
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 Ridge.

SB 406 Engrossed

DIGEST
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 and electric utilities 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", "electric delivery system", "electric utility", "Internet protocol-enabled services", "video services", "video programming", and "Voice over Internet Protocol services".

Proposed law provides that only in an area where broadband service is not available, an electric cooperative or electric utility may allow a broadband affiliate or other broadband operator to own, lease, construct, maintain, or operate a broadband system on the electric cooperative's or electric utility's electric delivery system or other parts of its electric delivery system.

Proposed law provides that, if an electric cooperative or electric utility chooses to provide broadband services through an affiliate, the electric cooperative or electric utility 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 or electric utility chooses to provide for broadband services through any other broadband operator, the electric cooperative shall provide for an application process that is open to all other broadband operators to use the electric delivery system.

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

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

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

Proposed law provides for prohibited acts of an electric cooperative and electric utility.

Proposed law provides that an electric cooperative or electric utility 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 or electric utility 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 said 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 or electric utility may grant permission to an affiliate or other broadband operator to use the electric delivery system of the electric cooperative or electric utility to provide broadband services.

Proposed law provides that the use of the electric cooperative's or electric utility'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 or electric utility'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 or electric utility's electric delivery system is located.

Proposed law provides that, if a portion of an electric cooperative's or electric utility'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, its members, or an electric utility 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 August 1, 2020.

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

Summary of Amendments Adopted by Senate

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

1. Defines the term "electric utility".
2. Removes the term "unaffiliated broadband operator".
3. Provides that an electric utility may allow for the provision of broadband on their electric delivery system.
4. Provides that only in an area where broadband service is not available, an electric cooperative or electric utility may allow an affiliate or other operator to own, lease, construct, maintain, or operate a broadband system on the electric utility's electric delivery system.
5. Requires the electric cooperative or electric utility to notify an applicant in writing within 60 day of submission of an application whether his application is approved or denied.
6. Provides that when electric cooperative or electric utility makes a capital investment in an affiliate, issues bonds on behalf of an affiliate, makes loans to an affiliate at fair market rate, and enters into loan agreements for the benefit of an affiliate, such actions are subject to certain orders of the Public Service Commission.