

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>      </u>	(Y/N)
ADOPTED AS AMENDED	<u>      </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>      </u>	(Y/N)
FAILED TO ADOPT	<u>      </u>	(Y/N)
WITHDRAWN	<u>      </u>	(Y/N)
OTHER	<u>      </u>	

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1 Committee/Subcommittee hearing bill: State Administration &  
 2 Technology Appropriations Subcommittee  
 3 Representative Tomkow offered the following:

**Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:  
 7 Section 1. Section 364.391, Florida Statutes, is created  
 8 to read:

9 364.391 Rural electric cooperatives engaged in the  
 10 provision of broadband.—

11 (1) As used in this section, the term:

12 (a) "Affiliate" means an entity related through a parent  
 13 cooperative's controlling interest. The term includes a  
 14 subsidiary or any other entity under common control with the  
 15 cooperative.

Amendment No.

16 (b) "Cooperative" means a rural electric cooperative  
17 established pursuant to chapter 425.

18 (c) "Engages in the provision of broadband" means an  
19 entity that:

20 1. Provides broadband service directly, through an  
21 affiliate, or pursuant to an agreement with a third party; or

22 2. Accepts broadband grant funding pursuant to s. 288.9962  
23 or from any other federal or state program offering grants to  
24 expand broadband Internet service to unserved areas of this  
25 state.

26 (2) If a cooperative engages in the provision of  
27 broadband:

28 (a) All poles owned by the cooperative are subject to  
29 regulation under s. 366.04(8) on the same basis as if such  
30 cooperative were a public utility under that subsection; and

31 (b) The commission may access the books and records of  
32 such cooperative to the limited extent necessary to perform its  
33 functions and to exercise its authority under ss. 366.04(8) and  
34 366.97(4). Upon request of the cooperative, any records the  
35 commission receives under this paragraph which are proprietary  
36 confidential business information under s. 364.183 or s. 366.093  
37 shall retain their status as confidential or exempt from  
38 disclosure under s. 119.07(1) and s. 24(a), Art. I of the State  
39 Constitution.

Amendment No.

40           (3) This section may not be construed to impair the  
41 contract rights of a party to a valid pole attachment agreement  
42 in existence before July 1, 2023.

43           Section 2. Section 425.04, Florida Statutes, is amended to  
44 read:

45           425.04 Powers.—A cooperative shall have all of the  
46 following powers ~~power~~:

47           (1) To sue and be sued, in its corporate name.~~‡~~

48           (2) To have perpetual existence.~~‡~~

49           (3) To adopt a corporate seal and alter the same at  
50 pleasure.~~‡~~

51           (4) To generate, manufacture, purchase, acquire,  
52 accumulate and transmit electric energy, and to distribute,  
53 sell, supply, and dispose of electric energy in rural areas to  
54 its members, to governmental agencies and political  
55 subdivisions, and to other persons not in excess of 10 percent  
56 of the number of its members; to process, treat, sell, and  
57 dispose of water and water rights; to purchase, construct, own  
58 and operate water systems; to own and operate sanitary sewer  
59 systems; and to supply water and sanitary sewer services.

60 However, a ~~ne~~ cooperative may not ~~shall~~ distribute or sell any  
61 electricity~~‡~~, or electric energy to any person residing within  
62 any town, city, or area in which the person is receiving  
63 adequate central station service or who at the time of  
64 commencing such service, or offer to serve, by a cooperative, is

Amendment No.

