

CONFIDENTIAL
LEGISLATIVE BILL REVIEW FORM: 2015

Bill Number: H.117

Name of Bill: An act relating to creating a Division for Telecommunications and Connectivity within the Department of Public Service

Agency/ Dept: Public Service Department Author of Bill Review: Jim Porter

Date of Bill Review: May 28, 2015 Related Bills and Key Players _____

Status of Bill: (check one): ☐ Upon Introduction ☐ As passed by 1st body ☒ As passed by both

Recommended Position:

☒ Support ☐ Oppose ☐ Remain Neutral ☐ Support with modifications identified in #8 below

Analysis of Bill

1. Summary of bill and issue it addresses. *This bill creates a division of telecommunications and connectivity within the Department of Public Service as a successor to the Vermont Telecommunications Authority. A section by section analysis follows:*

Section 1: *Repeals 3 V.S.A. Sec. 2225 – Language added later in bill.*

Section 2: *30 V.S.A. Sec. 1 - Amended to add a Director for Telecommunications and Connectivity as a statutory position within the Public Service Department. The position shall be appointed by the PSD Commissioner, in consultation with the Secretary of Administration.*

Section 3: *30 V.S.A. Sec. 202d - Telecommunications Plan) adds the Agency of Transportation to assist the PSD in preparing the telecom plan. Also adds Vermont Electric Power Co., Inc. (VELCO) as an entity to be consulted in preparing the Telecommunications Plan.*

Section 4: *30 V.S.A. Sec. 202e - Adds duties of the PSD through the newly created Division for Telecommunications and Connectivity. Section e requires that the Division of Telecommunications and Connectivity, with the advice and assistance of the Telecommunications and Connectivity Board, submit a report of its activities, including broadband maps, to the General Assembly on or before January 15 of each year.*

Section 5: *30 V.S.A. Sec. 202f - Adds a Telecommunications and Connectivity Advisory Board to “make recommendations to the Commissioner regarding his or her telecommunications responsibilities and duties as provided in this section: The Board shall consist of 8 members: State Treasurer or designee, Secretary of ACCD, 5 at large members appointed by the Governor, Secretary of Transportation as a non-voting member.*

The Board has non-binding approval over grants awarded under the Connectivity Initiative, advises on telecom planning, reviews RFPs for Connectivity Initiative, makes recommendations as to appropriate Internet access speeds.

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Section 6: Up to 3 positions are created within the Division of Telecommunications and Connectivity. All VTA full-time personnel who do not obtain a position within the Division of Telecommunications and Connectivity shall be entitled to the same reemployment rights available to management state employees under the existing collective bargaining agreement.

The Department of Public Service shall “assume possession and responsibility for all assets and liabilities of the VTA.”

Section 7: Amends 30 V.S.A. Sec. 7503 to read: The Commissioner of the Public Service Department shall assume oversight of the fiscal agent for the Vermont Universal Service Fund – this oversight function is being taken away (with its consent) from the Vermont Public Service Board.

Section 8: 7515a (additional program support for Executive Branch activities) is repealed.

This repeals the one time taking from the Vermont Universal Service Fund of monies for Executive Branch Activities which happened last legislative session.

Section 9: Amends 30 V.S.A. Sec. 7515a to read: The Vermont Universal Fund is available for FY 2016 to fund the three new positions within the Division of Telecommunications and Connectivity.

Section 9a: Beginning FY 2017, the positions must be funded by the Public Service Department’s gross receipts tax, or if not, the Commissioner must make a recommendation to the legislature for raising the gross receipts tax by January 15, 2016.

Section 10: Amends 30 V.S.A. Sec. 7516 to read: Changes the percentage of Vermont Universal Service Fund money available for the high-cost program and the Connectivity Initiative from 50% - 50%, to 45% for high-cost and 55% for Connectivity Initiative (broadband grants).

Section 11: Amends 30 V.S.A. Sec. 7515 to read: that the ILECs (Incumbent Local Exchange Carriers) who do not take and/or receive high-cost funding shall have its pro-rata share of the fund transferred to the Connectivity Initiative.

