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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/19/2021	.	
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The Committee on Appropriations (Burgess) recommended the following:

Senate Amendment (with title amendment)

Delete lines 132 - 311

and insert:

4. A provider of communications services or Internet access services that receives an exemption under this paragraph must make investments in and improvements to its broadband services and equipment in this state in an amount equal to or greater than the exemption. The provider must annually provide to the Office of Broadband within the Department of Economic



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11 Opportunity a report listing the investments and improvements
12 made in each tax year of the provider in which the provider
13 claims an exemption pursuant to this paragraph.

14 5. As used in this paragraph, the term:

15 a. "Central office" means the location where telephone
16 subscribers' lines are joined to switching equipment to connect
17 subscribers to each other, locally and long distance. Central
18 office equipment includes, but is not limited to, switches,
19 cable distribution frames, and batteries.

20 b. "Communications services" has the same meaning as in s.
21 202.11(1).

22 c. "Headend" means the primary location in a communications
23 provider's network which receives television programming signals
24 through satellite antennae or fiber optic cables for
25 distribution to the customer premises through a distribution
26 network. Headend equipment includes, but is not limited to,
27 computer-based electronic equipment that receives programming
28 signals and uses prescribed processes to combine, amplify, and
29 convert the programming signals and transmit them through the
30 distribution network. The headend processes and combines signals
31 for distribution to hubs or directly to customer premises. In
32 most cases, the headend also serves as a distribution hub for
33 the fiber optic transfer nodes closest to the headend. The term
34 also includes a super headend, which processes all incoming
35 programming signals and transmits them to regional headends or
36 directly to hubs.

37 d. "Hub" means the secondary location in a communications
38 provider's network which is connected to the headend by a fiber
39 optic or other cable. A hub may contain electronic equipment



40 that processes, converts, and transmits signals through the
41 distribution network, and can serve a large number of business
42 and residential communities.

43 e. "Internet access service" has the same meaning as in s.
44 202.11(6) and only applies to services that provide access to
45 the Internet with a capacity for transmission at a consistent
46 speed of at least 25 megabits per second download and 3 megabits
47 per second upload.

48 f. "Provider of communications services or Internet access
49 services" includes a dealer as defined in s. 202.11(2), a
50 provider of Internet access service, and any member of an
51 affiliated group as defined in s. 202.37(1)(c)2.

52 g. "Qualifying equipment" means equipment, machinery,
53 software, or other infrastructure used to provide communications
54 services or Internet access services and located within a
55 central office, headend, or hub operated by a provider of
56 communications services or Internet access services.

57 Section 3. Section 364.0137, Florida Statutes, is created
58 to read:

59 364.0137 Broadband service infrastructure.—

60 (1) The Legislature finds that just, reasonable, and
61 nondiscriminatory rates, terms, and conditions for the access
62 and use of municipal electric utility poles by broadband service
63 providers is essential to deploy, upgrade, and maintain
64 broadband service to residents of this state. It is critical
65 that municipal electric utility pole access and use rates are
66 just, reasonable, nondiscriminatory, and fully compensatory,
67 which may be achieved under the federal framework applicable to
68 utility poles owned and operated by investor-owned utilities.



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69 The terms and conditions associated with the access and use of
70 utility poles must be consistent with 47 U.S.C. s. 224, the
71 Communications Act of 1934, as amended, and the regulations of
72 the Federal Communications Commission as those regulations
73 existed on July 1, 2021, except as authorized by this section
74 and agreed to by the parties.

75 (2) As used in this section, the term:

76 (a) "Attachment" means a wire or cable affixed to a utility
77 pole or structure in the communications space or in a duct,
78 conduit, or right-of-way owned or controlled by a municipal
79 electric utility.

80 (b) "Broadband provider" means a person who provides fixed,
81 terrestrial broadband service. The term includes a person who
82 provides or offers additional services to the public in addition
83 to broadband service.

84 (c) "Broadband service" means a service that provides high-
85 speed access to the Internet at a rate of at least 25 megabits
86 per second in the downstream direction and at least 3 megabits
87 per second in the upstream direction.

88 (d) "Communications space" means the lower usable space on
89 a utility pole which is typically reserved for low-voltage
90 communications equipment.

91 (e) "Complex make-ready work" means transfers and work
92 within the communications space which would be reasonably likely
93 to cause a service outage or facility damage, including work
94 such as splicing of any communication attachment or relocation
95 of existing wireless attachments. The term includes any and all
96 wireless activities, including those involving mobile, fixed,
97 and point-to-point wireless communications and wireless service



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98 providers, and any work involving the space above the safety
99 space as defined in the National Electrical Safety Code.

100 (f) "Larger order" means a pole attachment application
101 requesting access to a number of poles greater than the lesser
102 of 300 poles or 0.5 percent of a municipal electric utility's
103 poles, and up to the lesser of 3,000 poles or 5 percent of the
104 municipal electric utility's poles. For purposes of determining
105 whether a request is a larger order, a municipal electric
106 utility may treat multiple requests from a single new attacher
107 as one request when the requests are filed within 30 days of one
108 another.

