

**CONFERENCE COMMITTEE REPORT**

**HB 700**

**2024 Regular Session**

**Deshotel**

June 3, 2024

To the Honorable Speaker and Members of the House of Representatives and the Honorable President and Members of the Senate.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning House Bill No. 700 by Representative Deshotel, recommend the following concerning the Reengrossed bill:

1. That Senate Committee Amendments Nos. 1, 2, 5, 6, 10, 11, 13, and 14 by the Senate Committee on Commerce, Consumer Protection and International Affairs (#3643) be rejected.
2. That Senate Committee Amendments Nos. 3, 4, 7, 8, 9, 12, 15, and 16 by the Senate Committee on Commerce, Consumer Protection and International Affairs (#3643) be adopted.
3. That Amendment No. 1 by the Legislative Bureau (#3829) be rejected.
4. That Amendment No. 2 by the Legislative Bureau (#3829) be adopted.
5. That the following amendments be adopted:

AMENDMENT NO. 1

In Amendment No. 3 by the Senate Committee on Commerce, Consumer Protection and International Affairs (#3643), on page 1, at the end of line 6, insert "and insert in lieu thereof "to provide for a grant program by the office of broadband to prevent utility damage; to provide for a public records exemption; to provide for liability; to provide for obligations; to provide for reporting requirements; to provide for coordination with parishes and municipalities; to allow a local government to establish a fee;""

AMENDMENT NO. 2

In Amendment No. 8 by the Senate Committee on Commerce, Consumer Protection and International Affairs (#3643), on page 1, line 36, change "shall" to "may"

6. That the following amendments to the Reengrossed bill be adopted:

AMENDMENT NO. 1

On page 1, delete line 2 in its entirety and insert in lieu thereof the following:  
"To amend and reenact R.S. 51:1363.1(E) and 2370.32 and to enact R.S. 51:1363.1(F), 2370.17, 2370.18, 2370.33(E), 2370.34, and 2370.35,"

AMENDMENT NO. 2

On page 1, line 14, change "R.S. 51:2370.32 is" to "R.S. 51:1363.1(E) and 2370.32 are"

AMENDMENT NO. 3

On page 1, line 15, change "51:1363.1(A)(7) and 2370.33 (E)," to "51:1363.1(F), 2370.17, 2370.18, 2370.33(E), 2370.34, and 2370.35,"

AMENDMENT NO. 4

On page 2, delete lines 2 through 21 and insert the following in lieu thereof:

"\* \* \*

E.(1) The office may create a grant program and promulgate rules to prevent damage to existing utilities and ensure proper documentation of utilities associated with the grant program. After review by the House Committee on Commerce and the Senate Committee on Commerce, Consumer Protection and International Affairs, the Joint Legislative Committee on the Budget shall review and approve the rules and regulations before implementation.

(2) Data collected or provided in accordance with this Subsection on infrastructure owned, operated, leased, or otherwise used by an internet service provider or telecommunications provider, or its affiliates or subsidiaries, shall be confidential and exempt from the Public Records Law, R.S. 44:4.1 et seq., and exempt from disclosure under any other provision of law.

(3) No GUMBO 2.0 applicant or grantee shall be liable for damages or required to pay any penalty to any person or governmental entity for an act or omission of a local government, utility system, or the office related to or arising from the collection of data pursuant to this Subsection.

(4) Nothing in this Subsection shall be construed to relieve any person or operator of a public or private underground facility or utility of its obligations under the Louisiana Underground Utilities and Facilities Damage Prevention Law, R.S. 40:1749.11 et seq.

F. The office shall not hire more than one additional full-time employee to carry out the provisions of the Section."

AMENDMENT NO. 5

On page 2, in between lines 22 and 23, insert the following:

"§2370.17. Reporting requirements

A. Beginning August 1, 2024, any GUMBO 1.0 grantee shall report all instances of known damage to existing underground utilities that occur during the construction or installation of broadband infrastructure funded by GUMBO 1.0.

B. Reports shall be submitted to the office in a monthly report, once construction has begun.

C. The report shall include all of the following:

(1) The date and location of the incident.

(2) A description of the damage caused.

(3) Steps taken to address the damage.

D. Failure to report such incidents may result in the suspension of GUMBO 1.0 funding.

§2370.18. Coordination with parishes and municipalities

Beginning August 1, 2024, broadband providers receiving funding through the GUMBO 1.0 program shall provide a thirty-day advanced written notice prior to the commencement of GUMBO 1.0 construction activities to the relevant parish or municipality. Nothing in this Section relieves the GUMBO 1.0 grantee of its obligations to comply with local regulations and ordinances.

