such system. Provided, however, that the term "broadband infrastructure" and any regulatory implications or any restrictions under this article regarding such shall not apply to facilities or portions of any communications or broadband facilities intended for use by, and solely used by, a district member and its own officers and employees in the operation of municipal departments or systems of which such broadband facilities are merely an ancillary component.

4. "District member" or "member municipality" means a municipality that has elected to join a broadband union district under this article.

5. "Governing board" or "board" means the governing board of a broadband union district as established pursuant to section seven hundred ninety-five-b of this article.

6. "Board member" means a member of a district's governing board appointed pursuant to section seven hundred ninety-five-b of this article.

7. "District officer" or "officer" means an officer of a district appointed pursuant to section seven hundred ninety-five-c of this article.

§ 795-a. Formation; duration; non-contestability. 1. The governing bodies of any two or more municipalities hereby authorized to form a broadband union district for the creation, maintenance and administration of broadband infrastructure and delivery of broadband services, which district shall be a body politic and corporate, provided that all of the territory of such broadband union district shall be contiguous. A municipality that is a county shall not be prohibited from forming a broadband union district with a municipality that is a city, town or village located within such county.

2. (a) To form a broadband union district, the governing body of each municipality seeking to form such district shall approve a resolution or local law so authorizing the formation of such district. Such a municipality may hold a public hearing on such proposed district, and submit to the eligible voters of such municipality at an annual or special meeting a proposition to vote for or against the formation of such district.

(b) Additional municipalities may be admitted to a district in the manner provided in section seven hundred ninety-five-d of this article.

3. (a) All district members of a newly formed district pursuant to this section shall agree on a district charter, which shall be submitted to the secretary of state. Such district charter shall include, but not be limited to the:

(i) name of such newly formed district;

(ii) member municipalities of such district;

(iii) initial members of the governing board;

(iv) initial bylaws;

(v) geographical territory comprising such district; and

(vi) any other information as required by the secretary of state.

(b) Upon receipt and acceptance of a district charter submitted by a newly formed district, the secretary of state shall issue to such

district a certificate of incorporation designating such district as a body politic and corporate.

4. A district formed under this article shall be authorized to operate under an assumed business name.

5. A district formed under this article shall be composed of and include all lands within its member municipalities, and any other municipality subsequently admitted to such district as provided in this article, except for any municipalities that withdraw as provided in this article.

6. A district formed under this article shall continue as a body politic and corporate unless and until dissolved according to the procedures set forth in this article.

7. (a) An action shall not be brought directly or indirectly challenging, questioning, or in any manner contesting the legality of the formation, or the existence as a body corporate and politic of any broadband union district created under this article after six months from the date of the issuance by the secretary of state of the certificate of incorporation required by paragraph (b) of subdivision three of this section. An action shall not be brought directly or indirectly challenging, questioning, or in any manner contesting the legality or validity of any bonds issued to defray costs of broadband infrastructure improvements approved by the board, after six months from the date upon which the board voted affirmatively to issue such bonds.

(b) This section shall be liberally construed to serve the legislative purpose to validate and make certain the legal existence of all broadband union districts in this state and the validity of bonds issued or authorized for broadband infrastructure, and to bar every remedy therefor notwithstanding any defects or irregularities, jurisdictional or otherwise, after expiration of the six-month period. The provisions of this paragraph and paragraph (a) of this subdivision shall also apply to financial contracts directly related to the district's bonding authority.

(c) To the extent a district constructs broadband infrastructure with the intent of providing broadband services, such district shall ensure that any and all losses from such services, or in the event such services are abandoned or curtailed, any and all costs associated with the investment in broadband infrastructure, shall not be borne by the taxpayers of district members.

§ 795-b. Governing board; bylaws. 1. The legislative power and authority of a district and the administration and the general supervision of all fiscal, prudential, and governmental affairs of such district shall be vested in a legislative body known as the governing board, except as specifically provided otherwise in this article.

