

SENATE . . . . . No. 365

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By Mr. Olver, a petition (accompanied by bill, Senate, No. 365) of John W. Olver, Gerard D'Amico, James G. Collins and Chester G. Atkins for legislation to create the Massachusetts corporation for educational telecommunications. Education.

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**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Eighty-three.

AN ACT CREATING THE MASSACHUSETTS CORPORATION FOR  
EDUCATIONAL TELECOMMUNICATION.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. *Purpose.* It is hereby found and declared  
2 that: —

3 The commonwealth is lagging behind other states in utiliz-  
4 ing development in telecommunications technology in order to  
5 solve educational, health and human services, and manpower  
6 problems, to facilitate cooperation among public and private  
7 institutions, and to make education and information more ac-  
8 cessible to the citizens of the Commonwealth.

9 There is an urgent need to link private and public post-sec-  
10 ondary educational institutions, school systems, libraries, and  
11 health institutions in the commonwealth to the many poten-  
12 tial users of telecommunications by the establishment of a  
13 statewide, electronic, multisystem, multipurpose telecommu-  
14 nications network. Such a network would encourage and facil-  
15 itate economies of scale and complementarity among such en-  
16 tities by providing a direct communication link for education,  
17 information, and data resource sharing; provide a means of  
18 delivering education and information to the home and com-  
19 munity; contribute substantially to enlarging the pool of trained  
20 manpower essential to the economy of the commonwealth by  
21 connecting educational institutions to public and private work-  
22 sites; and effect cost savings and improvements in the many  
23 non-instructional applications of telecommunications.

24 Therefore, it is found that it is in the public interest to pro-  
25 mote the education, prosperity and general welfare of its citi-  
26 zens, a public purpose for which public money may be ex-  
27 pended, by creating the Massachusetts Corporation for Edu-  
28 cational Telecommunications to establish and operate a state-  
29 wide telecommunications network to meet the educational and  
30 informational needs of business, industry, government, and the  
31 inhabitants of the commonwealth.

1 SECTION 2. (a) There is hereby created a body, politic and  
2 corporate, to be known as the Massachusetts Corporation for  
3 Educational Telecommunications, hereinafter referred to as  
4 MCET. MCET is hereby constituted a quasi-public instrumen-  
5 tality of the commonwealth and the exercise by MCET of the  
6 powers conferred in this chapter shall be deemed and held to  
7 be the performance of an essential public function. MCET is  
8 hereby placed in the University of Massachusetts but shall not  
9 be subject to the supervision or control of said university or  
10 of any board, bureau, department, office, or any agency or  
11 officer of the commonwealth except as specifically provided in  
12 this chapter.

13 (b) The following terms as used in this chapter shall have  
14 the following meaning, except where the context clearly indi-  
15 cates otherwise:

16 (1) 'Board,' the board of directors of the Massachusetts Cor-  
17 poration for Educational Telecommunications.

18 (2) 'Network,' the statewide educational telecommunications  
19 network to be established by the Massachusetts Corporation  
20 for Educational Telecommunications pursuant to the provisions  
21 of this chapter.

22 (3) 'Corporation,' the Massachusetts Corporation for Educa-  
23 tional Telecommunications.

24 (4) 'Current Expenses,' as applied to the network or any  
25 portion thereof created pursuant to the provisions of this chap-  
26 ter, the amount of reasonable and necessary expenses for the  
27 administration and operation of the network after it has be-  
28 come operational.

29 (5) 'Project cost,' as applied to the network or any portion  
30 thereof created pursuant to the provisions of this chapter, em-  
31 braces all or any part of the cost of construction, acquisition,

32 alteration, enlargement, reconstruction, and remodeling of the  
33 network, including all lands, structures, real or personal prop-  
34 erty, rights, rights of way, air rights, franchises, easements  
35 and interests acquired or used in connection with the network,  
36 the cost of demolishing or removing any buildings or struc-  
37 tures on land so acquired, including the cost of acquiring any  
38 lands to which such buildings or structures may be moved, fi-  
39 nancing charges, interest prior to, during, and for a period  
40 after completion of such construction and acquisition, amounts  
41 reasonably required to make the network operational, the cost  
42 of architectural, engineering, financial and legal services, plans,  
43 specifications, studies, surveys, estimates of costs and rev-  
44 enues, administrative expenses, expenses necessary or incident  
45 to determining the feasibility or practicability of constructing  
46 the network and such other expenses as may be necessary or  
47 incident to the construction and acquisition of the network.

48 (6) 'Start-up expenses,' as applied to the network or any  
49 portion thereof created pursuant to the provisions of this chap-  
50 ter embraces all or part of the expenses for the administration  
51 and operation of the network incurred in the establishment of  
52 the network prior to the time the network becomes opera-  
53 tional.

