

# New Hampshire Communications Districts

53-G

Carole Monroe

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# Communication Districts Why?

- Aggregating Demand mixing dense and less dense towns
- Attracting Private Public Partnership
- Universal Service
- Collaborating on funding
- Critical Mass to attract investors, funding, and operators
- Entire region benefits rather than creating a digital divide with town-by-town builds
- Efficiency

# Establishing a Planning Committee

- Discretion of the Select Board and upon the vote of the Legislative bodies (Town Meeting) of 2 or more towns may vote to create an unpaid committee
- 2 persons from each municipality appointed to the Committee
- Committee shall elect a chairperson, clerk, and treasurer
- Members may be reimbursed for costs related directly to the committee

# Committee Acceptance of Funds

- May accept funds from any public or private source
- May expend money for planning purposes, such as:
  - Legal Counsel
  - Accountants
  - Engineers
  - Contractors
  - Consultants
  - Member expenses
  - Organizational or administrative assistance

# Charge of the Committee

- Advise the Select Board and at Town Meeting whether to create a Communication District
- Determines the methods of organizing, operating, and financing a district in accordance with RSA 53
- Identify the benefits and disadvantages
- Identification of potential equipment locations (hubs or central offices)

# If District Formation Desirable

- Committee prepares a District Agreement in accordance with RSA 53-g-4
- Hold a public information session in each municipality which is named in the agreement making available the proposed agreement beforehand
- Publish notice of hearing in the paper and on municipality website and in one public place of each municipality
- Proposed agreement sent to the Governing Board of each municipality

# Post Public Hearing and Information Session

- Taking into account feedback received, make any amendments to the proposed agreement
- Send new version of the agreement to the Attorney General for review and approval.
- If during this process the agreement is significantly revised, one public hearing is required in at least one of the municipalities.
- After approval by the Attorney General, the Committee may give final approval.
- Committee shall report its findings and recommendations, along with proposed agreement to the governing bodies (Town Meeting) of the municipalities involved.

# Communication District Agreement

- A list of municipalities included,
- Provisions for sharing of planning, operating, and maintenance of equipment, infrastructure and services,
- Method of selection and removal of representatives to the governing board, number of representatives, terms, rules of procedure,
- Powers and duties of district governing board officers,
- Description of equipment, infrastructure, and sites,
- Terms for municipalities to join or withdraw from the district



# Communication District Agreements

- Method for which the district agreement may be amended,
- Procedure for dissolution, before and after debt is incurred,
- Provisions of varied levels of participation by members in equipment and infrastructure,
- Procedure for the preparation and adoption of an annual budget,
- Procedure for when not all municipalities vote to approve the agreement,
- Funding sources that are acceptable to the district.

# Vote on Establishing District

- Vote at next Town Meeting (in Town Meeting towns) or,
- Vote within 60 days of the governing bodies' receipt
- “Shall the [municipality] accept the provisions of RSA 53-G:1-RSA 53-G:11 providing for the establishment of a communications district, together with the municipalities of [list of municipalities] in accordance with the provisions of the proposed agreement filed with the Attorney General.”
- Approval is by simple majority

# Communication District

Communication District shall be a body politic and corporate and a subdivision and public instrumentality of the state carrying out a public purpose and essential governmental function with the following powers, subject to limitations of the district agreement:

1. Adopt a name and corporate seal
2. To receive federal or state grants and loans, revenue from subscribers, access fees from subscribers, broadband infrastructure bonds, revenue bonds, and accept member contributions or private investment.

# Powers of the District

3. Adopt a budget,
4. Establish and adjust fees,
5. Establish public/private partnerships, enter into broadband agreements,
6. Provide or contract for communications infrastructure and services for district members,
7. Contract for construction, ownership, management, financing and operations

# Powers of the District

8. Sue or be sued in the same way a municipality may be sued,
9. To hold, pledge, mortgage, encumber, purchase, acquire, lease, see, convey real and personal property,
10. Power, by vote of its members, to borrow money and issue notes or bonds,
11. Receive and disburse funds,
12. Incur temporary debt in anticipation of revenue,
13. Engage legal counsel,
14. Enter into contracts,

# Powers of the District

15. Enact by-laws and regulations concerning the district,
16. Insure against liability and other risks,
17. Guarantee obligations
18. Make contracts or agreements with any member municipality within which equipment or infrastructure, or both is located,

# Borrow Money and Issue Notes or Bonds

- Broadband Infrastructure Bonds (General obligation bonds)
  - According to RSA 33.3-g – “.Unserved by Broadband”, following an RFI to current providers
  - Follows all General Obligation Bond processes including a 2/3 vote at Town Meeting
- Revenue Bonds
  - RSA 33-B - also for unserved locations.
  - Since based on the revenues of the District, not of each municipality the Governing Board of the District can approve.

# Governing Board

- Powers, duties, and liabilities of a district shall be vested in and exercised by a governing board consistent with the District Agreement.
- A majority constitutes a quorum, a simple majority of the voting authority present is sufficient to approve action
- Board shall choose a chairperson by ballot and appoint a secretary and treasurer, and any other officers provided in the District Agreement,
- Governing Board shall send to member municipalities by Jan 31 a report on activities and affairs including a detailed financial report.



# Governing Board

- The Board is also responsible for:
  - Admission of new members,
  - Member withdrawal,
  - Budget adoption,
  - Audits
  - Severability

# Other

- By aggregating demand across towns, no town should be left unserved and larger towns with areas unserved can be covered
- It seems like a long process, but there is much that can be accomplished in the meantime
- Although GO bonds are allowed, they are not required. Remember the GO bonds issued for other towns in NH are paid back with a monthly subscriber fee on the customer.
- A look at other funding sources should always be considered first.
- Revenue bonds imply the District is earning revenue.