

By the Committee on Regulated Industries; and Senator DiCeglie

580-02350-23

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1 A bill to be entitled  
2 An act relating to broadband Internet service  
3 providers; creating s. 364.391, F.S.; defining terms;  
4 specifying that the poles of rural electric  
5 cooperatives that are engaged in the provision of  
6 broadband are subject to regulation by the Public  
7 Service Commission; authorizing the commission to  
8 access the books and records of such cooperatives for  
9 specified purposes; providing that such information  
10 that contains proprietary confidential business  
11 information retains its confidential or exempt status  
12 when held by the commission; providing construction;  
13 amending s. 425.04, F.S.; authorizing rural electric  
14 cooperatives to engage in the provision of broadband;  
15 providing an effective date.

16  
17 Be It Enacted by the Legislature of the State of Florida:

18  
19 Section 1. Section 364.391, Florida Statutes, is created to  
20 read:

21 364.391 Rural electric cooperatives engaged in the  
22 provision of broadband.—

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

24 (a) "Affiliate" means an entity related through a parent  
25 cooperative's controlling interest. The term includes a  
26 subsidiary or any other entity under common control with the  
27 cooperative.

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

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30 (c) "Engages in the provision of broadband" means an entity  
31 that:

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

34 2. Accepts broadband grant funding pursuant to s. 288.9962  
35 or from any other federal or state program offering grants to  
36 expand broadband Internet service to unserved areas of this  
37 state.

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

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

42 (b) The commission may access the books and records of such  
43 cooperative to the limited extent necessary to perform its  
44 functions and to exercise its authority under ss. 366.04(8) and  
45 366.97(4). Upon request of the cooperative, any records the  
46 commission receives under this paragraph which are proprietary  
47 confidential business information under s. 364.183 or s. 366.093  
48 shall retain their status as confidential or exempt from  
49 disclosure under s. 119.07(1) and s. 24(a), Art. I of the State  
50 Constitution.

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

54 Section 2. Section 425.04, Florida Statutes, is amended to  
55 read:

56 425.04 Powers.—A cooperative shall have all of the  
57 following powers ~~power~~:

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

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59 (2) To have perpetual existence.†

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

62 (4) To generate, manufacture, purchase, acquire, accumulate  
63 and transmit electric energy, and to distribute, sell, supply,  
64 and dispose of electric energy in rural areas to its members, to  
65 governmental agencies and political subdivisions, and to other  
66 persons not in excess of 10 percent of the number of its  
67 members; to process, treat, sell, and dispose of water and water  
68 rights; to purchase, construct, own and operate water systems;  
69 to own and operate sanitary sewer systems; and to supply water  
70 and sanitary sewer services. However, a ~~no~~ cooperative may not  
71 ~~shall~~ distribute or sell any electricity~~†~~ or electric energy to  
72 any person residing within any town, city, or area in which the  
73 person is receiving adequate central station service or who at  
74 the time of commencing such service, or offer to serve, by a  
75 cooperative, is receiving adequate central station service from  
76 any utility agency, privately or municipally owned individual  
77 partnership, or corporation.†

78 (5) To make loans to persons to whom electric energy is or  
79 will be supplied by the cooperative for the purpose of, and  
80 otherwise to assist such person in, wiring their premises and  
81 installing therein electric and plumbing fixtures, appliances,  
82 apparatus and equipment of any and all kinds and character, and  
83 in connection therewith, to purchase, acquire, lease, sell,  
84 distribute, install and repair such electric and plumbing  
85 fixtures, appliances, apparatus and equipment, and to accept or  
86 otherwise acquire, and to sell, assign, transfer, endorse,  
87 pledge, hypothecate and otherwise dispose of notes, bonds and

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88 other evidences of indebtedness and any and all types of  
89 security therefor.‡

90 (6) To make loans to persons to whom electric energy is or  
91 will be supplied by the cooperative for the purpose of, and  
92 otherwise to assist such persons in, constructing, maintaining  
93 and operating electric refrigeration plants.‡

94 (7) To become a member in one or more other cooperatives or  
95 corporations or to own stock therein.‡

96 (8) To construct, purchase, take, receive, lease as lessee,  
97 or otherwise acquire, and to own, hold, use, equip, maintain,  
98 and operate, and to sell, assign, transfer, convey, exchange,  
99 lease as lessor, mortgage, pledge, or otherwise dispose of or  
100 encumber, electric transmission and distribution lines or  
101 systems, electric generating plants, electric refrigeration  
102 plants, lands, buildings, structures, dams, plants and  
103 equipment, and any and all kinds and classes of real or personal  
104 property whatsoever, which shall be deemed necessary, convenient  
105 or appropriate to accomplish the purpose for which the  
106 cooperative is organized.‡

107 (9) To purchase or otherwise acquire; to own, hold, use and  
108 exercise; and to sell, assign, transfer, convey, mortgage,  
109 pledge, hypothecate, or otherwise dispose of or encumber,  
110 franchises, rights, privileges, licenses, rights-of-way and  
111 easement.‡

112 (10) To borrow money and otherwise contract indebtedness;  
113 to issue notes, bonds, and other evidences of indebtedness  
114 therefor; and to secure the payment thereof by mortgage, pledge,  
115 deed of trust, or any other encumbrance upon any or all of its  
116 then owned or after-acquired real or personal property, assets,

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117 franchises, revenues or income.~~†~~

118 (11) To construct, maintain, and operate electric  
119 transmission and distribution lines along, upon, under and  
120 across all public thoroughfares, including without limitation,  
121 all roads, highways, streets, alleys, bridges and causeways, and  
122 upon, under and across all publicly owned lands, subject,  
123 however, to the requirements in respect of the use of such  
124 thoroughfares and lands that are imposed by the respective  
125 authorities having jurisdiction thereof upon corporations  
126 constructing or operating electric transmission and distribution  
127 lines or systems.~~†~~

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

132 (13) To engage in the provision of broadband pursuant to s.  
133 364.391.

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

136 ~~(15)~~~~(14)~~ To adopt, amend, and repeal bylaws.~~†~~~~and~~

137 ~~(16)~~~~(15)~~ To do and perform any and all other acts and  
138 things, and to have and exercise any and all other powers which  
139 may be necessary, convenient or appropriate to accomplish the  
140 purpose for which the cooperative is organized.

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

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