
By: **Senators Pipkin, Astle, Brinkley, Colburn, Dyson, Hafer, Haines, Harris,
Hooper, Jacobs, Middleton, Mooney, Munson, and Teitelbaum**

Introduced and read first time: February 3, 2006

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Cooperatives - Rural Broadband Telecommunication Services -**
3 **Organization**

4 FOR the purpose of establishing the Rural Broadband Coordination Office in the
5 Department of Business and Economic Development for certain purposes;
6 requiring the Office to coordinate with certain regional councils and other public
7 and private entities for the establishment of rural broadband
8 telecommunication services in certain areas; providing for the appointment of
9 an Executive Director of the Office; establishing a Rural Broadband Assistance
10 Fund as a special fund in the Office for certain purposes; providing for the
11 purposes of the Fund; authorizing certain nonprofit cooperatives to organize
12 under the laws of the State; providing for the dissolution in a certain manner of
13 a cooperative that has not begun to do business; transferring certain funds from
14 the Transportation Authority Fund to the Rural Broadband Assistance Fund for
15 certain purposes and under certain circumstances; stating the intent of the
16 General Assembly; providing for the construction of this Act; and generally
17 relating to economic development, rural broadband telecommunication services,
18 and cooperatives.

19 BY adding to
20 Article 83A - Department of Business and Economic Development
21 Section 5-1901 through 5-1903 to be under the new subtitle "Subtitle 19. Rural
22 Broadband Coordination"
23 Annotated Code of Maryland
24 (2003 Replacement Volume and 2005 Supplement)

25 BY repealing and reenacting, with amendments,
26 Article - Corporations and Associations
27 Section 5-5A-24
28 Annotated Code of Maryland
29 (1999 Replacement Volume and 2005 Supplement)

30 BY adding to

1 Article - Corporations and Associations
2 Section 5-6C-01 to be under the new subtitle "Subtitle 6C. Rural Broadband
3 Cooperatives"
4 Annotated Code of Maryland
5 (1999 Replacement Volume and 2005 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article - Transportation
8 Section 4-313
9 Annotated Code of Maryland
10 (2001 Replacement Volume and 2005 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
12 MARYLAND, That the Laws of Maryland read as follows:

13 **Article 83A - Department of Business and Economic Development**

14 **SUBTITLE 19. RURAL BROADBAND COORDINATION.**

15 5-1901.

16 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
17 INDICATED.

18 (B) "FUND" MEANS THE RURAL BROADBAND ASSISTANCE FUND ESTABLISHED
19 UNDER § 5-1903 OF THIS SUBTITLE.

20 (C) "OFFICE" MEANS THE RURAL BROADBAND COORDINATION OFFICE.

21 (D) "RURAL COUNCILS" MEANS:

22 (1) THE TRI-COUNTY COUNCIL FOR SOUTHERN MARYLAND;

23 (2) THE MID-SHORE REGIONAL COUNCIL;

24 (3) THE TRI-COUNTY COUNCIL FOR THE LOWER EASTERN SHORE OF
25 MARYLAND;

26 (4) THE UPPER SHORE REGIONAL COUNCIL; AND

27 (5) THE TRI-COUNTY COUNCIL FOR WESTERN MARYLAND.

28 5-1902.

29 (A) THERE IS A RURAL BROADBAND COORDINATION OFFICE IN THE
30 DEPARTMENT.

