

1 AN ACT relating to the Kentucky Communications Network Authority and  
2 declaring an emergency.

3 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

4 ➔Section 1. KRS 154.15-020 is amended to read as follows:

- 5 (1) The Kentucky Communications Network Authority is established and shall be  
6 attached to the Office of the Governor. The authority shall be headed by an  
7 executive director who shall be hired by the board and approved by the Governor.
- 8 (2) Notwithstanding KRS 42.726, the duties of the authority shall be to:
- 9 (a) Oversee and maintain KentuckyWired, the Commonwealth's open-access  
10 broadband network;
- 11 (b) Manage the master agreement establishing the public-private partnership  
12 between the Commonwealth and its private industry partner or partners. The  
13 purpose of the agreement is to design, engineer, build, operate, maintain, and  
14 upgrade the network;
- 15 (c) Provide network connectivity to public agencies;
- 16 (d) Offer access to entities eligible to utilize excess capacity on the network;
- 17 (e) Manage other aspects of the network and its utilization through the executive  
18 director and with oversight and input from the board established in KRS  
19 154.15-030 and the advisory group established in this section;
- 20 (f) Promulgate administrative regulations pursuant to KRS Chapter 13A  
21 necessary to implement the purposes of this subchapter;
- 22 (g) Enter into contracts with public and private entities to carry out its duties and  
23 responsibilities. A contract or other agreement involving the acquisition or  
24 disposition of a property interest by the Commonwealth shall be signed by the  
25 secretary of the Finance and Administration Cabinet. KRS Chapters 45A and  
26 56 may require the secretary's signature on other contracts or agreements;
- 27 (h) Provide program management services ensuring the financial viability of the

1 master agreement and related contracts and agreements, including grant  
2 administration, contract compliance and oversight, community planning  
3 support, and constituent services;

4 (i) Seek out, secure, and manage funding sources for the network; and

5 (j) Create an advisory group, including major stakeholders, to provide input and  
6 feedback on issues important to the user community and to the long-term  
7 sustainability of the project and the network. The advisory group shall be  
8 administratively attached to and managed by the authority. The advisory group  
9 shall include but not be limited to representatives of:

- 10 1. The Department of Education;
- 11 2. The Council on Postsecondary Education;
- 12 3. The Cabinet for Economic Development;
- 13 4. The Cabinet for Health and Family Services;
- 14 5. The Transportation Cabinet;
- 15 6. The Justice and Public Safety Cabinet;
- 16 7. The Finance and Administration Cabinet;
- 17 8. The Administrative Office of the Courts;
- 18 9. The Legislative Research Commission;
- 19 10. Institutions of higher education;
- 20 11. Local government entities;
- 21 12. Libraries;
- 22 13. Public health care institutions or agencies;
- 23 14. Kentucky Educational Television; and
- 24 15. Others whose input will benefit the network.

25 (3) With the approval of the board, the executive director may hire additional officers  
26 and other personnel necessary for the proper functioning of the authority, fix their  
27 salaries, and prescribe their duties. The executive director and persons employed by

1 the authority shall not be subject to the provisions of KRS Chapter 18A.

2 (4) (a) With the approval of the board, the executive director may make, execute,  
3 and effectuate contracts, leveraging future revenues from provision of  
4 government-to-government services and sale or lease of excess capacity, to  
5 incur debt in the name of the authority and enter into financing agreements  
6 with the Commonwealth, its agencies, or with lending institutions,  
7 investors, or investing entities.

8 (b) The total amount of debt or financing under this subsection shall not  
9 exceed one hundred ten million dollars (\$110,000,000), and shall not  
10 leverage any future revenues committed to the repayment of any other debt,  
11 or expected to be used for the repayment of any other debt, as of the time the  
12 debt or financing is entered into.

13 (c) Any proposed debt or financing under this subsection shall be submitted to  
14 the Capital Projects and Bond Oversight Committee for review at least  
15 fourteen (14) days prior to the committee meeting.

16 (d) If any debt or financing is incurred under this subsection, the authority  
17 shall provide to the Legislative Research Commission:

18 1. Within thirty (30) days of entering into a debt or financing agreement,  
19 a copy of the agreement; and

20 2. On January 1, April 1, July 1, and October 1 of each year that the debt  
21 or financing is outstanding:

22 a. The amount of principal and interest remaining on the debt or  
23 financing;

24 b. The use to which the capital gained from the debt or financing  
25 has been put; and

26 c. Any amendments, if any, to the original debt or financing  
27 instruments or agreements.