\* \* \*

AMENDMENT NO. 6

On page 3, after line 25, add the following:

"(2)(a) For the purposes of Paragraph (1) of this Subsection, the office shall determine if a broadband provider has defaulted or otherwise failed to fulfill a deployment obligation.

(b) The office shall not approve any default that covers more than five percent of the unserved or underserved locations subject to the deployment obligation.

§2370.34. Reporting requirements

A. Any GUMBO 2.0 grantee shall report all instances of known damage to existing underground utilities that occur during the construction or installation of broadband infrastructure funded by GUMBO 2.0.

B. Reports shall be submitted to the office in a monthly report, once construction has begun.

C. The report shall include all of the following:

(1) The date and location of the incident.

(2) A description of the damage caused.

(3) Steps taken to address the damage.

D. Failure to report such incidents may result in the suspension of GUMBO 2.0 funding.

§2370.35. Coordination with parishes and municipalities

A. Broadband providers receiving funding through the GUMBO 2.0 program shall provide a thirty-day advanced written notice prior to the commencement of GUMBO 2.0 construction activities to the relevant parish or municipality. Nothing in this Section relieves the GUMBO 2.0 grantee of its obligations to comply with local regulations and ordinances.

B. The relevant local governmental subdivision may do either of the following:

(1) Require a one-time GUMBO 2.0 grant assessment for construction and installation of GUMBO 2.0 grant-funded broadband facilities and may charge a corresponding one-time GUMBO 2.0 grant assessment fee not to exceed one thousand dollars.

(2) Require a permit for construction and installation of GUMBO 2.0 grant-funded broadband facilities, and may charge a corresponding one-time permit fee not to exceed one thousand dollars.

C. The office shall not award GUMBO 2.0 funding to an eligible applicant's project covering any areas in which the city or parish with authority over the public right of way imposes any form of franchise fee on broadband services, or which violates Subsection B of this Section."

Respectfully submitted,

\_\_\_\_\_  
Representative Daryl Andrew Deshotel

\_\_\_\_\_  
Senator Beth Mizell

\_\_\_\_\_  
Representative Mike Johnson

\_\_\_\_\_  
Senator Patrick Connick

\_\_\_\_\_  
Representative Gerald Beaulieu

\_\_\_\_\_  
Senator John C. Morris

CONFERENCE COMMITTEE REPORT DIGEST

HB 700

2024 Regular Session

Deshotel

**Keyword and onliner of the instrument as it left the House**

UTILITIES: Provides relative to broadband

**Report adopts Senate amendments to:**

1. Make technical changes.
2. Amend proposed law providing that GUMBO 2.0 awards shall be made on a fixed-amounts subaward basis and provides for disbursements based on certain thresholds of completion. Provides for the standards for disbursement of funds.
3. Remove that the funds for GUMBO 2.0 outlined in proposed law are to be obligated by December 12, 2024 and spent by December 31, 2028. Instead funds are to be obligated by and spent within the maximum timelines allowed by the NTIA.

**Report rejects Senate amendments which would have:**

1. Made technical changes.
2. Removed proposed law that gives the office of broadband development and connectivity (office) the authority to collect data from GUMBO winners on the location of new broadband infrastructure deployed through GUMBO funding and existing water, sewer, or gas infrastructure in the path of excavation funded through GUMBO.
3. Removed proposed law that provides for exemptions for certain broadband providers from liability or penalty from collecting, providing, or facilitating the transfer of mapping data of certain infrastructure.
4. Removed proposed law that provides for an exception from Public Records Law for the data collected or provided in accordance with removed proposed law in infrastructure owned, operated, leased, or otherwise used by an internet service provider or telecommunication provider.
5. Defined what "default or otherwise fail to fulfill" means in certain proposed law.

**Report amends the bill to:**

1. Remove proposed law that gives the office of broadband development and connectivity (office) the authority to collect data from GUMBO winners on the location of new broadband infrastructure deployed through GUMBO funding and existing water, sewer, or gas infrastructure in the path of excavation funded through GUMBO.
2. Remove proposed law that provides for exemptions for certain broadband providers from liability or penalty from collecting, providing, or facilitating the transfer of mapping data of certain infrastructure.
3. Remove proposed law that provides for an exception from Public Records Law for the data collected or provided in accordance with removed proposed law in infrastructure owned, operated, leased, or otherwise used by an internet service provider or telecommunication provider.