31 (B) THE OFFICE SHALL:

1 (1) ASSIST IN THE ESTABLISHMENT OF RURAL BROADBAND
2 COOPERATIVES IN RURAL AND UNDERSERVED AREAS OF THE STATE;

3 (2) COOPERATE AND ACT WITH PUBLIC AND PRIVATE ENTITIES TO
4 OBTAIN, COORDINATE, AND DISSEMINATE RESOURCES, INCLUDING FINANCIAL AND
5 TECHNICAL RESOURCES, FOR THE ESTABLISHMENT OF RURAL BROADBAND
6 SERVICES IN RURAL AND UNDERSERVED AREAS OF THE STATE;

7 (3) COORDINATE WITH THE RURAL COUNCILS IN MANAGING
8 PROCUREMENT PROCESSES FOR IMPLEMENTING A FIBER-OPTIC BROADBAND
9 BACKBONE AND OTHER APPROPRIATE BROADBAND TELECOMMUNICATION
10 SERVICES IN RURAL AND UNDERSERVED AREAS; AND

11 (4) ACT AS A FISCAL AGENT FOR THE RURAL COUNCILS AND RURAL
12 BROADBAND COOPERATIVES IN FINANCING THE DEPLOYMENT OF BROADBAND
13 TELECOMMUNICATION SERVICES IN RURAL AND UNDERSERVED AREAS OF THE
14 STATE WITHIN THE REGIONS SERVED BY THE RURAL COUNCILS.

15 (C) (1) THE SECRETARY SHALL APPOINT AN EXECUTIVE DIRECTOR FOR THE
16 OFFICE.

17 (2) THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE
18 SECRETARY.

19 (D) THE OFFICE SHALL COOPERATE WITH OTHER UNITS OF STATE
20 GOVERNMENT.

21 (E) SUBJECT TO THE APPROVAL OF THE SECRETARY, THE OFFICE MAY ADOPT
22 REGULATIONS TO CARRY OUT THIS SUBTITLE.

23 5-1903.

24 (A) THERE IS A RURAL BROADBAND ASSISTANCE FUND IN THE OFFICE.

25 (B) THE PURPOSE OF THE FUND IS TO ASSIST RURAL BROADBAND
26 COOPERATIVES IN DEVELOPING BROADBAND TELECOMMUNICATION SERVICES IN
27 RURAL AND UNDERSERVED AREAS AND MAKING THOSE SERVICES AVAILABLE TO
28 THE PUBLIC.

29 (C) THE OFFICE SHALL ADMINISTER THE FUND.

30 (D) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT
31 TO REVERSION UNDER § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

32 (2) THE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE
33 COMPTROLLER SHALL ACCOUNT FOR THE FUND.

34 (E) THE FUND CONSISTS OF:

35 (1) MONEY TRANSFERRED TO THE FUND IN ACCORDANCE WITH §
36 4-313(C)(2) OF THE TRANSPORTATION ARTICLE;

1 (2) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

2 (3) FEDERAL MONEY ALLOCATED OR GRANTED TO THE FUND; AND

3 (4) ANY OTHER MONEY FROM ANY SOURCE ACCEPTED FOR THE
4 BENEFIT OF THE FUND.

5 (F) THE FUND MAY BE USED ONLY FOR PLANNING, CONSTRUCTION, AND
6 MAINTENANCE OF BROADBAND TELECOMMUNICATION SERVICES AND EQUIPMENT
7 IN RURAL AND UNDERSERVED AREAS, AND RELATED ACTIVITIES.

8 (G) (1) THE TREASURER SHALL INVEST THE MONEY IN THE FUND IN THE
9 SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

10 (2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE CREDITED TO
11 THE GENERAL FUND OF THE STATE.

12 (H) EXPENDITURES FROM THE FUND MAY ONLY BE MADE IN ACCORDANCE
13 WITH THE STATE BUDGET.

14 **Article - Corporations and Associations**

15 5-5A-24.

16 (a) (1) Except as provided in paragraph (2) of this subsection, a cooperative
17 may consolidate, merge, transfer assets, dissolve, or divide in the manner provided in
18 Title 3 of this article.

19 (2) (i) In the case of a cooperative with more than 10,000 voting
20 members, wherever Title 3 of this article requires the affirmative vote of the members
21 or stockholders, the members and stockholders entitled to vote shall approve the
22 consolidation, merger, transfer of assets, dissolution, or division in the manner
23 provided for in § 5-5A-21(a)(3) of this subtitle for amendments to the articles of
24 incorporation.