54 (c) MCET shall be governed and its powers exercised by a  
55 board of directors which shall consist of eighteen directors  
56 and shall be representative of the racial ethnic and cultural  
57 diversity of the commonwealth: the secretary of economic de-  
58 velopment and manpower affairs, the commissioner of the de-  
59 partment of education, the chancellor of the board of regents  
60 of higher education, the president of the University of Massa-  
61 chusetts, the president of WGBH Educational Foundation, the  
62 chairman of the advisory council to MCET and twelve per-  
63 sons appointed by the governor, three of whom shall be presi-  
64 dents of private institutions of higher education in the com-  
65 monwealth, one of whom shall be the president of a Massa-  
66 chusetts state college, one of whom shall be the president  
67 of a Massachusetts community college, two of whom shall be  
68 representatives of the Massachusetts Municipal Association,  
69 one of whom shall be the superintendent of a kindergarten  
70 through twelfth grade local public school district in the com-

71 monwealth and four of whom shall be bona fide representa-  
72 tives of other major sectors significantly affected by MCET.  
73 Each member appointed by the governor shall serve for a term  
74 of seven years and thereafter until his or her successor is ap-  
75 pointed, except that in making the initial appointments the  
76 governor shall appoint one member to serve for two years,  
77 two to serve for three years, two to serve for four years, two  
78 to serve for five years, two to serve for six years and two to  
79 serve for seven years. Any person appointed to fill a vacancy  
80 in the office of a member of the board shall be appointed in a  
81 like manner and shall serve for the remainder of the unex-  
82 pired term. Any appointed member shall be eligible for reap-  
83 pointment, and may be removed from his or her appointment  
84 by the governor for cause.

85 Nine directors shall constitute a quorum and the affirmative  
86 vote of a majority of the directors present and eligible to vote  
87 shall be necessary for any action to be taken by the board.  
88 The directors shall serve without compensation, but shall be  
89 entitled to reimbursement for actual and necessary expenses  
90 incurred in the performance of their duties. The board shall  
91 meet no less than four times in each year, and shall have final  
92 authority over the activities of MCET.

93 (d) The board shall annually elect from among its mem-  
94 bers a chairman and vice-chairman. The board shall also des-  
95 ignate a secretary and treasurer who need not be members  
96 of the board. The secretary shall keep a record of the pro-  
97 ceedings of the corporation and shall be custodian of all books,  
98 documents, and papers filed with the corporation, and its offi-  
99 cial seal. The secretary shall cause copies to be made of all  
100 minutes and other records and documents of the corporation  
101 and shall certify that such copies are true copies and all per-  
102 sons dealing with the corporation may rely upon such certi-  
103 fication. The treasurer shall be chief financial and accounting  
104 officer of the corporation and shall be in charge of its funds,  
105 books, of account and accounting records.

106 (e) The board shall hire an executive director and establish  
107 his salary. The executive director shall be the chief adminis-  
108 trative and operational officer of the corporation and shall  
109 direct and supervise its administrative affairs and general

110 management. The executive director shall attend meetings of  
111 the board and may, subject to the general supervision of the  
112 board, employ other employees, consultants, and agents, in-  
113 cluding counsel and advisor.

114 (f) Neither the Corporation nor any of its officers, directors,  
115 agents, employees, consultants or advisors shall be subject to  
116 the provisions of sections nine A, forty-five, forty-six, and  
117 fifty-two of chapter thirty, chapter thirty-one, or sections  
118 twenty-seven, and twenty-seven A through twenty-seven F,  
119 of chapter one hundred and forty-nine; provided, that in pur-  
120 chasing products or services, the Corporation shall at all times  
121 follow generally accepted good business practices.

122 The provisions of chapter two hundred and sixty-eight A  
123 shall apply to all directors, officers, and employees of the Cor-  
124 poration except that the Corporation may purchase from, sell  
125 to, borrow from, contract with or otherwise deal with any or-  
126 ganization in which any director of the Corporation is in any  
127 way interested or involved; provided, however, that such in-  
128 terest or involvement is disclosed in advance to the directors  
129 and recorded in the minutes of the proceedings of the Corpora-  
130 tion; and provided, further, that no director having such an  
131 interest or involvement may participate in any decision re-  
132 lating to such organization.

133 (g) All officers and employees of the corporation having  
134 access to its cash or negotiable securities shall give bond to  
135 the corporation at its expense, in such amount and with such  
136 surety as the board may prescribe. The persons required to  
137 give bond may be included in one or more blanket or sched-  
138 uled bonds. The board may purchase liability insurance for  
139 directors, officers and employees, and may indemnify said per-  
140 sons against the claims of others.