4. Add that the office may create a grant program and promulgate rules to prevent damage to existing utilities and ensure proper documentation of utilities associated with the grant program. After review by the House Committee on Commerce and the Senate Committee on Commerce, Consumer Protection and International Affairs, the Joint Legislative Committee on the Budget shall review and approve the rules and regulations before implementation.
5. Add that data collected or provided in accordance with proposed law on infrastructure owned, operated, leased, or otherwise used by an internet service provider or telecommunications provider, or its affiliates or subsidiaries, shall be confidential and exempt from the Public Records Law and exempt from disclosure under any other provision of law.
6. Add that no GUMBO 2.0 applicant or grantee shall be liable for damages or required to pay any penalty to any person or governmental entity for an act or omission of a local government, utility system, or the office related to or arising from the collection of data pursuant to proposed law.
7. Add that nothing in proposed law shall be construed to relieve any person or operator of a public or private underground facility or utility of its obligations under the Louisiana Underground Utilities and Facilities Damage Prevention Law, R.S. 40:1749.11 et seq.
8. Require that any broadband provider receiving funding through the GUMBO 1.0 or 2.0 program shall report all instances of damage to existing utilities that occur during the construction or installation of broadband infrastructure.
9. Require that broadband providers receiving funding through the GUMBO 1.0 or 2.0 program shall coordinate with the relevant parish or municipality during the planning and construction phases of broadband infrastructure projects. Add that nothing in proposed law relieves the GUMBO 1.0 or 2.0 grantee of its obligations to comply with local regulations and ordinances.
10. Add that the relevant local governmental subdivision may do either of the following when applied to GUMBO 2.0:
  - (1) Require a one-time GUMBO grant assessment for construction and installation of GUMBO grant-funded broadband facilities and may charge a corresponding one-time GUMBO grant assessment fee not to exceed \$1,000.
  - (2) Require a permit for construction and installation of GUMBO grant-funded broadband facilities, and may charge a corresponding one-time permit fee not to exceed \$1,000.
11. Clarify that the office may disburse on any basis that may be necessary to effectuate option 2.4, Subgrantee Option for Alternative Initial LOC or Performance Bond Percentage made available in the BEAD Letter of Credit Waiver issued by NTIA on November 1, 2023, and the office of broadband may give full effect to that option as a means of enabling a subgrantee to satisfy the GUMBO 2.0 letter of credit requirement.
12. Allow the office to determine if a broadband provider has defaulted or otherwise failed to fulfill a deployment obligation. The office shall not approve any default that covers more than 5% of the unserved or underserved locations subject to the deployment obligation.

**Digest of the bill as proposed by the Conference Committee**

Present law provides for the Granting Unserved Municipalities Broadband Opportunities 1.0 and 2.0, or GUMBO 1.0 and 2.0, programs.

Proposed law adds that the office of broadband development and connectivity may create a grant program and promulgate rules to prevent damage to existing utilities and ensure proper documentation of utilities associated with the grant program. After review by the House Committee on Commerce and the Senate Committee on Commerce, Consumer Protection and International Affairs, the Joint Legislative Committee on the Budget shall review and approve the rules and regulations before implementation.

Proposed law adds that data collected or provided in accordance with proposed law on infrastructure owned, operated, leased, or otherwise used by an internet service provider or telecommunications provider, or its affiliates or subsidiaries, shall be confidential and exempt from present law and exempt from disclosure under any other provision of law.

Proposed law adds that no GUMBO 2.0 applicant or grantee shall be liable for damages or required to pay any penalty to any person or governmental entity for an act or omission of a local government, utility system, or the office related to or arising from the collection of data pursuant to proposed law.

Proposed law adds that nothing in proposed law shall be construed to relieve any person or operator of a public or private underground facility or utility of its obligations under present law.

Proposed law requires that any broadband provider receiving funding through the GUMBO 1.0 or 2.0 program shall report all instances of damage to existing utilities that occur during the construction or installation of broadband infrastructure.

Proposed law requires that broadband providers receiving funding through the GUMBO 1.0 or 2.0 program shall coordinate with the relevant parish or municipality during the planning and construction phases of broadband infrastructure projects. Adds that nothing in proposed law relieves the GUMBO 1.0 or 2.0 grantee of its obligations to comply with local regulations and ordinances.

