

Arkansas Legislature Passes Bill to Ease Local Government Expansion of Broadband Access



John Bryant
jbryant@mwlaw.com
(501) 688.8823

02/15/2021

Arkansas' 93rd General Assembly unanimously passed legislation amending the Telecommunications Regulatory Reform Act of 2013 last week. Generally, government entities in Arkansas are prohibited from providing "directly or indirectly, basic local exchange, voice, data, broadband, video, or wireless telecommunications services." A.C.A. § 23-17-409(b).

Act 67 opens the door for local governments and authorizes cities, counties, consolidated utility districts, and other "government entities" in the state to build and operate the infrastructure necessary for broadband services, effective immediately. Previously, this was reserved for cable and telephone companies unless local governments acquired a grant to build in unserved areas. This was problematic given high costs and the lower population density of underserved areas. According to bill sponsor Senator Ricky Hill, "[t]his opens it up where we can get some new competitors into this field."^[1]

Broadband Now Research ranked Arkansas number 41 among the states in broadband access, reporting that only 54.3% of the state has terrestrial broadband access.^[2] This presents a problem for many businesses that rely on fast internet, such as restaurants using digital registers to process payments. Senator Hill says this should spur economic growth: "If you have a city and you're not providing the broadband services that your citizens request or require to come to your area they're not going to move there or they're going to leave. It's pretty simple."^[3]

With the passage of Act 67, government entities may now take the first step towards securing telecommunications services. They may now build, buy, outsource, or manage network infrastructure for a range of services, including:

- Voice services;
- Data services;
- Broadband services;
- Video services; or
- Wireless telecommunications services.

Act 67 specifically authorizes governmental entities to acquire, construct, furnish, equip, own, operate, sell, convey, lease, rent, let, assign, dispose of, contract for, or otherwise deal in facilities and apparatus for (i) voice services, (ii) data services, (iii) broadband services, (iv) video services, or (v) wireless telecommunications services.

Act 67 also contemplates the issuance of bonds or other indebtedness with respect to the acquisition of such facilities and apparatus. While there are financing details left to be worked out, Act 67 does provide

that if funding is secured through special tax or general obligation bond initiatives, the government entity is required to:

- Affiliate with an experienced operator of telecommunications facilities;
- Conduct due diligence for project spending;
- Provide an opportunity for public notice and comment; and
- Hold an election over the funding mechanism.

The Act further promotes broadband access by expanding the statute's emergency services clause to include healthcare services, education, and other essential services. Overall, this bill presents local government with the freedom to take broadband access issues into their own hands.

[1] John Moritz, State Capitol Briefs, ARK. DEM. GAZ. (Jan. 22, 2021), available at <https://www.arkansasonline.com/news/2021/jan/22/state-capitol-briefs/>.

[2] Tyler Cooper and Julia Tanberk, Best and Worst States for Internet Coverage, Prices and Speeds, 2020 BROADBANDNOW RESEARCH (March 3, 2020), available at <https://broadbandnow.com/research/best-states-with-internet-coverage-and-speed>

[3] Interview with Sen. Ricky Hill (Jan. 21, 2021) (available at <https://www.kark.com/news/local-news/senate-bill-focused-on-broadband-access-in-arkansas-legislative-session/>).