2. (a) A district's governing board shall be composed of one representative from each member district and one or more alternates to serve in the absence of such designated representative. The chief executive or legislative body of each member municipality shall appoint its representative board member and alternates for a term of three years, to serve or be replaced at the pleasure of such member municipality's chief executive or legislative body. Board members and alternates may be reappointed upon expiration of their term, without limit.

(b) Initial appointments shall be made at the time of issuance of a certificate of incorporation by the secretary of state pursuant to paragraph (b) of subdivision three of section seven hundred ninety-five-a of this article.

(c) Any vacancy shall be filled within thirty days after such vacancy occurs by appointment by the member municipality which appointed the board member or alternate. An appointee to a vacancy shall serve until the expiration of the term of the board member or alternate to whose position the appointment was made and may thereafter be reappointed.

3. (a) For the purpose of transacting business, the presence of more than fifty percent of board members or alternates shall constitute a quorum. Any action adopted by a majority of the votes cast at a meeting of the board at which a quorum is present shall be the action of the board, except as otherwise provided in this article.

(b) Each board member or alternate shall be entitled to cast one vote.

4. (a) A governing board shall meet at least quarterly, with at least fifty percent of board members or alternates constituting a quorum. Board members and alternates may be authorized to attend meetings of the board remotely, as specified in the district's bylaws.

(b) Meetings of a governing board shall be subject to the open meetings law under article seven of the public officers law, and the freedom of information law under article six of the public officers law.

5. Board members shall serve without compensation, provided, however, that board members may be reimbursed for actual costs incurred in the performance of their duties. Notwithstanding the provisions of this subdivision, upon unanimous agreement of the governing bodies of all member municipalities, a district may elect to provide a salary to its board members.

6. Upon formation of a district, the governing board shall adopt initial bylaws consistent with this article. Subsequent amendment of such bylaws shall require a supermajority vote of the board.

§ 795-c. District officers. 1. The officers of a district shall be composed of a chair, vice chair, secretary, and treasurer, to be appointed by a majority vote of the board. Prior to assuming office, the treasurer of a district may be required to post bond in such amounts as shall be determined by resolution of the board. The cost of such bond shall be borne by the district.

2. Board members shall be permitted to serve as district officers.

3. The board may hire additional officers or staff members of the district as determined to be necessary by the board.

4. Officers of a district shall be paid from district funds such compensation or reimbursement of expenses, or both, as determined by the board.

§ 795-d. District powers. Subject to the limitations and restrictions set forth in section seven hundred ninety-five-e of this article, a district created under this article shall have the power to:

1. plan, finance, acquire, construct, reconstruct, equip, operate, and maintain broadband infrastructure and related facilities within such district's service area for the purpose of providing broadband services to the public;

2. provide broadband services, including internet access and any other telecommunications or information services, to customers within such district, and outside such district upon decision of the board, and to fix and collect rates, fees, and other charges for such services;

3. establish a budget to provide for the funding thereof out of general revenue of the district, consistent with the provisions of section seven hundred ninety-five-g of this article;

4. enter into contracts, agreements, and partnerships, including intergovernmental agreements, franchise agreements, and public-private partnerships, for carrying out the purposes of such district, including

the authority to contract with any person, firm, corporation, nonprofit organization, state agency, or federal agency for services, infrastructure, or financing;

5. apply for and accept gifts, grants, loans, or contributions of money, property, or services from any public or private source, including but not limited to the federal government, the state, any state agency, or any municipality;

6. purchase, lease, hold, and dispose of real and personal property and interests therein, including but not limited to easements, rights-of-way, and licenses, in the name of such district, and to use powers of eminent domain as authorized under law, in furtherance of its purposes;

7. borrow money and to issue bonds, notes, or other obligations of such district from time to time, and to enter into loan agreements or financing agreements, to finance capital improvements or working capital for such district, and to secure payment of such obligations by pledge of the district's revenues, assets, and other available funds, consistent with the local finance law and this article;