1           ➔Section 2. KRS 279.590 is amended to read as follows:

2 Two (2) years' continuous, uncontested maintenance of:

3 (1) Telephone lines on any real property by a cooperative or foreign corporation doing  
4 business in this state pursuant to KRS 279.310 to 279.600; or

5 (2) *Communications lines on any real property pursuant to Subchapter 15 of KRS*  
6 *Chapter 154;*

7 shall ripen into legal title to such easement.

8           ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 279 IS CREATED TO  
9 READ AS FOLLOWS:

10 *A utility that has been granted an easement by a property owner, or has acquired an*  
11 *easement under Section 2 of this Act, that does not expressly deny the right of*  
12 *apportionment, shall have the right to apportion the easement to any other utility or*  
13 *telecommunications company doing business in this state pursuant to KRS 279.310 to*  
14 *279.600 with which it has entered into a pole attachment agreement.*

15           ➔Section 4. KRS 279.310 is amended to read as follows:

16 As used in KRS 279.320 to 279.600, unless the context requires otherwise:

17 (1) "Cooperative" means any corporation organized under KRS 279.320 to 279.600 or  
18 which becomes subject to those sections in the manner provided therein;

19 (2) "Person" means any natural person, firm, association, corporation, business trust, or  
20 partnership;

21 (3) As used in this chapter, the ~~terms~~<sup>term</sup> "telephone service" and "telephone lines"  
22 shall include in their meanings~~its meaning~~ communications services and  
23 communications lines of all kinds allowed to any other telephone utility, authorized  
24 by regulatory agency and with some unregulated, that being the transmission of  
25 voice, data, sounds, signals, pictures, writing, or signs of all kinds, by use of wire,  
26 radio, light, electromagnetic impulse, broadband (wideband) spectrum, or any other  
27 transmission mode and facility used in rendition of such services; but shall not

- 1 include in their meaning message telegram service, or radio broadcasting services or  
2 facilities within the meaning of Section 153(O) of the Federal Communications Act  
3 of 1934, as amended;
- 4 (4) "Acquire" means to construct, purchase, obtain by lease, devise, gift, or eminent  
5 domain, or to obtain by any other lawful means;
- 6 (5) "Board" means the board of trustees of a corporation formed under KRS 279.320 to  
7 279.600;
- 8 (6) "Federal agency" means and includes the United States, the President of the United  
9 States, and all federal authorities, instrumentalities, and agencies in the ordinary  
10 sense;
- 11 (7) "Improve" means to construct, reconstruct, extend, enlarge, alter, better, or repair;
- 12 (8) "Member" means and includes each person signing the articles of incorporation of a  
13 corporation formed under KRS 279.320 to 279.600, each person later admitted to  
14 membership according to law or according to the articles of incorporation or bylaws  
15 of the corporation, and each common stockholder in a corporation, having capital  
16 stock, organized under KRS 279.320 to 279.600;
- 17 (9) "Obligations" means and includes negotiable bonds, notes, debentures, interim  
18 certificates or receipts, and all other evidences of indebtedness either issued or the  
19 payment thereof assumed by a corporation organized under KRS 279.320 to  
20 279.600;
- 21 (10) "System" means and includes any plant, works, facilities, and properties, and all  
22 parts thereof and appurtenances thereto, used or useful in the operation and  
23 maintenance of telephone communication service;
- 24 (11) "Rural area" shall be deemed to mean any area of this state not included within the  
25 boundaries of any incorporated or unincorporated city or of a consolidated local  
26 government, having a population in excess of fifteen hundred (1,500) inhabitants;
- 27 (12) "Telephone company" means any natural person, firm, association, corporation, or

1 partnership owning, leasing, or operating any line, facility, or system used in the  
2 furnishing of telephone service within this state;

3 (13) "Business entity" means a domestic and foreign limited liability company,  
4 corporation, general partnership, limited partnership, business or statutory trust, and  
5 not-for-profit unincorporated association;

6 (14) "Corporation" means a profit or nonprofit corporation formed under the laws of any  
7 state or a foreign country;

8 (15) "Name of record with the Secretary of State" means any real, fictitious, reserved,  
9 registered, or assumed name of a business entity; and

10 (16) "Real name" shall have the meaning set forth in KRS 365.015.

11 ➔Section 5. Whereas financing and real property rights are urgently necessary for  
12 the Kentucky Communications Network Authority to complete KentuckyWired, and  
13 additional delay may cause substantial financial harm to the Commonwealth, an  
14 emergency is declared to exist, and this Act takes effect upon its passage and approval by  
15 the Governor or upon its otherwise becoming a law.