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LEGISLATIVE ACTION

Senate

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House

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Appropriations Subcommittee on Transportation, Tourism, and  
Economic Development (Boyd) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Paragraph (g) is added to subsection (4) of  
section 288.9961, Florida Statutes, and subsection (6) is added  
to that section, to read:

288.9961 Promotion of broadband adoption; Florida Office of  
Broadband.—



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10 (4) FLORIDA OFFICE OF BROADBAND.—The Florida Office of  
11 Broadband is created within the Division of Community  
12 Development in the department for the purpose of developing,  
13 marketing, and promoting broadband Internet services in this  
14 state. The office, in the performance of its duties, shall do  
15 all of the following:

16 (g) Administer the Broadband Pole Replacement Program  
17 established in s. 288.9964.

18 (6) REPORT.—Annually by January 31, the office shall  
19 provide a report to the Governor, the President of the Senate,  
20 and the Speaker of the House of Representatives which provides  
21 information on activities of the office to meet the requirements  
22 of this section, including any applications made and use of  
23 federal funds for broadband Internet service infrastructure,  
24 deployment, or access. The report shall also include, if funds  
25 have been appropriated to the programs, updates and information  
26 on administration and applications processed under the Broadband  
27 Opportunity Program established in s. 288.9962 and the Broadband  
28 Pole Replacement Program established in s. 288.9964, including  
29 identifying and examining the deployment of broadband  
30 infrastructure and technology facilitated by reimbursements  
31 provided under the Broadband Pole Replacement Program.

32 Section 2. Section 288.9964, Florida Statutes, is created  
33 to read:

34 288.9964 Broadband Pole Replacement Program.—

35 (1) LEGISLATIVE FINDINGS.—The Legislature finds that a  
36 broadband pole replacement program administered by the Florida  
37 Office of Broadband is necessary to further the state's goal of  
38 expanding and accelerating access to broadband service in



39 unserved areas throughout this state.

40 (2) DEFINITIONS.—As used in this section, the term:

41 (a) "Applicant" means a private business, including a  
42 corporation, a limited liability company, a partnership, a  
43 nonprofit corporation, or any other private business entity that  
44 provides or will provide qualifying broadband service in this  
45 state.

46 (b) "Application" means an application made under this  
47 section for an eligible pole replacement reimbursement.

48 (c) "Broadband Internet service" means a service that  
49 offers a connection to the Internet with a capacity for  
50 transmission at a consistent speed of at least 25 megabits per  
51 second downstream and 3 megabits per second upstream.

52 (e) "Eligible pole replacement" means the removal of an  
53 existing utility pole and its replacement with a new utility  
54 pole in an unserved area in order to accommodate the attachment  
55 to such new utility pole of facilities used in whole or in part  
56 by a retail provider of qualifying broadband service for the  
57 purpose of providing qualifying broadband service access to  
58 residences or businesses in that unserved area. The term does  
59 not include the removal and replacement of an existing utility  
60 pole by the pole owner or an affiliated company unless the  
61 removal or replacement is performed as an accommodation to a  
62 provider of qualifying broadband service.

63 (f) "Eligible pole replacement costs" means the actual  
64 costs to perform an eligible pole replacement which are paid by  
65 an applicant, excluding any amount separately reimbursed through  
66 another state or federal broadband grant program or by some  
67 other governmental entity. The term includes the costs to remove



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68 and dispose of the existing utility pole, to purchase and  
69 install a replacement utility pole, and to transfer any existing  
70 facilities to the replacement utility pole.

71 (g) "Office" means the Florida Office of Broadband.

72 (h) "Pole" means any pole used in whole or in part for wire  
73 communications or electric distribution.

74 (i) "Pole owner" means any electric utility as defined in  
75 s. 366.02(2), public utility as defined in s. 366.02(1),  
76 communications services provider as defined in s. 366.02(5),  
77 cable television operator, or local exchange carrier that owns  
78 or controls a pole.