141 (h) There shall be an advisory council to MCET, which shall  
142 consist of no more than twenty-six members appointed by the  
143 governor for terms of seven years who shall be broadly rep-  
144 resentative of potential providers and users of said network  
145 and who are not otherwise represented on the board of di-  
146 rectors of MCET. The council shall meet no less than three  
147 times a year and shall annually elect a chairman from among  
148 its membership.

1 SECTION 3. MCET shall have the following powers: —

2 (a) to make, amend, and repeal by-laws, rules and regula-  
3 tions, and policies for the management of its affairs and the  
4 operations of the network, including the regulation of network  
5 use and program content; provided that said rules, regula-  
6 tions and policies shall demonstrate, both in text and in ap-  
7 plication, a firm committment to the promotion of equal ac-  
8 cess to MCET services by racial and ethnic communities.

9 (b) to adopt an official seal;

10 (c) to sue and be sued, in its own name;

11 (d) to develop, operate, and maintain a statewide, elec-  
12 tronic, multisystem, multipurpose telecommunications network  
13 providing educational and information services and utiliz-  
14 ing available and successor telecommunications technologies,  
15 which may include, but need not be limited to, leased lines,  
16 satellite systems, instructional television fixed service or multi-  
17 point distribution service systems, land lines, and a point-to-  
18 point microwave system, or any combination thereof;

19 (e) to encourage the use of said network by providing post-  
20 secondary institutions and other entities assistance in the de-  
21 velopment and production of educational and informational  
22 programming which meets the educational, cultural and eco-  
23 nomic needs of the entire population of the commonwealth;  
24 provided, however, that MCET shall not be authorized to pro-  
25 duce such programs;

26 (f) to acquire, own, hold, lease, rent, dispose of and en-  
27 cumber real and personal property of any nature or any inter-  
28 est therein in the exercise of its powers and performance of  
29 its duties under this chapter;

30 (g) to enter into agreements or transactions with any fed-  
31 eral, state or municipal agency or other public institution or  
32 with any private individual, partnership, firm, corporation,  
33 associate or other entity;

34 (h) to appoint officers, employers, consultants, agents and  
35 advisors and fix their compensation;

36 (i) to appear in its own behalf before boards, commissions,  
37 courts, departments, or other agencies of federal, state or mu-  
38 nicipal government;

39 (j) to procure insurance against any losses in connection

40 with its property in such amounts, and from such insurers, as  
41 may be necessary or desirable;

42 (k) to apply for, accept, hold, use, and dispose of any and  
43 all donations, grants, bequests, and devises, conditional or  
44 otherwise, of money, property, services, or other things of  
45 value which may be received from the United States or any  
46 agency thereof, any governmental agency, any institution,  
47 person, firm or corporation, public and private, such dona-  
48 tions, grants, bequests and devises to be applied for, accepted,  
49 held, used or disposed of for any and all of the purposes  
50 specified in this act and in accordance with any terms and  
51 conditions thereof. Receipt of each such donation or grant  
52 shall be detailed in the annual report of the corporation, which  
53 shall include the identity of the donor or lender, the nature of  
54 the transaction and any conditions attaching thereto;

55 (l) to fix and revise from time to time, charge, and collect  
56 rates, rents, fees and charges for the use of or access to the  
57 telecommunications network described herein or any portion  
58 thereof;

59 (m) to invest any funds held in reserves or sinking funds,  
60 or any funds not required for immediate disbursement, in  
61 such investments as may be lawful for fiduciaries in the com-  
62 monwealth;

63 (n) to borrow money;

64 (o) to exercise any other powers of a corporation organ-  
65 ized under chapter one-hundred and fifty-six B; and

66 (p) to do any and all things necessary or convenient to  
67 carry out the purposes of this act.

1 SECTION 4. (a) There is hereby established a fund for carry-  
2 ing out the purposes of this act, hereinafter referred to as the  
3 "telecommunications fund", to which shall be credited any  
4 appropriations authorized by the general court specifically des-  
5 ignated to be credited to MCET.

6 (b) The corporation shall hold the telecommunications fund  
7 in an account or accounts separate from other funds. All ap-  
8 propriations, grants and other funds received by the corpora-  
9 tion and not specifically designated to be credited to the tele-  
10 communications funds, including all fees and charges collected  
11 by the corporation, and the proceeds of all investments, may

12 be used to pay for the proper general expenses of the cor-  
13 poration.

14 (c) Unless otherwise specified, all moneys of the corpora-  
15 tion from whatever source derived shall be paid to the treas-  
16 urer of the corporation. Said moneys shall be deposited in the  
17 first instance by the treasurer in one or more national banks,  
18 trust companies or banking companies in compliance with sec-  
19 tion thirty-four of chapter twenty-nine of the general laws.  
20 Funds in such accounts shall be paid out on the warrant or  
21 other order of the treasurer of the corporation or of such  
22 other person or persons as the board may authorize to execute  
23 such warrant or warrants.