8. pledge or assign its revenues, including fees and charges, as security for debts;

9. establish reserve funds and sinking funds for the payment of principal and interest on its obligations;

10. hire officers, employees, engineers, contractors, legal counsel, financial advisors, and other necessary personnel, to fix their compensation, and to engage in insurance, pension, and other benefit programs for such employees;

11. make and enforce rules for the use of such district's facilities and the conduct of its operations, and to promulgate terms of service for customers, and to enforce customer obligations and discontinue service for nonpayment consistent with law, rule, or regulation;

12. cooperate with other municipal corporations, districts, or authorities, whether or not member municipalities of such district, that provide utilities, broadband services, or other telecommunications, in joint use of poles, conduits, towers or other facilities, and to enter joint ownership arrangements if beneficial; and

13. exercise all other powers necessary or convenient to effectuate the purposes of such district consistent with this article.

§ 795-e. Limitations. Notwithstanding any grant of authority under this article to the contrary, the limitations under this section shall supersede any other provision under this article.

1. A district shall not have the power to levy any tax or special assessment upon real property or taxpayers. It shall not charge any fee to, require any financial contribution from, or require funds generated by taxing or assessment powers from member municipalities except as provided by voluntary agreement of such member municipalities.

2. All obligations of a district shall be payable solely from the revenues and assets of such district. Neither the faith and credit nor the taxing power of the state or any municipality is pledged to the payment of such district's obligations, and neither the state nor any municipality shall be liable thereon.

3. A district shall be subject to the provisions of the local finance law as if it were a municipality subject to the provisions of such chapter, except where inconsistent with this article's provisions for revenue-backed debt. A district shall not incur indebtedness and an aggregate principal amount exceeding that which shall be determined by the comptroller, without first obtaining approval from the comptroller.

4. A district's provision of service shall be confined to the territory of its member municipalities, except as needed to connect to networks or facilities outside such territory, or as specifically determined pursuant to subdivision two of section seven hundred ninety-five-d of this article.

5. No member municipality shall undertake a competing broadband project within its district's territory that duplicates the services of such district, except in coordination with or consent of such district.

6. A district shall be subject to all applicable provisions of the public service law and regulations of the public service commission as a provider of broadband or telecommunications services, except where expressly exempted. The formation of such district and its operation shall not diminish any existing regulatory obligations. The public service commission shall have regulatory authority to all parts of such district's broadband infrastructure otherwise subject to the authority of such commission.

7. A district shall be subject to the freedom of information law under article six of the public officers law.

§ 795-f. Insurance; liability. 1. A district shall be authorized to purchase liability insurance.

2. Member municipalities shall be immune to any liability for actions of their district.

3. Board members and officers shall be subject to the provisions of section eighteen of the public officers law relating to defense and indemnification of officers and employees of public entities.

§ 795-g. Financial operations and accountability. 1. A district shall adopt an annual budget for each fiscal year, which fiscal year shall be defined by such district. The proposed budget shall be submitted to each member municipality for review and comment at least thirty days prior to adoption. The board shall hold a public hearing on such proposed budget.

2. The accounts of a district shall be audited annually by an independent certified public accountant, and a copy of the audit report shall be filed with the state comptroller and each member municipality.

3. A district shall prepare an annual report on the prior year, including but not limited to, the number of subscribers, miles of broadband network deployed, and financial performance to be provided to district members and the public.

4. Member municipalities may lend or advance funds to their district, which shall be repaid from revenues of the district; provided, however, that no such lending or advancement of funds shall require a member municipality to act as an ongoing creditor of such district.

§ 795-h. Effect of other agreements. Formation of a district shall not automatically cancel any cable, telecommunication, broadband, or other franchise agreements in existence at the time of such district's formation; provided, however, that existence of any such agreements shall not act to prevent such district's formation.

§ 795-i. State assistance. The state may provide technical and financial assistance to any district, and districts shall be eligible entities for any state broadband grant programs.