65 receiving adequate central station service from any utility  
66 agency, privately or municipally owned individual partnership,  
67 or corporation.†

68 (5) To make loans to persons to whom electric energy is or  
69 will be supplied by the cooperative for the purpose of, and  
70 otherwise to assist such person in, wiring their premises and  
71 installing therein electric and plumbing fixtures, appliances,  
72 apparatus and equipment of any and all kinds and character, and  
73 in connection therewith, to purchase, acquire, lease, sell,  
74 distribute, install and repair such electric and plumbing  
75 fixtures, appliances, apparatus and equipment, and to accept or  
76 otherwise acquire, and to sell, assign, transfer, endorse,  
77 pledge, hypothecate and otherwise dispose of notes, bonds and  
78 other evidences of indebtedness and any and all types of  
79 security therefor.†

80 (6) To make loans to persons to whom electric energy is or  
81 will be supplied by the cooperative for the purpose of, and  
82 otherwise to assist such persons in, constructing, maintaining  
83 and operating electric refrigeration plants.†

84 (7) To become a member in one or more other cooperatives  
85 or corporations or to own stock therein.†

86 (8) To construct, purchase, take, receive, lease as  
87 lessee, or otherwise acquire, and to own, hold, use, equip,  
88 maintain, and operate, and to sell, assign, transfer, convey,  
89 exchange, lease as lessor, mortgage, pledge, or otherwise

Amendment No.

90 dispose of or encumber, electric transmission and distribution  
91 lines or systems, electric generating plants, electric  
92 refrigeration plants, lands, buildings, structures, dams, plants  
93 and equipment, and any and all kinds and classes of real or  
94 personal property whatsoever, which shall be deemed necessary,  
95 convenient or appropriate to accomplish the purpose for which  
96 the cooperative is organized.†

97 (9) To purchase or otherwise acquire; to own, hold, use  
98 and exercise; and to sell, assign, transfer, convey, mortgage,  
99 pledge, hypothecate, or otherwise dispose of or encumber,  
100 franchises, rights, privileges, licenses, rights-of-way and  
101 easement.†

102 (10) To borrow money and otherwise contract indebtedness;  
103 to issue notes, bonds, and other evidences of indebtedness  
104 therefor; and to secure the payment thereof by mortgage, pledge,  
105 deed of trust, or any other encumbrance upon any or all of its  
106 then owned or after-acquired real or personal property, assets,  
107 franchises, revenues or income.†

108 (11) To construct, maintain, and operate electric  
109 transmission and distribution lines along, upon, under and  
110 across all public thoroughfares, including without limitation,  
111 all roads, highways, streets, alleys, bridges and causeways, and  
112 upon, under and across all publicly owned lands, subject,  
113 however, to the requirements in respect of the use of such  
114 thoroughfares and lands that are imposed by the respective

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Amendment No.

115 authorities having jurisdiction thereof upon corporations  
116 constructing or operating electric transmission and distribution  
117 lines or systems.~~†~~

118 (12) To exercise the power of eminent domain in the manner  
119 provided by the laws of this state for the exercise of that  
120 power by corporations constructing or operating electric  
121 transmission and distribution lines or systems.~~†~~

122 (13) To engage in the provision of broadband pursuant to  
123 s. 364.391.

124 (14) To conduct its business and exercise any or all of  
125 its powers within or without this state.~~†~~

126 ~~(15)-(14)~~ To adopt, amend, and repeal bylaws.~~†~~ and

127 ~~(16)-(15)~~ To do and perform any and all other acts and  
128 things, and to have and exercise any and all other powers which  
129 may be necessary, convenient or appropriate to accomplish the  
130 purpose for which the cooperative is organized.

131 (17) To promote economic development by providing,~~an~~  
132 ~~electric cooperative may provide~~ any energy or nonenergy  
133 services to its membership.

134 Section 3. This act shall take effect July 1, 2023.

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**T I T L E A M E N D M E N T**

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Remove everything before the enacting clause and insert:

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1221 (2023)

Amendment No.

139 An act relating to broadband Internet service providers;  
140 creating s. 364.391, F.S.; defining terms; specifying that the  
141 poles of rural electric cooperatives that are engaged in the  
142 provision of broadband are subject to regulation by the Public  
143 Service Commission; authorizing the commission to access the  
144 books and records of such cooperatives for specified purposes;  
145 providing that such information that contains proprietary  
146 confidential business information retains its confidential or  
147 exempt status when held by the commission; providing  
148 construction; amending s. 425.04, F.S.; authorizing rural  
149 electric cooperatives to engage in the provision of broadband;  
150 providing an effective date.