25 (ii) This provision is reserved for the members and may not be the
26 prerogative of the delegates.

27 (b) (1) A cooperative may, with proper notice, at any regular or special
28 meeting of its members, be dissolved by a vote of two-thirds of the membership voting
29 in person or by mail ballot. This right of dissolution is a right reserved for the
30 membership and not the right of the delegates.

31 (2) On affirmative vote to dissolve the cooperative, 3 members shall be
32 elected as trustees by a majority vote of the members voting at that regular or special
33 meeting.

34 (3) The trustees, on behalf of the cooperative and within a time fixed in
35 their designation or within any extension thereof, shall liquidate the assets of the
36 cooperative and distribute the assets in the manner set forth in this section.

1 (c) A suit for involuntary dissolution of the cooperative organized under this
2 subtitle may be instituted for the causes and prosecuted in the manner set forth in
3 the general corporate law of Maryland. Assets shall be distributed in a manner set
4 forth in this subtitle.

5 (d) When a cooperative is dissolved, its assets shall be distributed in the
6 following manner and order:

7 (1) By paying its debts and expenses;

8 (2) By returning to the members the lesser of parvalue or book value of
9 their shares, their membership capital, or allocated equity;

10 (3) By returning to the subscribers the lesser of parvalue or book value of
11 amounts paid on their subscriptions;

12 (4) By returning to eligible patrons the lesser of parvalue or book value
13 of the amount of net savings credited to their accounts toward the purchase of shares
14 or membership; and

15 (5) By distributing any surplus as a gift to another cooperative or to a
16 nonprofit, tax exempt enterprise.

17 (E) (1) A COOPERATIVE THAT HAS NOT BEGUN DOING BUSINESS MAY BE
18 DISSOLVED BY FILING ARTICLES OF DISSOLUTION FOR RECORD WITH THE
19 DEPARTMENT.

20 (2) THE ARTICLES OF DISSOLUTION SHALL BE SIGNED AND
21 ACKNOWLEDGED FOR THE COOPERATIVE BY A MAJORITY OF THE INCORPORATORS
22 OF THE COOPERATIVE.

23 (3) THE ARTICLES OF DISSOLUTION SHALL CONTAIN:

24 (I) THE NAME OF THE COOPERATIVE AND THE ADDRESS OF ITS
25 PRINCIPAL OFFICE; AND

26 (II) A STATEMENT THAT:

27 1. THE COOPERATIVE HAS NOT BEGUN DOING BUSINESS;

28 2. ANY MONEY RECEIVED BY THE COOPERATIVE, LESS ANY
29 DISBURSEMENTS FOR EXPENSES OF THE COOPERATIVE, HAS BEEN RETURNED OR
30 PAID TO THE PERSONS ENTITLED TO THE MONEY;

31 3. ALL DEBTS OF THE COOPERATIVE HAVE BEEN PAID; AND

32 4. A MAJORITY OF THE INCORPORATORS OF THE
33 COOPERATIVE ELECT THAT THE COOPERATIVE BE DISSOLVED.

SUBTITLE 6C. RURAL BROADBAND COOPERATIVES.

5-6C-01.

(A) A COOPERATIVE, NONPROFIT MEMBERSHIP CORPORATION MAY BE ORGANIZED TO SUPPLY, PROMOTE, AND EXTEND THE USE OF BROADBAND COMMUNICATION SERVICES IN RURAL AND UNDERSERVED AREAS.

(B) A COOPERATIVE ORGANIZED UNDER THIS SECTION SHALL BE ORGANIZED AND GOVERNED BY SUBTITLE 5A OF THIS TITLE.

(C) A COOPERATIVE ORGANIZED UNDER THIS SECTION MAY USE THE TERM "COOPERATIVE" AS PART OF ITS CORPORATE NAME.

Article - Transportation

4-313.