§ 795-j. Admission of district members. 1. A board may authorize the inclusion of additional district members in its broadband union district upon such terms and conditions as it in its sole discretion shall deem to be fair, reasonable, and in the best interest of such district. The legislative body of any nonmember municipality which desires to be admitted to such district shall make application for admission to the board. The board shall determine the financial, economic, governance,

and operational effects that are likely to occur if such municipality is admitted and thereafter either grant or deny authority for admission of such petitioning municipality. If the board grants such authority, it shall also specify any terms and conditions, including financial obligations, upon which such admission is predicated. Upon resolution of the board, such applicant municipality shall become a district member.

2. Upon admission of a new member municipality, the board of the district shall file an amended district charter with the secretary of state.

3. A newly admitted district member shall be subject to all bylaws of the district, and any existing obligations of such district.

4. A newly admitted district member shall be entitled to appoint a representative member of the board and alternate in accordance with section seven hundred ninety-five-b of this article, who shall be entitled to the same voting rights as existing members under such section seven hundred ninety-five-b.

§ 795-k. Withdrawal of district members. 1. A district member may withdraw from its district upon the following terms and conditions:

(a) such district member has been a member of such district for at least five years;

(b) such district member has provided such district's board with at least one year notice of such withdrawal;

(c) the board of such district has found that withdrawal of such district member will not materially impair such district's ability to repay its debts or meet obligations; and

(d) the board of such district has voted unanimously to authorize the withdrawal of such district member.

2. The membership of the withdrawing district member shall terminate after the vote to withdraw pursuant to paragraph (d) of subdivision one of this section.

3. A district may require a district member withdrawing under this section to compensate such district for investments made to broadband infrastructure within such withdrawing district member's jurisdiction, or to otherwise sell or lease such broadband infrastructure to such district.

§ 795-l. Dissolution. 1. If a board by resolution approved by unanimous vote of all the votes entitled to be cast determines that it is in the best interests of the public, the district members, and the district that such district be dissolved, and if such district then has no outstanding obligations under pledges of broadband infrastructure net revenue, long-term contracts, or contracts subject to annual appropriation, and will have no such debt or obligation upon completion of dissolution, it shall prepare a plan of dissolution. Upon a successful vote to dissolve, the board shall approve such plan of dissolution, and such district shall cease to conduct its affairs except insofar as may be necessary for the winding up thereof. The board shall immediately cause a notice of the proposed dissolution to be mailed to each known creditor of such district and shall proceed to collect the assets of such district and apply and distribute them in accordance with such plan of dissolution.

2. The plan of dissolution shall:

(a) identify and value all unencumbered assets;

(b) identify and value all encumbered assets;

(c) identify all creditors and the nature and amount of all liabilities and obligations;

(d) identify all obligations under long-term contracts and contracts subject to annual appropriation;

(e) specify the means by which assets of such district shall be liquidated and all liabilities and obligations paid and discharged, or adequate provision made for the satisfaction thereof;

(f) specify the means by which any assets remaining after discharge of all liabilities shall be liquidated if necessary; and

(g) specify that any assets remaining after payment of all liabilities shall be apportioned and distributed among the district members according to a formula based upon population.

3. When the plan of dissolution has been implemented, the board shall adopt a resolution certifying such implementation to the district members, whereupon such district shall be terminated, and notice thereof shall be delivered to the temporary president of the senate and the speaker of the assembly in anticipation of confirmation of dissolution by the state legislature. Such confirmation of dissolution shall be submitted to the secretary of state.

§ 795-m. Severability. If any clause, sentence, paragraph, subdivision or section of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision or section thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this article would have been enacted even if such invalid provisions had not been included herein.

§ 795-n. Liberal construction. This article shall be liberally construed to effectuate the purposes of this article. The powers herein granted shall be in addition to all other powers otherwise granted by state or local law, rule, or regulation.

§ 2. This act shall take effect one year after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.