



658814

LEGISLATIVE ACTION

Senate

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House

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The Committee on Regulated Industries (DiCeglie) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 364.391, Florida Statutes, is created to  
read:

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

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

(a) "Affiliate" means an entity related through a parent



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11 cooperative's controlling interest. The term includes a  
12 subsidiary or any other entity under common control with the  
13 cooperative.

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

16 (c) "Engages in the provision of broadband" means an entity  
17 that:

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

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

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

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

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

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



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40 Section 2. Section 425.04, Florida Statutes, is amended to  
41 read:

42 425.04 Powers.—A cooperative shall have all of the  
43 following powers ~~power~~:

44 (1) To sue and be sued, in its corporate name.†

45 (2) To have perpetual existence.†

46 (3) To adopt a corporate seal and alter the same at  
47 pleasure.†

48 (4) To generate, manufacture, purchase, acquire, accumulate  
49 and transmit electric energy, and to distribute, sell, supply,  
50 and dispose of electric energy in rural areas to its members, to  
51 governmental agencies and political subdivisions, and to other  
52 persons not in excess of 10 percent of the number of its  
53 members; to process, treat, sell, and dispose of water and water  
54 rights; to purchase, construct, own and operate water systems;  
55 to own and operate sanitary sewer systems; and to supply water  
56 and sanitary sewer services. However, a ~~no~~ cooperative may not  
57 ~~shall~~ distribute or sell any electricity~~r~~, or electric energy to  
58 any person residing within any town, city, or area in which the  
59 person is receiving adequate central station service or who at  
60 the time of commencing such service, or offer to serve, by a  
61 cooperative, is receiving adequate central station service from  
62 any utility agency, privately or municipally owned individual  
63 partnership, or corporation.†

64 (5) To make loans to persons to whom electric energy is or  
65 will be supplied by the cooperative for the purpose of, and  
66 otherwise to assist such person in, wiring their premises and  
67 installing therein electric and plumbing fixtures, appliances,  
68 apparatus and equipment of any and all kinds and character, and



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69 in connection therewith, to purchase, acquire, lease, sell,  
70 distribute, install and repair such electric and plumbing  
71 fixtures, appliances, apparatus and equipment, and to accept or  
72 otherwise acquire, and to sell, assign, transfer, endorse,  
73 pledge, hypothecate and otherwise dispose of notes, bonds and  
74 other evidences of indebtedness and any and all types of  
75 security therefor.†

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

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

82 (8) To construct, purchase, take, receive, lease as lessee,  
83 or otherwise acquire, and to own, hold, use, equip, maintain,  
84 and operate, and to sell, assign, transfer, convey, exchange,  
85 lease as lessor, mortgage, pledge, or otherwise dispose of or  
86 encumber, electric transmission and distribution lines or  
87 systems, electric generating plants, electric refrigeration  
88 plants, lands, buildings, structures, dams, plants and  
89 equipment, and any and all kinds and classes of real or personal  
90 property whatsoever, which shall be deemed necessary, convenient  
91 or appropriate to accomplish the purpose for which the  
92 cooperative is organized.†

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



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

104           (11) To construct, maintain, and operate electric  
105 transmission and distribution lines along, upon, under and  
106 across all public thoroughfares, including without limitation,  
107 all roads, highways, streets, alleys, bridges and causeways, and  
108 upon, under and across all publicly owned lands, subject,  
109 however, to the requirements in respect of the use of such  
110 thoroughfares and lands that are imposed by the respective  
111 authorities having jurisdiction thereof upon corporations  
112 constructing or operating electric transmission and distribution  
113 lines or systems.~~†~~

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

118           (13) To engage in the provision of broadband pursuant to s.  
119 364.391.

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

122           (15)~~(14)~~ To adopt, amend, and repeal bylaws.~~†~~~~and~~

123           (16)~~(15)~~ To do and perform any and all other acts and  
124 things, and to have and exercise any and all other powers which  
125 may be necessary, convenient or appropriate to accomplish the  
126 purpose for which the cooperative is organized.



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

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

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

133 And the title is amended as follows:

134           Delete everything before the enacting clause  
135 and insert:

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                  A bill to be entitled

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          An act relating to broadband Internet service

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          providers; creating s. 364.391, F.S.; defining terms;

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          specifying that the poles of rural electric

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          cooperatives that are engaged in the provision of

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          broadband are subject to regulation by the Public

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          Service Commission; authorizing the commission to

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          access the books and records of such cooperatives for

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          specified purposes; providing that such information

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          that contains proprietary confidential business

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          information retains its confidential or exempt status

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          when held by the commission; providing construction;

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          amending s. 425.04, F.S.; authorizing rural electric

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          cooperatives to engage in the provision of broadband;

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          providing an effective date.