

2021 Regular Session

HOUSE BILL NO. 465

BY REPRESENTATIVES MIKE JOHNSON AND THOMPSON

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TELECOMMUNICATIONS: Provides relative to the leasing of the 4.9 GHz band

1 AN ACT

2 To amend and reenact R.S. 29:725.4 and to enact Chapter 12-A of Title 51 of the Louisiana
3 Revised Statutes of 1950, to be comprised of R.S. 51:1371 through 1376, relative to
4 the 4.9 GHz band; to provide for authority; to provide definitions; to provide a policy
5 for leasing; to provide parameters on auctioning; to exempt certain parishes; to
6 require reporting; to create task forces; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 29:725.4 is hereby amended and reenacted to read as follows:

9 §725.4. Office of interoperability; creation and authority

10 A. The office of interoperability is established within the Governor's Office
11 of Homeland Security and Emergency Preparedness. The office shall have the
12 authority to oversee, direct, and manage interoperability programs and efforts
13 identified in the statewide communications interoperability plan in coordination with
14 local, state, and federal officials. The office shall address critical interoperability
15 issues relating to public safety and emergency response, including communications,
16 spectrum, networks, equipment, training, and other areas as needs are identified,
17 except as provided for in Subsection B of this Section.

18 B. The office shall not have the authority to oversee, direct, or manage the
19 fifty megahertz of spectrum in the 4940 to 4990 megahertz band, commonly referred
20 to as the 4.9 GHz band.

1 Section 2. Chapter 12-A of Title 51 of the Louisiana Revised Statutes of 1950,
2 comprised of R.S. 51:1371-1376, is hereby enacted to read as follows:

3 CHAPTER 12-A. 4.9 GHz ALLOCATION

4 §1371. Short title

5 This Chapter shall be known and may be cited as the "4.9 GHz Allocation
6 Act".

7 §1372. Definitions

8 As used in this Chapter, the following terms have the meaning ascribed to
9 them:

10 (1) "4.9 GHz band" means the fifty megahertz of spectrum in the 4940 to
11 4990 megahertz band.

12 (2) "Office" means the office under the direction of the executive director
13 of broadband development and connectivity.

14 §1373. Auctioning of the 4.9 GHz band; authority; policy requirements

15 A. The office is hereby designated as the lessor of the 4.9 GHz band, in
16 accordance with Federal Communications Commission rules. The office shall
17 oversee, manage, and direct the leasing of the 4.9 GHz band in accordance with all
18 rules and regulations provided in FCC-20-137.

19 B. The office shall develop a policy for leasing the 4.9 GHz band. The office
20 shall ensure that the policy complies with the federal regulations provided for in
21 Subsection A of this Section and meets all of the following requirements:

22 (1) Utilizes a blind auction method in which any natural or juridical person
23 interested in leasing the 4.9 GHz band may submit bids to the office, and shall not
24 be provided any information regarding other bids.

25 (2) Auctions the 4.9 GHz band as follows:

26 (a) Three portions of the band, each consisting of ten megahertz for Priority
27 Access License.

28 (b) Reserve ten megahertz of the band for General Authorized Access.

29 (3) Reserves ten megahertz of the 4.9 GHz band for public safety usage.

1 (4)(a) Implements a tiered spectrum-sharing architecture, using an approved
2 Spectrum Access System, that provides incumbent and license holder protection.

3 (b) The Spectrum Access System is required to monitor spectrum utilization,
4 provide interference mitigation control, and provide a reporting mechanism.

5 (c) In addition to the requirements of Subparagraphs (a) and (b) of this
6 Paragraph the Spectrum Access System is required to include all of the following
7 capabilities:

8 (i) Radio registration transmission.

9 (ii) Interference analysis.

10 (iii) Incumbent protection.

11 (iv) License validation.

12 (v) Radio channel assignment.

13 (vi) Radio power limits control.

14 (vii) License protection.

15 (5) Implements a tiered spectrum-sharing licensing model, that provides a
16 "use it or share it" licensing scheme to allow the general public and enterprise to
17 have access to General Authorized Access licenses at no cost, when the Priority
18 Access License holder is not using the spectrum in a defined area.

19 (6) In accordance with FCC-20-137, does not auction or lease any spectrum
20 currently in use by any incumbent, but shall allow an incumbent to consolidate
21 spectrum into one continuous band upon request.

22 (7) Limits the length of the auction for portions of the 4.9 GHz band to three
23 years, and allows an auction winner who utilizes the band to apply for two additional
24 years of usage of the portions won at auction.

25 (8) Requires an auction winner to utilize his portion of the 4.9 GHz band or
26 submit to the office plans to utilize his portion of the band within three years from
27 the date of possession. If an auction winner has not utilized his portion of the band
28 or submitted plans for utilization, within the three-year period, the office shall regain

1 possession of his portion of the band and shall auction the portion during the
2 following calendar year.

