

2020 First Extraordinary Session

SENATE BILL NO. 10

BY SENATOR MIZELL

INTERNET. Provides relative to rural broadband high-speed internet access.  
(Item #31) (9/1/20)

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AN ACT

To enact R.S. 12:430.1 and 430.2 and to repeal Act No. \_\_\_\_ of the 2020 Regular Session of the Louisiana Legislature, which originated as Senate Bill 406, relative to rural access to broadband high-speed internet access; to provide relative to servitudes; to provide for reporting by cooperatives regarding broadband high-speed internet access; to provide for reporting by certain telecommunications associations regarding broadband high-speed internet access; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section. 1. R.S. 12:430.1 and 430.2 are hereby enacted to read as follows:

**§430.1. Servitudes; provision of broadband services**

**A.(1)(a) Except as provided in Subparagraph (b) of this Paragraph, a cooperative may grant permission to a broadband affiliate or a broadband service provider to use the electric delivery system of the cooperative to provide broadband services. The use of the cooperative's electric delivery system for the provision of broadband services by the broadband affiliate or a broadband service provider shall not be considered an additional burden on the property upon which the cooperative's electric delivery system is located and shall not**

1 require the broadband affiliate or broadband service provider to obtain the  
2 additional consent from anyone having an interest in the property upon which  
3 the cooperative's electric delivery system is located.

4 (b) The provisions of Subparagraph (a) of this Paragraph shall not  
5 apply to any property owned or controlled by a railroad company operating in  
6 the state.

7 (2)(a) If a portion of a cooperative's electric delivery system is used by  
8 a broadband affiliate or broadband service provider for the purpose of  
9 providing broadband services and the landowner of the property on which such  
10 portion is located believes his property has been damaged by such use, the  
11 landowner may petition the district court in which the property is situated for  
12 any damages to which the landowner may be entitled pursuant to this  
13 Subsection, subject to the provisions of Subparagraph (b) of this Paragraph.

14 (b) A cooperative or its members shall not be liable for any recoverable  
15 damages to property awarded by a court pursuant to the provisions of this  
16 Subsection, and the damages shall be the sole responsibility of the broadband  
17 affiliate or broadband service provider.

18 B. As used in this Section:

19 (1) "Broadband affiliate" means any entity that meets all of the following  
20 criteria:

21 (a) Is wholly or partially owned by a cooperative.

22 (b) Is formed to own or operate a broadband system or provide  
23 broadband high-speed internet services.

24 (2) "Broadband service provider" means an entity that provides  
25 broadband services to another on a wholesale basis or to an end-use customer  
26 on a retail basis.

27 (3) "Broadband services" means any service, using any equipment or  
28 technology, including wireline or fixed wireless broadband internet service, that  
29 consists of or includes the provision of or connectivity to a high-speed, high-

1 capacity transmission medium meeting the Federal Communications  
2 Commission's benchmark of at least twenty-five megabits per second download  
3 and three megabits per second upload, or any subsequent benchmark  
4 determined by the Federal Communications Commission, that can carry signals  
5 from or to multiple sources and that does either of the following:

6 (a) Is used to provide access to the internet.

7 (b) Provides computer processing, information storage, information  
8 content or protocol conversion, including any service applications or  
9 information service provided over such high-speed access service. As used in  
10 this Part, "broadband services" shall also include video services, Voice over  
11 Internet Protocol services, wireless services, and internet protocol-enabled  
12 services.

13 (4) "Electric delivery system" means the poles, lines, materials,  
14 equipment, easements, and other facilities or properties used by a cooperative.

15 §430.2. Reporting on broadband high-speed internet access

16 A. On March 1, 2021, and every March first thereafter, each cooperative  
17 shall prepare and submit an annual written report to the Senate Committee on  
18 Commerce, Consumer Protection and International Affairs and the House of  
19 Representatives Committee on Commerce regarding the progress that each  
20 cooperative has made in deploying broadband high-speed internet access to its  
21 members.

22 B. The written report shall include, at a minimum, the following  
23 information:

24 (1) The number of cooperative members receiving new broadband high-  
25 speed internet access in the served and unserved areas.

26 (2) Any local, state, or federal government grant or loan received to  
27 provide broadband high-speed internet access in an unserved area and the  
28 number of members who have received or are expected to receive broadband  
29 service due to any government grant or loan.

