

LEGAL AND REGULATORY NOTES, JULY 2015

New authorization for towns and cities to form “communication districts”

On June 1, Governor Shumlin signed into law H.117 which, among other things, authorizes two or more cities or towns to form a communications union district to deliver communications services and operate a communications plant.

Eligible voters in two or more towns or cities may vote at an annual or special meeting to form a communication union district. The article proposing the creation of such a district must be in substantially the following form: “*Shall the Town of _____ enter into a communications union district to be known as _____, under the provisions of Chapter 80 of Title 30, Vermont Statutes Annotated?*” Once a district is formed it may take on new members, existing members may choose to leave, and the district may also be dissolved.

These new communication union districts were created in response to requests for more broadband build-out in rural areas by allowing districts to provide high-speed internet to residents. A communication union district is empowered to operate or contract for construction, ownership, management, and operation of a communications plant and to provide communications services to members. A communications plant includes all parts of a communications system owned by the district including wires, cables, fiber optics, wireless or other technologies used to transport or store information, facilities, and equipment. A district will include all land and residents within the member municipalities and any other subsequently admitted.

Once formed, communication union districts are municipal entities with a legislative body known as a “governing board.” A governing board is made up of one representative from each member municipality, an appointed union district clerk, and a treasurer. The districts have many of the same powers and responsibilities as “regular” municipalities, including the authority to purchase, sell, and lease real estate, hire and fix the compensation of employees, and enter into contracts.

Communication union districts need to obtain a certificate of public good before providing services. Although communication union districts are similar to water and fire districts in that they are formed with the sole purpose of providing a particular service, under this new law taxpayers will not be liable for debts incurred by the districts. A district will not have taxing authority; rather, all necessary revenues will have to come from selling the communications services, such as running internet cables to homes and charging monthly fees for Internet services. Additionally, communications union districts are eligible for loans from the Vermont Economic Development Authority.

The bill specifically states that the East Central Vermont Telecommunications District – approved by the voters of Norwich, Randolph, Sharon, Strafford, and Woodstock – as the first

communications union district once governance details are approved by the legislative bodies of each member municipality.

Creating a communication union district may be helpful for towns and cities having trouble attracting investment and development of local telecommunication services. If your municipality is interested in teaming up with others to form a communication union district, please reach out to legal counsel for assistance.

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