3 (9) In the event that there are no winning bids for an auctioned portion of the
4 4.9 GHz band, requires the office to attempt to auction that portion again within one
5 calendar year.

6 (10) Requires the initial auction to take place on or before June 10, 2022.

7 (11) Allocates the proceeds from the auction as follows:

8 (a) Fifty percent to the office.

9 (b) Fifty percent to the parish from which the spectrum originated, to be used
10 for public safety equipment.

11 (12) Prohibits the office from auctioning any portion of the 4.9 GHz band
12 in the following parishes to any natural or juridical person during the 2022 calendar
13 year:

14 (a) Ascension.

15 (b) Bossier.

16 (c) Caddo.

17 (d) Calcasieu.

18 (e) DeSoto.

19 (f) East Baton Rouge.

20 (g) Iberia.

21 (h) Jefferson.

22 (i) Lafayette.

23 (j) Lafourche.

24 (k) Lincoln.

25 (l) Ouachita.

26 (m) Plaquemines.

27 (n) Rapides.

28 (o) St. Bernard.

29 (p) St. Charles.

- 1 (q) St. James.
2 (r) St. John the Baptist.
3 (s) St. Tammany.
4 (t) Terrebonne.
5 (u) West Baton Rouge.

6 §1374. Reporting Requirements

7 A. The office shall require auction winners, incumbents, and entities using
8 the 4.9 GHz band for public safety to submit reports to the office on or before
9 January 1, 2023. The report is to include the following:

- 10 (1) The amount of the 4.9 GHz band being used by the reporting person.
11 (2) The specific bands of the 4.9 GHz band that are being used by the
12 reporting person.
13 (3) The purpose for which the reporting person is using the 4.9 GHz band.
14 (4) Any other information the office requires.

15 B. The office shall submit a report regarding the status of the 4.9 GHz band
16 to the House Committee on Commerce and the Senate Committee on Commerce,
17 Consumer Protection, and International Affairs prior to March 1, 2023. The report
18 is to include the following:

- 19 (1) All users of the 4.9 GHz band including auction winners, incumbents,
20 and entities using the band for public safety.
21 (2) What funds have been raised due to the auction of the 4.9 GHz band.
22 (3) Approximately how many people have been connected through use of the
23 4.9 GHz band.

24 §1375. Commercial use task force; establishment; chair; membership; consideration;
25 reporting requirement

26 A. Prior to January 1, 2023, the office shall establish, facilitate, and maintain
27 a task force to study the commercial effects of the 4.9 GHz band use in this state.
28 The executive director of broadband development and connectivity shall serve as

1 chair of the task force, and the remainder of the task force is to be composed of the
2 following members:

3 (1) The governor or his designee.

4 (2) The speaker of the House of Representatives or his designee.

5 (3) The president of the Senate or his designee.

6 (4) The chairman of the House Committee on Commerce or his designee.

7 (5) The chairman of the Senate Committee on Commerce, Consumer
8 Protection, and International Affairs or his designee.

9 B. The task force shall hold the first meeting no later than January 31, 2022,
10 and shall continue to meet, as often as necessary, until January 1, 2025. The task
11 force shall meet at least twice per calendar year.

12 C. The task force shall examine how the 4.9 GHz band is being utilized
13 commercially and consider other potential uses for the band.

14 D. The task force shall submit a report, making recommendations as to how
15 to utilize the 4.9 GHz band, to the legislature no later than six months before the
16 convening of the 2024 Regular Session.

17 E. The Division of Administration shall provide staff support as necessary
18 to carry out the provisions of this Section.

19 §1376. Public use task force; establishment; chair; membership; consideration;
20 reporting requirements.

21 A. Prior to January 1, 2022, the office shall establish, facilitate, and maintain
22 a task force to study the public use of the 4.9 GHz band use in this state. The
23 executive director of broadband development and connectivity shall serve as chair
24 of the task force, and the remainder of the task force is to be composed of the
25 following members:

26 (1) A representative of the Louisiana State Firemen's Association.

27 (2) A representative of the Louisiana Sheriffs' Association.

28 (3) A representative of the Louisiana State Police.

29 (4) A representative of the Louisiana Ambulance Alliance.

- 1 (5) An appointee of the chair of the House Committee on Commerce.
- 2 (6) An appointee of the chair of the Senate Committee on Commerce,
- 3 Consumer Protection, and International Affairs.
- 4 B. The task force shall hold the first meeting no later than January 31, 2022,
- 5 and shall continue to meet as often as necessary until January 1, 2025. The task
- 6 force shall meet at least twice per calendar year.
- 7 C. The task force shall consider how to ensure that the commercial
- 8 utilization of the 4.9 GHz band does not interfere with public safety.
- 9 D. Beginning in January of 2023, the task force shall submit an annual report
- 10 to the legislature, with the final report being submitted in January of 2025. The
- 11 report shall contain the findings of the task force and may contain recommendations
- 12 from the task force.
- 13 E. The Division of Administration shall provide staff support as necessary
- 14 to carry out the provisions of this Section.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 465 Reengrossed

2021 Regular Session

Mike Johnson

Abstract: Regulates the leasing of the 4.9GHz band.