Section 12: 30 V.S.A. Sec. 7515b amended to read: Minimum broadband speeds for state funding from the Connectivity Initiative shall be 10/1 or higher or the minimum speed at which the FCC has funded in the prior year, if a higher speed.

Section 13: 30 V.S.A. Sec. 246 added to read that a meteorological station may apply for a telecommunications facility under 248a to convert the station to a wireless telecommunications facility. Any 248a review would proceed as though the tower did not already exist (for purposes of the 248a criteria).

Section 14: 19 V.S.A. Sec. 26a – substitutes the Department of Public Service for VTA with regard to consulting with AoT regarding pricing for leases within the jurisdiction of AoT.

Section 15: Amends 30 V.T.A. Sec. 518 amended retransmission fees reporting (enacted last year) to make it less likely that the law will be challenged by the Vermont broadcasters. Though the new language slightly changes the reporting requirements, it represents a compromise between the Vermont broadcasters, Ag’s office, leg council and PSD.

Section 16: E-911 This section requires the E911 Board, during FY 2016 to transfer \$300,000 from its existing approved budget for distribution to the Department of Public Safety for PSAP expenses. In addition, the E911 Board must eliminate one full-time position. This represented a compromise to keep the E911 independent and not be subsumed by the Department of Public Safety.

Section 17: Deleted

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Section 18: Deleted

Section 19: Deleted

Section 20: 30 V.S.A. Sec. 82 is added to read: COMMUNICATION UNION DISTRICT: “Two or more towns and cities may elect to form a communications union district for the delivery of communications services and the operation of a communication plant, which district shall be a body politic and corporate.”

Both the PSD and legislature was highly skeptical of this section. It was written exclusively to allow EC Fiber to create a Communications Union District as they believe such a construct will allow EC Fiber to attract investment money. While the PSD questions whether this section would allow EC Fiber to obtain investors on a large-scale level, we were primarily concerned that this section did not allow for any town or municipal tax revenues to be used or pledged for these communications districts. This possibility has been vetted and it appears, with the opinion of leg council that this cannot happen. The new language also says that tax dollars cannot be pledged for the communication districts. As such, we view this section as fairly harmless.

Section 21: East Central Vermont Telecommunications District – Allows Norwich, Randolph, Sharon, Strafford and Woodstock who had a vote on March 3, to become a Telecommunications District.

Section 22,23: 10 V.S.A. Sec. 212 and 10 V.S.A. Sec. 261: Amended to allow VEDA to consider funding telecommunications projects that are Communication Union District.

Section 24: 10 V.S.A. Sec. 262 Allows VEDA to loan up to \$3 million to an eligible telecommunications facility.

Section 25: 10 V.S.A. Sec. 263 Allows VEDA to take a mortgage on the assets and or net revenues of an eligible telecommunications facility it lends to.

Is there a need for this bill? Yes. The Department believes it is important to take oversight of the Vermont Universal Service Fund administer, the bill completes the VTA dissolution and the met tower conversion will assist in cellular/broadband coverage.

2.

3. What are likely to be the fiscal and programmatic implications of this bill for this Department? The Department believes it is important to take oversight of the Vermont Universal Service Fund administer, the bill completes the VTA dissolution and the met tower conversion will assist in cellular/broadband coverage.

3. What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it? n/a

4. What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it? (for example, public, municipalities, organizations, business, regulated entities, etc)n/a

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5. Other Stakeholders:

6.1 Who else is likely to support the proposal and why? EC Fiber, Public Service Board

6.2 Who else is likely to oppose the proposal and why? Not aware of opposition

6. Rationale for recommendation: *Justify recommendation stated above.*

7. Specific modifications that would be needed to recommend support of this bill: *Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would change recommended position.*

8. Gubernatorial appointments to board or commission? Yes. The Governor will have 5 appointments to the newly created advisory bill.

Secretary/Commissioner has reviewed this document: _____ **Date:** _____