Proposed law adds that the relevant local governmental subdivision may do either of the following when applied to GUMBO 2.0:

- (1) Require a one-time GUMBO grant assessment for construction and installation of GUMBO grant-funded broadband facilities and may charge a corresponding one-time GUMBO grant assessment fee not to exceed \$1000.
- (2) Require a permit for construction and installation of GUMBO grant-funded broadband facilities, and may charge a corresponding one-time permit fee not to exceed \$1000.

Present law provides for the reimbursement of GUMBO 2.0 program grantees.

Present law provides that reimbursements of eligible costs shall be made by percentage of total project costs expended: 10%, 35%, 60%, 85%, and the final 15% payment shall not be paid without an approved completion report. Invoice for final payment shall be submitted within 90 days of a completion date. All invoices are subject to audit for three years from the completion date.

Proposed law deletes present law and adds that GUMBO 2.0 awards shall be made on a fixed-amount subaward basis, consistent with NTIA's Tailoring the Application of the Uniform Guidance Policy Notice, and an initial 10% disbursement shall be made available immediately upon entering into a subgrantee agreement. Provides that the next 10% of the subgrant award shall be provided based on provider certification and the office's verification that 10% of the eligible locations have been reached. Provides that the remaining disbursements shall be given at the thresholds of completion of 35%, 60%, 85%, and the

final 100%. Provides that the final disbursement be given after verification of 100% deployment to eligible locations, all within the mandatory 48 months maximum deployment timeline or another shorter timeline certified by the applicant.

Proposed law provides that the office may disburse on any basis that may be necessary to effectuate option 2.4, Subgrantee Option for Alternative Initial LOC or Performance Bond Percentage made available in the BEAD Letter of Credit Waiver issued by NTIA on November 1, 2023, and the office of broadband may give full effect to that option as a means of enabling a subgrantee to satisfy the GUMBO 2.0 letter of credit requirement.

Present law provides relative to a GUMBO 2.0 grant recipient failing to perform the obligations established in law or in the grant agreement.

Proposed law adds that any GUMBO 2.0 subgrantee also subject to deployment obligations elsewhere in this state, including from programs such as the Rural Digital Opportunity Fund, the Enhanced Alternative Connect America Model, the Rural Development Broadband ReConnect Program, or any other similar program included in the BEAD deduplication process, must make an enforceable commitment as part of its GUMBO 2.0 subgrant agreement not to default or otherwise fail to fulfill any such deployment obligation in this state.

Proposed law provides that the office shall determine if a broadband provider has defaulted or otherwise failed to fulfill a deployment obligation. The office shall not approve any default that covers more than 5% of the unserved or underserved locations subject to the deployment obligation.

Proposed law provides that the penalty for breach of this commitment shall be, as reimbursement for funding that could have been awarded but for other federal program funding, payment to the state in the amount equal to the total investment cost of all defaulted locations, as measured by the Eligible Entity tool provided to the state by NTIA.

Proposed law provides that in the event there are remaining GUMBO 2.0 funds after the obligation of infrastructure funds, the office shall run a grant program, nondeployment, that will allow eligible parties that include but are not limited to state agencies, nonprofits, for-profits, academic institutions, and planning commissions to utilize these funds to help address challenges in economic development, workforce development, healthcare, cybersecurity, agriculture, and other sectors and industries of importance to the state of Louisiana, as determined by approval of Volume 2 of Initial Proposal from the office and the IJA, the BEAD Program, and the NOFO, with an obligation deadline of these funds to be completed no later than Dec. 12, 2024. This program will be designated as "Granting Unserved Municipalities Broadband Opportunities 3.0" and the office will receive the authority to create appropriate rules and scoring criteria.

Proposed law provides that the office shall have the authority to develop the rules, scoring criteria, and eligibility in the execution of the State's First Digital Opportunity Plan, pending approval from the National Telecommunications and Information Administration, a Sub-Agency of the U.S. Dept. of Commerce. Provides that eligible parties shall include but not be limited to state agencies, nonprofits, for-profits, academic institutions, and planning commissions. This program will be designated as "Granting Unserved Municipalities Broadband Opportunities 4.0".

The funds for GUMBO 2.0 outlined in proposed law are to be obligated and spent within the maximum timelines allowed by NTIA.

The funds for GUMBO 3.0 outlined in proposed law are to be obligated by Dec. 12, 2024 and to be spent by Dec. 31, 2028.

The funds for GUMBO 4.0 outlined in proposed law are to be spent by March 1, 2029.

(Amends R.S. 51:1363.1(E) and 2370.32; Adds R.S. 51:1363.1(F), 2370.17, 2370.18, 2370.33(E), 2370.34, 2370.35, 2370.41, and 2370.51)