Present law requires the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP) to address issues relating to public safety and emergency response, including spectrum.

Proposed law removes the authority to oversee, direct, or manage the 4.9 GHz band from GOHSEP.

Proposed law defines "4.9 GHz band" and "office".

Proposed law designates the office under the control of the executive director of broadband development and connectivity (office) as the lessor of the 4.9 GHz band (band).

Proposed law requires the office to develop a policy for leasing the band and to ensure that the policy complies with present law.

Proposed law requires the band be leased using a blind auction method and provides a procedure for the blind auction.

Proposed law provides that the band be auctioned in accordance with the following:

- (1) Three portions of the band, each consisting of 10 megahertz of the band for Priority Access License.
- (2) Ten megahertz of the band for General Authorized Access.

Proposed law requires that 10 megahertz of the band be reserved for public safety usage.

Proposed law requires the office to implement a tiered spectrum-sharing architecture, using an approved Spectrum Access System, that provides incumbent and license holder protection and provides the requisite functions and capabilities of the system.

Proposed law requires the office to implement a tiered spectrum-sharing licensing model, that provides a "use it or share it" licensing scheme to allow the general public and enterprise to have access to the General Authorized Access license at no cost, when the Priority Access License holder is not using the spectrum.

Proposed law prohibits the office from auctioning or leasing any spectrum currently in use by an incumbent.

Proposed law allows an incumbent to consolidate spectrum into one continuous band.

Proposed law limits the length of the auction to three years and allows a winning bidder to apply for an additional two years of usage.

Proposed law requires a winning bidder to utilize the awarded portion of the band or submit plans to utilize portions of the band within three years from the date of possession. If the winning bidder fails to utilize or submit plans within three years, the office regains possession of the awarded portion of the band.

If there are no winning bids, proposed law requires the office to attempt to auction that portion again within one year.

Proposed law requires the initial auction to take place on or before June 10, 2022.

Proposed law provides that the 50% of the proceeds from the auction shall go to the office and the other 50% shall go to the parish from which the spectrum originated for public safety equipment.

Proposed law prohibits the office from auctioning off a portion of the band located in certain parishes within the 2022 calendar year.

Proposed law requires auction winners, incumbents, and entities using the band for public safety use to submit reports to the office before Jan. 1, 2023, and provides the information to be contained in the report.

Proposed law requires the office to submit a report to the House and Senate commerce committees prior to March 1, 2023, and provides the information to be contained in the report.

Proposed law requires the office, with the assistance of the Division of Administration, to establish, facilitate, and maintain two separate task forces. One task force shall consider the commercial use of the band and one task force shall consider the public safety use.

Proposed law provides the membership, meeting requirements, considerations, and reporting requirements each task force is required to comply with.

Proposed law requires the executive director of broadband development and connectivity to serve as chair of both task forces.

Proposed law requires both task forces to submit reports to the legislature.

(Amends R.S. 29:725.4; Adds R.S. 51:1371-1376)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Commerce to the original bill:

1. Remove the requirement that auction winners, incumbents, and entities using the 4.9 GHz band for public safety include an estimate of moving current 4.9GHz band to 5 GHz band in the report submitted to the office.
2. Make technical changes.

The House Floor Amendments to the engrossed bill:

1. Specify that three ten megahertz portions of the band be reserved for Priority Access License.
2. Specify that one ten megahertz portion of the band be reserved for General Authorized Access.
3. Change the portion of the band reserved for public safety from 5 megahertz to 10 megahertz.
4. Add a requirement that the office implement a tiered spectrum-sharing architecture, using an approved Spectrum Access System, and provides the requisite functions, mechanisms, and capabilities of the system to be adopted.
5. Add a requirement that the office shall implement a tiered spectrum-sharing licensing model that utilizes a "use it or share it" licensing scheme.
6. Prohibit the office from auctioning or leasing any spectrum currently in use.
7. Allow an incumbent to request that the office consolidate spectrum into one continuous band and directs the office to allow it upon request.
8. Provide for the allocation of proceeds from the auction.
9. Change the submission date for the spectrum user's reports from Jan. 1, 2022 to Jan. 1, 2023.
10. Change the submission date for the office's report from Jan. 1, 2023 to March 1, 2023.
11. Add a representative of the La. Ambulance Alliance to the public use task force.
12. Make technical changes.