79 (j) "Program" means the Broadband Pole Replacement Program  
80 established under this section.

81 (k) "Qualifying broadband service" means a fixed,  
82 terrestrial, retail wireline broadband Internet service capable  
83 of delivering Internet access at speeds of at least 100 megabits  
84 per second both downstream and upstream with latency at a level  
85 sufficient to allow real-time, interactive applications.

86 (l) "Reimbursed through another state or federal broadband  
87 grant program" means, with respect to eligible pole replacement  
88 costs, that an applicant paying such costs has received or is  
89 entitled to receive reimbursement for such costs under the terms  
90 of another state or federal broadband grant program for the  
91 deployment of broadband facilities, whether through a specific  
92 reimbursement for such costs or through support payments that  
93 equal or exceed the person's actual deployment costs, including  
94 eligible pole replacement costs. The term does not include the  
95 receipt of a state or federal grant that covers only a portion  
96 of the applicant's actual deployment costs, including eligible



97 pole replacement costs, if the applicant pays the eligible pole  
98 replacement costs with its own funds.

99 (m) "Unserved area" means a location in which:

100 1. At the time of a request by a retail provider of  
101 qualifying broadband service to attach facilities to a pole in  
102 such location, fixed, terrestrial, retail wireline broadband  
103 Internet service is unavailable, according to the latest  
104 available broadband deployment data from the Federal  
105 Communications Commission, provided that no person other than  
106 the applicant has committed to providing qualifying broadband  
107 service in such area; or

108 2. An applicant is committed under the terms of a federal  
109 or state grant to provide qualifying broadband service, provided  
110 that the availability of such grant is limited to areas lacking  
111 access to fixed, terrestrial, retail wireline broadband Internet  
112 service.

113 (3) BROADBAND POLE REPLACEMENT PROGRAM.—

114 (a) The Broadband Pole Replacement Program is established  
115 within the Florida Office of Broadband. The office shall  
116 administer the program and is responsible for receiving and  
117 reviewing applications and distributing reimbursements under the  
118 program.

119 (b) Any applicant that pays eligible pole replacement costs  
120 after July 1, 2022, is eligible for reimbursement of such costs  
121 under the program and may submit an application for  
122 reimbursement in accordance with this section.

123 (c) Reimbursements provided under the program are subject  
124 to the availability of funds. The office shall accept  
125 applications for reimbursement until all funds appropriated to



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126 the program are exhausted. Reimbursements shall be made on a  
127 first come, first served basis. The office shall publish on its  
128 website information regarding the availability of funds and the  
129 date when applications may begin to be submitted.

130 (d) An application pending when all funds are exhausted is  
131 deemed denied; however, the applicant may reapply if sufficient  
132 funds are later made available.

133 (e) By September 1, 2022, the office shall publish an  
134 application form for reimbursement of eligible pole replacement  
135 costs under the program. The application must require the  
136 following:

137 1. Information sufficient to establish the number and cost  
138 of eligible pole replacements that qualify for reimbursement  
139 under the program.

140 2. Documentation sufficient to establish that the claimed  
141 eligible pole replacements have been completed.

142 3. The total reimbursement amount requested and any state  
143 or federal grant funding or accounting information required to  
144 justify the amount requested.

145 4. A notarized statement from an officer or agent of the  
146 applicant certifying that the contents of the application are  
147 true and accurate and that such applicant will comply with the  
148 requirements of this section as a condition of receiving  
149 reimbursement under the program.

150 5. Receipts verifying the amount of eligible pole  
151 replacement costs paid by the applicant.

152 6. Documentation sufficient to established the actual and  
153 reasonable administrative expenses paid by such applicant in  
154 preparing and submitting the application.



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155 7. Any other information or documentation required by the  
156 department to comply with the requirements or conditions, as  
157 applicable, of any federal funding used to pay reimbursements  
158 under the program.

