

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-TWO

S.P. 686 - L.D. 1949

**An Act To Amend the Caribou Utilities District Charter To Include
Broadband Services**

Be it enacted by the People of the State of Maine as follows:

Sec. 1. P&SL 1945, c. 83, §1, as corrected by RR 2009, c. 1, §33, is amended to read:

Sec. 1. Territorial limits and corporate name and purposes. The inhabitants and territory within the City of Caribou in the County of Aroostook constitute a body politic and corporate under the name of the Caribou Utilities District, referred to in this Act as "the district," for the ~~purpose~~ purposes of supplying the City of Caribou and the inhabitants of the city or any part of the city with pure water for domestic, commercial, sanitary and municipal purposes, including the extinguishment of fires, and of supplying the City of Caribou and the inhabitants of the city or any part of the city with suitable and adequate sewerage facilities and of providing broadband services pursuant to section 22.

Sec. 2. P&SL 1945, c. 83, §22 is enacted to read:

Sec. 22. Broadband services. This section governs broadband services provided by the district.

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Broadband services" includes both broadband services and Internet services as those terms are used in the Maine Revised Statutes, Title 30-A, section 2203, subsection 9.

B. "Business investment group" means a nonprofit entity exempt from federal income taxation pursuant to the United States Internal Revenue Code of 1986, Section 501(c)(3) that is incorporated in the City of Caribou for the purpose of promoting local economic development.

C. "Caribou economic growth council" means a nonprofit corporation exempt from federal income taxation pursuant to the United States Internal Revenue Code of 1986, Section 501(c)(6) that administers its programming using the City of Caribou's director of economic and community development.

D. "Municipality" means any unit of municipal government, including towns, cities, plantations and unorganized territories.

E. "Open-access fiber-optic network" or "network" means an open-access dark fiber network that provides broadband services throughout the district.

F. "User" includes but is not limited to a resident, business, nonprofit organization or government entity located within the district.

2. Powers. The district may:

A. Obtain, by mutual agreement, a detailed engineering or technical design for an open-access fiber-optic network from the business investment group, Caribou economic growth council or City of Caribou;

B. Construct, operate and maintain a network;

C. Apply for all licenses and permits required to provide all services authorized under this section;

D. Own land, and own, construct, manage and maintain associated facilities, necessary to provide broadband services by means of a network, including, but not limited to, a so-called headend facility and office necessary for the operation of the network. The district may transfer properties and issue easements required for those facilities;

E. Enter any contracts associated with providing broadband services for users and associated with designing, constructing, maintaining, replacing, expanding and operating the open-access fiber-optic network and associated facilities; and

F. Establish and administer a regional municipal utility district pursuant to the Maine Revised Statutes, Title 30-A, section 2203, subsection 9 authorized to make provisions for broadband services, including establishing rates, collecting revenues and undertaking all other actions necessary and appropriate for a regional municipal utility district of this nature consistent with this section and the general law.

3. Development. After a detailed engineering and technical design is completed, the district may contract to establish or expand the network and operate or provide broadband services to the City of Caribou and to any other municipality that applies for broadband services membership and that the board of trustees accepts pursuant to subsection 8.

4. Property. All real property and improvements acquired or developed pursuant to this section must be held by the district. A municipality may assign property to the district. The district may own and encumber any property contributed to it, directly or indirectly, by municipalities.

5. Operation and costs. The costs of the design, construction and operation of an open-access fiber-optic network must be paid by the district from the funds provided for the development of the network and from any fees or charges assessed on users of the network. Pursuant to the Maine Revised Statutes, Title 30-A, section 2203, subsection 9, paragraph B, the district may issue revenue bonds in support of any of the activities undertaken pursuant to this section. The district may seek grants and contributions to fund its operations and capital expenditures and acquire, lease, encumber and sell property in furtherance of its purposes under this section.

6. Assessment; collection; payments. The district is responsible for assessments, collections and payments associated with the open-access fiber-optic network.

7. Distribution of nontax revenues; reserves. The district shall determine the amount of revenues to be retained as reserves to fund future expenditures for maintenance, improvements and expansion of the network. Any remaining revenues must be retained or distributed in a manner determined by the board of trustees.

8. Admission of new municipalities for broadband services membership. A municipality may apply for broadband services membership with the district. In order to be accepted, a municipality:

A. Must have obtained the approval of its legislative body to become a broadband services member and to be bound by this section, such municipal approval to be demonstrated by the provision of attested copies of resolutions in substantially the following form:

AUTHORITY OF THE [TOWN/CITY/PLANTATION/UNORGANIZED TERRITORY] OF _____ TO ENTER INTO AGREEMENT

WHEREAS, the [legislative body of town/city/plantation/unorganized territory] of _____ has determined it is in the best interest of _____ to join the Caribou Utilities District in order to design, construct and operate an open-access fiber-optic network in _____; and

WHEREAS, there is a need in _____ for an open-access fiber-optic network; and

WHEREAS, municipalities including Caribou, _____, _____ and _____ have agreed to the terms contained in the charter for the Caribou Utilities District for the purpose of establishing and operating an open-access fiber-optic network in these municipalities; and

WHEREAS, for the Caribou Utilities District Board of Trustees to vote and approve membership, the [Town/City/Plantation/Unorganized Territory] of _____ must first approve membership;

NOW, THEREFORE, BE IT RESOLVED BY THE [legislative body of town/city/plantation/unorganized territory] OF _____, MAINE THAT:

The [Town/City/Plantation/Unorganized Territory] of _____ has accepted broadband services membership into the Caribou Utilities District; and

The [Town/City/Plantation/Unorganized Territory] of _____ authorizes the Caribou Utilities District to issue revenue bonds in accordance with the Maine

Revised Statutes, Title 30-A, section 2203, subsection 9 and to acquire, lease and sell property in furtherance of its purpose.

ADOPTED this _____ day of _____, 20_____.

[Authorized signature]

A true copy, Attest:

[Town/City/Plantation/Unorganized Territory] Clerk

[Town/City/Plantation/Unorganized Territory] of _____;

B. Must have agreed to make an initial contribution consisting of an amount equal to 110% of the cost of extending the network to and constructing a network in the municipality, the amount of the initial contribution to be determined by the board of trustees in advance of accepting broadband services membership; and

C. Must have agreed to a starting date for broadband services membership that will enable the municipality either to have appropriated the funds to meet its initial contribution or to have made other arrangements satisfactory to the board of trustees to ensure the initial contribution can and will be paid upon acceptance.

The board of trustees may, by majority vote at a public meeting, accept the application of the municipality outright or conditionally upon fulfillment of one or more of the requirements of this subsection. The board of trustees shall, as part of its vote of acceptance, enter an assessment for the municipality for the ensuing year. The assessment for the municipality must be determined by the board of trustees.

9. Withdrawal of municipalities. A municipality may withdraw from its broadband services membership with the district after meeting all of the conditions described in this subsection.

A. The municipality shall make the withdrawal pursuant to the approval of its legislative body.

B. The municipality shall give written notice of its intent to withdraw at least 90 days prior to the commencement of the district's budgetary year.

C. At or prior to the time of withdrawing, the municipality shall pay the entire amount of its outstanding obligations incurred pursuant to this section.