1                   **(3) Any impediments to providing broadband high-speed internet access**  
2                   **to an unserved area within the cooperative's area of service.**

3                   **C. As used in this Section:**

4                   **(1) "Served area" means all areas within the cooperative's area of**  
5                   **service except an unserved area as defined in Paragraph (3) of this Subsection.**

6                   **(2) "Unserved area" means an area lacking access to broadband service**  
7                   **according to the Federal Communications Commission's Form 477 or any**  
8                   **subsequent broadband data gathering tool implemented by the Federal**  
9                   **Communications Commission.**

10                  **Section 2. On March 1, 2021, and every March first thereafter, the Louisiana**  
11                  **Cable & Telecommunications Association and the Louisiana Telecommunications**  
12                  **Association shall each submit a written report on the status of the deployment of**  
13                  **broadband to Louisiana rural residents to the Senate Committee on Commerce,**  
14                  **Consumer Protection and International Affairs and to the House of Representatives**  
15                  **Committee on Commerce regarding the progress that each provider within their**  
16                  **respective association has made in bringing broadband high-speed internet access to**  
17                  **residents in unserved areas. The information included in the written report shall**  
18                  **include, at a minimum, the number of homes in a served and an unserved area that**  
19                  **received broadband service after September 1, 2020, from the respective association's**  
20                  **member providers; any local, state, or federal government grant or loan received by**  
21                  **its member providers within the association to provide broadband high-speed internet**  
22                  **access in unserved areas to Louisiana residents and the number of those residents who**  
23                  **have received or are expected to receive broadband service due to any government**  
24                  **grant or loan; and any impediment to providing broadband high-speed internet access**  
25                  **to the unserved areas within the state of Louisiana.**

26                  Section 3. Act No. \_\_\_\_ of the 2020 Regular Session of the Louisiana Legislature,  
27                  which originated as Senate Bill No. 406, is hereby repealed.

28                  Section 4. This Act shall become effective on September 1, 2020.

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The original instrument was prepared by Carla S. Roberts. The following digest, which does not constitute a part of the legislative instrument, was prepared by Michelle D. Ridge.

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## DIGEST

SB 10 Engrossed

2020 First Extraordinary Session

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Proposed law allows a cooperative to grant permission to a broadband affiliate or a broadband service provider to use the electric delivery system of the cooperative to provide broadband services.

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

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

Proposed law provides that if a portion of a cooperative's electric delivery system is used by a broadband affiliate or broadband service provider 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 any damages to which the landowner may be entitled. A cooperative or its members shall not be liable for any recoverable damages to property awarded by a court and the damages shall be the sole responsibility of the broadband affiliate or broadband service provider.

Proposed law requires each cooperative to report in writing to the Senate Committee on Commerce, Consumer Protection and International Affairs and the House of Representatives Committee on Commerce on an annual basis, beginning March 1, 2021, regarding the progress that each cooperative has made in deploying broadband high-speed internet access to its members.

Proposed law provides that the written report shall include, at a minimum, the following information:

- (1) The number of cooperative members receiving new broadband high-speed internet access in the served and unserved areas.
- (2) Any local, state, or federal government grant or loan received to provide broadband high-speed internet access in an unserved area and the number of members who have received or are expected to receive broadband service due to any government grant or loan.
- (3) Any impediment to providing broadband high-speed internet access to an unserved area within the cooperative's area of service.

Proposed law defines "broadband affiliate", "broadband service provider", "broadband services", "electric delivery system", "served area", and "unserved area".

Proposed law requires the Louisiana Cable & Telecommunications Association and the Louisiana Telecommunications Association to each submit a written report on the status of the deployment of broadband to Louisiana rural residents to the Senate Committee on Commerce, Consumer Protection and International Affairs and to the House of Representatives Committee on Commerce on an annual basis, beginning March 1, 2021,

regarding the progress that each provider within their association has made in bringing broadband high-speed internet access to unserved residents.

Proposed law provides that the written report completed by the Louisiana Cable & Telecommunications Association and the Louisiana Telecommunications Association shall include, at a minimum, all of the following:

- (1) The number of homes in a served and an unserved area that received broadband service after September 1, 2020.
- (2) Any local, state, or federal grant or loan received to provide broadband high-speed internet access to unserved Louisiana residents and the number of those residents who have received or are expected to receive broadband service due to any government grant or loan.
- (3) Any impediments to providing broadband high-speed internet access to the unserved areas within the state.

Effective September 1, 2020.

(Adds R.S. 12:430.1 and 430.2; repeals Act No. \_\_\_\_\_ of the 2020 Regular Session of the Louisiana Legislature, which originated as SB 406)

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Commerce, Consumer Protection, and International Affairs to the original bill

1. Allows a cooperative to grant permission to a broadband affiliate or a broadband service provider to use the cooperative's electric delivery system for the provision of broadband services and such use shall not be considered an additional burden on the property. Makes an exception for land owned or controlled by a railroad company operating in La.
2. Provides for a landowner's action for recovery of damages for property the landowner believes to have been damaged by the use of the broadband affiliate or broadband service provider for the purpose of providing broadband services and provides that the damages shall be the sole responsibility of the broadband affiliate or the broadband service provider.
3. Removes certain reporting requirements for cooperatives and the La. Cable & Telecommunications Association and the Louisiana Telecommunications Association relating to applications submitted to and approved or denied by a cooperative.
4. Defines "broadband affiliate", "broadband service provider", and "broadband services" and removes the definition of "Louisiana rural electric cooperative".
5. Repeals Act. No. \_\_ of the 2020 R.S. of the La. Legislature, which originated as SB 406.