159 (f) Within 60 days after receipt of a complete application  
160 that establishes an applicant's eligible pole replacement costs,  
161 the office shall reimburse the applicant in an amount equal to  
162 up to 50 percent of the total amount paid or \$5,000, whichever  
163 is less, by such applicant for eligible pole replacement costs.

164 (g) Reimbursements made under this program from funds  
165 appropriated from any federal funding received by this state  
166 must also be made in compliance with any requirements or  
167 conditions for use of such federal funds.

168 (h) If the information required for application is not  
169 otherwise reasonably available to an applicant, an applicant may  
170 request that a pole owner performing an eligible pole  
171 replacement provide the number and costs of the pole  
172 replacements and receipts verifying the amount of eligible pole  
173 replacement costs paid by the applicant.

174 (h) As a condition of receiving reimbursement under the  
175 program, an applicant must:

176 1. Certify its compliance with the requirements of this  
177 section and with any federal conditions or requirements for use  
178 of federal funds as applicable; and

179 2. Agree to refund with interest at the applicable Federal  
180 Funds rate as specified by s. 670.506 any reimbursements or  
181 portions thereof received under the program to the department,  
182 at the direction of the office, if the office finds, upon  
183 substantial evidence and after providing such applicant with



184 notice and an opportunity to respond, that such applicant  
185 materially violated a requirement of this section with respect  
186 to such reimbursements or portions thereof. Any funds received  
187 by the office under this subparagraph shall be deposited into  
188 the fund from which the appropriation was made.

189 (i) If applicable, an applicant that is a pole owner that  
190 calculates its pole rental and other fees on the basis of a  
191 formula required or approved by federal or state law or  
192 regulation which includes consideration of the pole owner's  
193 expenses, must, as a condition of receiving reimbursement under  
194 the program, exclude from such expenses any eligible pole  
195 replacement costs that were reimbursed by the program, paid for  
196 by a retail provider of qualifying broadband service, or funded  
197 by another state or federal grant.

198 (4) TRANSPARENCY.—The office shall publish and continually  
199 update the following information on its website:

200 (a) Statistics on the number of applications received,  
201 processed, and denied under the program.

202 (b) Statistics on the value, number, and status of  
203 reimbursements provided under the program, including the names  
204 of pole owners and retail providers of qualifying broadband  
205 service which received reimbursements under the program.

206 (c) The amount of funds remaining from any appropriation.

207 (5) RULEMAKING.—The department is authorized to adopt rules  
208 to establish the application and the conditions or requirements  
209 that must be met in order to use and receive any federal funding  
210 appropriated to the program.

211 Section 3. This act shall take effect July 1, 2022.  
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213 ===== T I T L E A M E N D M E N T =====

214 And the title is amended as follows:

215 Delete everything before the enacting clause

216 and insert:

217 A bill to be entitled

218 An act relating to broadband infrastructure; amending  
219 s. 288.9961, F.S.; revising the duties of the Florida  
220 Office of Broadband to include administering the  
221 Broadband Pole Replacement Program; requiring the  
222 office to submit an annual report to the Governor and  
223 the Legislature; creating s. 288.9964, F.S.; providing  
224 legislative findings; defining terms; establishing the  
225 Broadband Pole Replacement Program within the office;  
226 providing responsibilities of the office; providing  
227 eligibility requirements for reimbursement under the  
228 program; providing that reimbursements are subject to  
229 the availability of certain funds; providing that  
230 certain denied applicants may reapply in certain  
231 circumstances; providing requirements for the program  
232 application; requiring the office to provide certain  
233 reimbursements within a certain period of time;  
234 authorizing an applicant to request certain  
235 information from a pole owner under certain  
236 circumstances; requiring an applicant to meet certain  
237 conditions; requiring the office to publish and  
238 continually update certain information on its public  
239 website; authorizing rulemaking; providing an  
240 effective date.