

2021 Regular Session

HOUSE BILL NO. 465

BY REPRESENTATIVE MIKE JOHNSON

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 Revised  
3 Statutes of 1950, to be comprised of R.S. 51:1371 through 1376, relative to the 4.9  
4 GHz band; to provide for authority; to provide definitions; to provide a policy for  
5 leasing; to provide parameters on auctioning; to exempt certain parishes; to require  
6 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.

27 (b) One portion of the band consisting of fifteen megahertz.

28 (3) Reserves five megahertz of the 4.9 GHz band for public safety usage.

1           (4) Limits the length of the auction for portions of the 4.9 GHz band to three  
2           years, and allows an auction winner who utilizes the band to apply for two additional  
3           years of usage of the portions won at auction.

4           (5) Requires an auction winner to utilize his portion of the 4.9 GHz band or  
5           submit to the office plans to utilize his portion of the band within three years from  
6           the date of possession. If an auction winner has not utilized his portion of the band  
7           or submitted plans for utilization, within the three-year period, the office shall regain  
8           possession of his portion of the band and shall auction the portion during the  
9           following calendar year.

10           (6) In the event that there are no winning bids for an auctioned portion of the  
11           4.9 GHz band, requires the office to attempt to auction that portion again within one  
12           calendar year.

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

14           (8) Prohibits the office from auctioning any portion of the 4.9 GHz band in  
15           the following parishes to any natural or juridical person during the 2022 calendar  
16           year:

17           (a) Ascension.

18           (b) Bossier.

19           (c) Caddo.

20           (d) Calcasieu.

21           (e) De Soto.

22           (f) East Baton Rouge.

23           (g) Iberia.

24           (h) Jefferson.

25           (i) Lafayette.

26           (j) Lafourche.

27           (k) Lincoln.

28           (l) Ouachita.

29           (m) Plaquemines.

- 1           (n) Rapides.
- 2           (o) St. Bernard.
- 3           (p) St. Charles.
- 4           (q) St. James.
- 5           (r) St. John the Baptist.
- 6           (s) St. Tammany.
- 7           (t) Terrebonne.
- 8           (u) West Baton Rouge.

9           §1374. Reporting Requirements

10           A. The office shall require auction winners, incumbents, and entities using  
11           the 4.9 GHz band for public safety to submit reports to the office on or before  
12           January 1, 2022. The report is to include the following:

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

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

- 22           (1) All users of the 4.9 GHz band including auction winners, incumbents,  
23           and entities using the band for public safety.
- 24           (2) What funds have been raised due to the auction of the 4.9 GHz band.
- 25           (3) Approximately how many people have been connected through use of the  
26           4.9 GHz band.

1           §1375. Commercial use task force; establishment; chair; membership;  
2                           consideration; reporting requirement

3           A. Prior to January 1, 2023, the office shall establish, facilitate, and maintain  
4           a task force to study the commercial effects of the 4.9 GHz band use in this state.  
5           The executive director of broadband development and connectivity shall serve as  
6           chair of the task force, and the remainder of the task force is to be composed of the  
7           following members:

8                   (1) The governor or his designee.

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

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

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

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

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

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

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

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

24           §1376. Public use task force; establishment; chair; membership; consideration;  
25                           reporting requirements.

26           A. Prior to January 1, 2022, the office shall establish, facilitate, and maintain  
27           a task force to study the public use of the 4.9 GHz band use in this state. The  
28           executive director of broadband development and connectivity shall serve as chair

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

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

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

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

6 (4) An appointee of the chair of the House Committee on Commerce.

7 (5) An appointee of the chair of the Senate Committee on Commerce,  
8 Consumer Protection, and International Affairs.

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 consider how to ensure that the commercial  
13 utilization of the 4.9 GHz band does not interfere with public safety.

14 D. Beginning in January of 2023, the task force shall submit an annual report  
15 to the legislature, with the final report being submitted in January of 2025. The  
16 report shall contain the findings of the task force and may contain recommendations  
17 from the task force.

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

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#### 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)]

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HB 465 Engrossed

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.
- (2) One portion of the band consisting of 15 megahertz.

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

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 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, 2022, 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 Jan. 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.