(a) (1) All rentals, rates, fees, tolls, and other charges and revenues derived from any transportation facilities project shall be set aside in a fund known as the "Transportation Authority Fund", except to the extent that they are pledged under an applicable trust agreement to secure either:

(i) Revenue bonds issued under this subtitle if the trust agreement or bond authorizing resolution expressly provides that this section does not apply to those bonds; or

(ii) Revenue bonds of prior issues.

(2) The Transportation Authority Fund shall be pledged to and charged with the payment of:

(i) The interest on bonds issued under this subtitle as it falls due;

(ii) The principal of the bonds as it falls due;

(iii) The necessary charges of paying agents for paying principal and interest; and

(iv) The redemption price or purchase price of bonds retired by call or purchase as provided in the bond authorizing resolution or trust agreement.

(b) (1) The pledge is valid and binding from the time it is made.

(2) Rentals, rates, fees, tolls, and other charges and revenues or other money so pledged and later received by the Authority immediately shall be subject to the lien of the pledge without physical delivery or any further act.

(3) The lien of the pledge is valid and binding as against all parties having any claims of any kind in tort, contract, or otherwise against the Authority, whether or not these parties have notice of the pledge.

1 (4) Notwithstanding any law to the contrary, neither the resolution nor
2 any trust agreement by which a pledge is created need be filed or recorded other than
3 in the records of the Authority.

4 (c) (1) [Any] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
5 SUBSECTION, ANY amount set aside in the Transportation Authority Fund that is not
6 needed to provide for the payment of the items specified in subsections (a)(2) and (b)
7 of this section may be transferred, upon the recommendation of the Secretary and
8 after the approval of the Board of Public Works, to the Transportation Trust Fund to
9 be used as appropriated by the General Assembly unless prohibited by any applicable
10 resolution or trust agreement.

11 (2) (I) FOR FISCAL YEAR 2008 ONLY, \$10,000,000 OF THE FUNDS IN THE
12 TRANSPORTATION AUTHORITY FUND, WHICH ARE NOT REQUIRED BY LAW TO BE
13 DISTRIBUTED TO THE COUNTIES OR BALTIMORE CITY, AND WHICH HAVE NOT BEEN
14 PLEDGED OR OTHERWISE COMMITTED TO THE PAYMENT OF OR AS SECURITY FOR
15 ANY BONDS OR OTHER DEBT ISSUED OR INCURRED IN ACCORDANCE WITH THIS
16 ARTICLE, SHALL BE TRANSFERRED AND CREDITED TO THE RURAL BROADBAND
17 ASSISTANCE FUND UNDER ARTICLE 83A, § 5-1903 OF THE CODE FOR THE BENEFIT OF
18 ONE OR MORE RURAL BROADBAND COOPERATIVES FORMED UNDER § 5-6C-01 OF THE
19 CORPORATIONS AND ASSOCIATIONS ARTICLE.

20 (II) THE TRANSFER OF FUNDS UNDER SUBPARAGRAPH (I) OF THIS
21 PARAGRAPH IS CONTINGENT ON THE FORMATION AND EXISTENCE OF AT LEAST ONE
22 RURAL BROADBAND COOPERATIVE IN THE STATE AS OF JUNE 30, 2007.

23 [(2)] (3) The use and disposition of money to the credit of the
24 Transportation Authority Fund is subject to the provision of the applicable bond
25 authorizing resolution or trust agreement.

26 SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the
27 General Assembly that procurement, installation, and operation of rural broadband
28 telecommunication services through rural broadband cooperatives in accordance with
29 this Act shall be accomplished with the assistance of federal financial aid and with
30 resource sharing with private entities to the greatest extent practicable.

31 SECTION 3. AND BE IT FURTHER ENACTED, That nothing in this Act may
32 be construed to impair or otherwise alter the authority of any cooperative other than
33 a rural broadband cooperative formed under § 5-6C-01 of the Corporations and
34 Associations Article, as enacted by this Act, to provide broadband telecommunication
35 service of any kind in the State.

36 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
37 July 1, 2006.