109 (g) "Make-ready work" means engineering or construction
110 activities necessary to make a pole or similar structure
111 available for a new pole attachment or pole attachment
112 modification, including, but not limited to, rearrangement,
113 removal, and replacement of the pole, transfers, and other work
114 incident thereto.

115 (h) "Redundant pole" means a utility pole designated for
116 removal from which the municipal electric utility has removed
117 its facilities and provided written notice to the broadband
118 service provider that the provider needs to remove its
119 facilities.

120 (i) "Simple make-ready work" means work in the
121 communications space to accommodate a new pole attachment on a
122 pole which can be conducted without any reasonable expectation
123 of a:

- 124 1. Service outage or facility damage;
125 2. Need to splice an existing communications attachment; or
126 3. Need to relocate an existing wireless attachment.



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127 (j) "Utility pole" means a pole owned or controlled by a
128 municipal electric utility which is used in whole or in part for
129 electric distribution.

130 (3) To promote the deployment of broadband service to all
131 residents, each municipal electric utility shall:

132 (a) Charge just, reasonable, and nondiscriminatory rates
133 for access to any utility pole it owns or operates which do not
134 discriminate between or among such providers and any other
135 attaching entity, including any entity affiliated with the
136 municipal electric utility, regardless of the services
137 furnished. Except as provided in subsection (4), such rates may
138 not exceed the rate calculated consistent with 47 U.S.C. 224(d)
139 and any Federal Communications Commission regulations and
140 decisions adopted thereunder as such regulations and decisions
141 existed on July 1, 2021.

142 (b) Maintain and make available to a broadband provider all
143 records necessary to calculate the rate it charges to the
144 provider in accordance with paragraph (a).

145 (c) Provide broadband providers with access to any utility
146 pole it owns or operates and adopt just, reasonable, and
147 nondiscriminatory terms and conditions for such access
148 consistent with the requirements applicable to investor-owned
149 utilities under 47 U.S.C. s. 224 and any Federal Communications
150 Commission regulations and decisions adopted thereunder, as such
151 regulations and decisions existed on July 1, 2021, except as
152 otherwise provided in this section and agreed to by the parties.
153 Notwithstanding the foregoing:

154 1. If necessary to accommodate a broadband provider's new
155 attachment, the municipal electric utility shall rearrange,



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156 expand, replace, or otherwise safely reengineer any utility pole
157 upon the request of the broadband provider.

158 2. If the municipal electric utility is required to replace
159 a utility pole pursuant to subparagraph 1., the municipal
160 electric utility may require a broadband provider to reimburse
161 reasonable costs attributable solely to the new attachment.
162 Broadband providers may not be required to pay for the cost of
163 utility betterment or for costs attributable to preexisting
164 noncompliance.

165 (4) A municipal electric utility may require a broadband
166 provider to enter into a pole attachment agreement to attach to
167 a utility pole the municipal electric utility owns or operates,
168 and the parties shall negotiate such agreements in good faith.

169 (a) Broadband providers and municipal electric utilities
170 shall negotiate in good faith to adopt pole attachment
171 agreements consistent with this section or to amend existing
172 agreements to ensure that attachments installed after July 1,
173 2021, are performed consistent with the terms of this section.
174 The parties must negotiate in good faith for at least 60 days
175 after receipt of a written request, after which either party may
176 petition the circuit court to determine rates, terms, and
177 conditions for the agreements consistent with this section.

178 (b) At a minimum, a broadband provider shall comply with
179 the safety and engineering standards for pole attachments
180 specified in the National Electrical Safety Code. A municipal
181 electric utility may adopt publicly available, reasonable, and
182 nondiscriminatory municipal electric utility safety and
183 engineering standards for the protection of the public health,
184 safety, or welfare which exceed specifications in the National



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185 Electrical Safety Code. If a municipality has adopted or adopts
186 such standards that exceed such specification in the National
187 Electrical Safety Code, the broadband provider must meet the
188 stricter standards.

189

190 ===== T I T L E A M E N D M E N T =====

191 And the title is amended as follows:

192 Delete lines 7 - 21

193 and insert:

194 sales and use tax; providing exceptions; providing
195 that a provider that receives the exemption must make
196 investments in and improvements to its broadband
197 services and equipment equal to or greater than the
198 amount of the exemption; defining terms; creating s.
199 364.0137, F.S.; providing legislative findings;
200 defining terms; requiring municipal electric utilities
201 to ensure that their broadband provider rates and fees
202 meet certain requirements and to make certain records
203 available to broadband providers, provide access to
204 their utility poles, and establish just and reasonable
205 terms and conditions for broadband provider
206 attachments; providing a process for a municipal
207 electric utility and a broadband provider to enter
208 into pole attachment agreements; requiring broadband
209 providers to comply with safety and engineering
210 standards for pole attachments which meet certain
211 minimum requirements; providing an