24 (d) The corporation shall draw upon the principal and in-  
25 come of the telecommunications fund to meet the start-up ex-  
26 penses and project costs of establishing and operating the  
27 statewide telecommunications network described in this act,  
28 provided that the corporation shall not utilize the principal of  
29 the telecommunications fund to support current expenses of  
30 the network.

1 SECTION 5. The corporation annually shall submit a com-  
2 plete and detailed report of its activities within ninety days  
3 after the end of its fiscal year to the clerk of the house of  
4 representatives and to the clerk of the senate.

1 SECTION 6. The books and records of the corporation shall  
2 be subject to an annual audit by the auditor of the common-  
3 wealth.

1 SECTION 7. The Corporation shall establish a network, and  
2 take any and all actions necessary or appropriate thereto, in-  
3 cluding disbursing available funds from the network fund to  
4 meet the project costs and start-up expenses of such a net-  
5 work, only after: —

6 (a) formulation of a detailed plan for the creation and  
7 operation of such a network, provided that the plan shall be  
8 supported by independently verifiable information; and pro-  
9 vided further that the plan shall include but not be limited  
10 to: —

11 (1) a detailed description of the proposed network, includ-  
12 ing an analysis of lands, structures, facilities, machinery and

13 equipment reasonably necessary for the successful operation  
14 thereof; an analysis of the feasibility of using surplus state  
15 real property for such a network; and a statement of the pro-  
16 posed project costs reasonably associated with the establish-  
17 ment of such a network, with a detailed breakdown of such  
18 project costs, including the estimate of the cost to the Com-  
19 monwealth of the debt service on any bonds or notes issued  
20 or to be issued in support of such a network;

21 (2) a statement of the proposed annual start-up expenses,  
22 project costs and current expenses of the network for the  
23 first five years of its existence, including a detailed break-  
24 down of such costs and expenses, with a reasonable projec-  
25 tion of said costs and expenses which the Corporation ex-  
26 pects to meet through assistance provided by rates, rents,  
27 fees, and charges imposed upon users and support from any  
28 other source; and

29 (3) a description of the public benefits to be engendered  
30 by the network, including particularly an analysis of in-  
31 creased and enhanced employment and educational oppor-  
32 tunities;

33 (4) a description of the proposed activities of the network  
34 including the proposed utilization thereof by participating  
35 businesses and institutions;

36 (5) a proposal for capital outlay appropriation from the  
37 Commonwealth in support of the establishment of the net-  
38 work and such annual maintenance appropriations as may  
39 reasonably be required for the successful operation of the  
40 network; and

41 (b) the Board has approved the establishment of the net-  
42 work described in the plan, having found and incorporated in  
43 its minutes that: —

44 (1) the network as proposed in the plan will substantially  
45 further the basic purpose of this chapter to provide for the  
46 establishment and operation of a statewide educational tele-  
47 communications network that would facilitate the delivery  
48 of education and information among such institutions of  
49 learning as public and private higher education, the schools,  
50 libraries, cultural and health institutions, and public and  
51 corporate learning centers, and between these institutions of

52 learning and the public;

53 (2) there is no reasonable expectation that the network  
54 proposed will duplicate the actual or proposed facilities or  
55 programs of institutions or consortia of institutions located  
56 within the Commonwealth, or, to the extent that a possibility  
57 for such duplication may be found to exist, the network as  
58 proposed in the plan may reasonably be characterized as en-  
59 hancing or supplementing the ability of such an institution  
60 or consortium of institutions to conduct such actual or pro-  
61 posed facilities or programs;

62 (3) the establishment or operation of the network as pro-  
63 posed in the plan are beyond the financial means of any single  
64 institution or consortium of institutions located in the Com-  
65 monwealth, either because the capital costs or operating  
66 costs associated therewith are prohibitive or because the  
67 capital costs or operating costs associated with maintaining  
68 such a network at a level consistent with developing technol-  
69 ogy are prohibitive;

70 (c) submission by the Board of the plan and findings  
71 formulated pursuant to this section to the Governor, the  
72 President of the Senate and the Speaker of the House of  
73 Representatives, the Chairman of the Senate Committee on  
74 Ways and Means and the Chairman of the House Committee  
75 on Ways and Means.

1 SECTION 8. No monies shall be credited to the network  
2 fund in support of the network, excepting those required for  
3 the successful completion of the plan, unless and until the  
4 plan and findings required pursuant to section seven of this  
5 chapter have been received and approved in writing by the  
6 House and Senate Committee on Ways and Means.



