

SENATE SUMMARY OF HOUSE AMENDMENTS**SB 406****2020 Regular Session****Mizell****KEYWORD AND SUMMARY AS RETURNED TO THE SENATE**

TELECOMMUNICATIONS. Provides for rural access to broadband high-speed internet service. (8/1/20)

SUMMARY OF HOUSE AMENDMENTS TO THE SENATE BILL

1. Adds provisions that an electric cooperative's grant of permission to an affiliate to use its electric delivery system to provide broadband access does not apply to property owned or controlled by a railroad company operating in the state.

DIGEST OF THE SENATE BILL AS RETURNED TO THE SENATE

DIGEST

SB 406 Reengrossed

2020 Regular Session

Mizell

Present law provides that a cooperative, nonprofit membership corporation may be organized for the purpose of supplying electrical energy and promoting and extending the use of electricity to members of the cooperative. Present law provides that an electric cooperative may generate, manufacture, purchase, acquire, accumulate, and transmit electric energy, and distribute, sell, supply, and dispose of electric energy to its members, to governmental agencies, political subdivisions, and also to other persons under certain circumstances.

Proposed law retains present law and authorizes electric cooperatives to provide broadband high-speed internet services in certain areas of the state.

Proposed law defines "cooperative" or "electric cooperative", "broadband affiliate", "broadband service provider", "broadband operator", "broadband services", "broadband system", "communication services", "cooperative" or "electric cooperative", "electric delivery system", "internet protocol-enabled services", "unserved area", "video services", "video programming", and "Voice over Internet Protocol services".

Proposed law provides in an unserved area only, an electric cooperative may allow a broadband affiliate or other broadband operator to own, lease, construct, maintain, or operate a broadband system and provide services to the public utilizing the broadband system on the electric cooperative's electric delivery system.

Proposed law does not apply to property owned or controlled by a railroad company operating in the state.

Proposed law provides that except as provided in the substantive rules of the Public Service Commission, an electric cooperative that elects to provide broadband services shall provide a broadband affiliate or other broadband operator with nondiscriminatory access to locate its equipment for the provision of broadband services within a servitude or on infrastructure or any pole owned or controlled by the electric cooperative on just, reasonable, and nondiscriminatory rates.

Proposed law provides that if an electric cooperative chooses to provide broadband services through an affiliate, the electric cooperative shall provide for an application process that is open to all broadband service providers to use the electric delivery system.

Proposed law provides that if the electric cooperative chooses to provide for broadband services through any other broadband operator or broadband service provider, the electric

cooperative shall provide for an application process that is open to all broadband service providers to use the electric delivery system.

Proposed law provides that within 60 days of receiving an application, the electric cooperative shall notify the applicant in writing whether his application has been approved or denied.

Proposed law provides that each electric cooperative shall allow for location usage by costs.

Proposed law provides that an electric cooperative shall charge an affiliate or other broadband operator for the construction, installation, operation, use, and maintenance of those parts of its electric delivery system that are used or may be reserved for use by the affiliate or other broadband operator for the provision of broadband services.

Proposed law provides that any lease of facilities by an electric cooperative to a broadband affiliate that includes the use of the electric cooperative's poles shall include a pole attachment fee to be paid by the affiliate to the electric cooperative. Any fee charged shall be the same as the pole attachment fee charged by the electric cooperative to any other broadband operator.

Proposed law provides for prohibited acts of an electric cooperative.

Proposed law provides that an electric cooperative may make capital investments in an affiliate, issue bonds on behalf of an affiliate, make loans to an affiliate at fair market rate, and enter into loan guarantees for the benefit of an affiliate, all of which may be in such amounts and on such terms as the electric cooperative determines to be prudent, subject to certain orders of the Public Service Commission.

Present law provides that a cooperative shall acquire a servitude on an immovable, unless such immovable is owned by the federal or state government or any agency or subdivision thereof, for the operation and maintenance of its electric transmission and distribution lines, along, upon, under or across any such immovable by virtue of the uninterrupted maintenance of such lines without the written or other consent of the owner thereof, along, upon, under or across the immovable for a period of one year; provided such servitude and operation does not interfere with the use of the property by other public utilities; provided further that in all cases where the written consent of the owner for the establishment of a servitude has been obtained and a line has been constructed along, upon, under or across the property under said consent it is not necessary that the written consent be recorded in the conveyance or other records of the parish where the property is located in order to make the servitude effective as to third parties.

Proposed law retains present law and adds that an electric cooperative may grant permission to an affiliate or other broadband operator to use the electric delivery system of the electric cooperative to provide broadband services.

Proposed law provides that the use of the electric cooperative's electric delivery system for the provision of broadband services by the affiliate or other broadband operator shall not be considered an additional burden on the property upon which the electric cooperative's electric delivery system is located and shall not require the affiliate or other broadband operator to obtain the additional consent from anyone having an interest in the property upon which the electric cooperative's electric delivery system is located.

Proposed law provides that if a portion of an electric cooperative's electric delivery system is used by an affiliate or other broadband operator for the purpose of providing broadband services and the landowner of the property on which such portion is located believes his property has been damaged by such use, the landowner may petition the district court in which the property is situated for damages.

Proposed law provides that an electric cooperative or its members shall not be liable for any recoverable damages to property awarded by a court as provided by proposed law, and such damages shall be the sole responsibility of the broadband operator.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 12:401,403(4), 428, and 430)

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