

## Broadband Utility Districts

Community Broadband Planning Support Program

Factsheet for Maine Communities

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## Background

The Community-Driven Broadband Planning Process leads to expanding the availability of broadband service. To advocate and support this local process, ConnectMaine administers the Community Broadband Planning Support Program, which includes grants, resources and assistance. One set of resources and assistance compiled is for communities that have chosen the operational structure of a Broadband Utility District (BUD) in order to expand broadband service availability.

In 2015 the Legislature amended the interlocal cooperation statute (MRSA 30-A Chapter 115) to specifically include the formation of Broadband Utility Districts. These BUDs are quasi-municipal districts, independent of town government, but have an elected board and can receive grants, borrow and finance the development of publicly owned systems. In 2019 the legislature (MRSA 30-A Chapter 213) included telecommunications and broadband systems for which a municipality can use to issue revenue bonds based on Revenue Producing Municipal Facilities. These statutes give two tools to local communities for expanding broadband service availability.

## Program

To support communities that have chosen the operational structure of a Broadband Utility District and the use of revenue bonds, ConnectMaine has expanded its Community Broadband Planning Support Program, creating a pathway for these communities through the aspects of broadband planning. The benefits for municipalities in forming a regional BUD include the technical assistance all along that path and the planning grants needed, which are awarded based on progress toward the goal of universal, affordable broadband.

ConnectMaine prioritizes assistance to communities that meet the following requirements:

- At least four municipalities or local governments have undertaken the Community-Driven Broadband Planning Process;
- Local government leaders have approved efforts to form a BUD;
- There's commitment that the BUD will take on the responsibility of digital equity and inclusion, including efforts to connect customers to the Affordable Connectivity Program or similar opportunities; and
- There's commitment to a broadband solution that will result in broadband service availability--service offerings will include 100mbps/100mbps at least.

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## Formation

While any two or more municipalities or local governments can form a BUD, there's benefit in joining with enough municipalities to make use of revenue bonds and other tools toward broadband expansion.

ConnectMaine encourages BUDs of at least four communities to help achieve a statutory purpose of supporting universal broadband throughout the state. Communities should consider the following:

- What population is needed for the enough potential subscribers? What size of area or locations are needed to leverage existing infrastructure and address density of potential subscriber locations? Are there other geographical factors that affect the business model of the broadband solution or potential negotiating power of the BUD?
- How much political will and local governance capacity is needed for the BUD to be functional? Which nearby municipalities have other joint efforts or working relationships? Are there other factors of the policy context affecting widespread community support for broadband?
- How wide should the net be cast to enlist community members who have relevant backgrounds and roles to further ensure community goals are met and who are committed through the expansion of broadband? How narrow should the net be cast to avoid too many representatives to be functional?

Many of those questions would be answered during the Community-Driven Broadband Planning Process, which is a reason that ConnectMaine incentivizes communities to undertake that process initially. Once the communities have decided to form a BUD, the governing bodies would take action by ordinance, resolution or other applicable means, such as town meeting, to make effective the agreement for interlocal cooperation forming the BUD. The state law outlines this process and what the agreement must contain.

BUDs that won't be separate, legal entities from the communities must include either have an administrator or a joint board. In most cases, a joint board is used, in which case all member communities must have representation on the board. There isn't a maximum number of board members, but communities should consider the backgrounds and roles that would be relevant to carrying out the broadband project. Communities should also consider the appropriate way to appoint board members to their BUD.

The agreement must specify how the BUD will finance and manage the budget of the broadband project. While the BUD won't have taxing authority, the BUD would have the authority to issue revenue bonds, and the communities of the BUD may appropriate funds, personnel and services. The legal fees and other costs involved in establishing a Broadband Utility District are eligible project costs under ConnectMaine Community Broadband Planning Grants. ConnectMaine aims to ensure availability of Broadband Infrastructure Grants for BUD applicants

## Bonding

Choosing the financial model or business plan for the broadband solution is another aspect of the Community-Driven Broadband Planning Process. Municipalities with a population of at least 1,000 can issue revenue bonds for revenue-producing municipal facilities, which include broadband systems. The state law outlines the process, which includes preparing financial statements.

Because of the formation of a BUD requires a budget and issuing bonds requires financial statements, ConnectMaine encourages broadband committees to engage local treasurers early and frequently in the planning process. Legal and other consultants supporting community broadband planning are listed on the ConnectMaine website. ConnectMaine also anticipates publishing another factsheet that dives into the strategies and partners for using this tool of revenue bonding.

ConnectMaine has compiled resources and assistance, including grants, templates and examples, on its website: <https://www.maine.gov/connectme/communities-resources/BUDs>

Disclaimer: This factsheet is intended for information purposes only and doesn't serve as legal advice.