
The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

DIGEST

SB 10 Reengrossed

2020 First Extraordinary Session

Mizell

Proposed law requires a cooperative to grant permission to a broadband affiliate or a broadband service provider to use the electric delivery system of the cooperative to provide broadband services.

Proposed law provides that use of the electric delivery system for the provision of broadband services shall not be considered an additional burden on the property upon which the cooperative's electric delivery system is located and shall not require the broadband affiliate or broadband service provider to obtain the additional consent from anyone having an interest in the property upon which the electric delivery system is located.

Proposed law does not apply to property owned or controlled by a railroad company operating in the state.

Proposed law allows a cooperative to deny a broadband affiliate or broadband service provider access to its poles, ducts, conduits, or rights-of-way, on a nondiscriminatory basis where there is insufficient capacity and for reasons of safety, reliability, and generally applicable engineering purposes.

Proposed law provides that if a portion of a cooperative's electric delivery system is used by a broadband affiliate or broadband service provider for the purpose of providing broadband services and the landowner of the property on which such portion is located believes his property has been damaged by such use, the landowner may petition the district court in which the property is situated for any damages to which the landowner may be entitled. A cooperative or its members shall not be liable for any recoverable damages to property awarded by a court and the damages shall be the sole responsibility of the broadband affiliate or broadband service provider.

Proposed law requires a cooperative to provide a broadband affiliate, broadband service provider, or broadband operator with nondiscriminatory access to locate its equipment for the provision of broadband services on a cooperative's electric delivery system on just, reasonable, and nondiscriminatory terms, conditions, and rates.

Proposed law provides that any broadband affiliate, broadband service provider, or broadband operator wishing to attach to the cooperative's electric delivery system shall file written notice with the cooperative and requires the cooperative to respond to the notice in accordance with the Public Service Commission's General Order dated September 4, 2014, or any subsequent related order.

Proposed law requires a cooperative to charge a broadband affiliate, broadband service provider, or broadband operator for the construction, installation, operation, use, and maintenance of those parts of its electric delivery system that are used or may be reserved for use by the broadband affiliate, broadband service provider, or broadband operator for the provision of broadband services. Further requires any lease of facilities by a cooperative to a broadband affiliate that includes the use of the cooperative's poles to include a pole attachment fee to be paid by the broadband affiliate to the cooperative. The fee charged by the cooperative to the broadband affiliate shall be the same amount as the pole attachment fee charged by the cooperative to any other broadband operator.

Proposed law prohibits a cooperative from the following:

- (1) Using its electric energy sales revenue to subsidize the provision of broadband services to the public by a broadband affiliate or other broadband operator.

- (2) Allowing the installation or operation of a broadband system on its electric delivery system by a broadband affiliate or other broadband operator to diminish the reliability of the electric delivery system.
- (3) Requiring any person to purchase broadband services from a broadband affiliate or other broadband operator, as a condition of receiving or continuing to receive electric energy from the cooperative.
- (4) Disconnecting, or threatening to disconnect, electric service to any customer due to the customer's failure to pay for broadband services provided to the customer by a broadband affiliate or other broadband operator.

Proposed law allows a cooperative to make capital investments in a broadband affiliate, issue bonds on behalf of a broadband affiliate, make loans to a broadband affiliate at fair market rate, and enter into loan guarantees for the benefit of a broadband affiliate, all of which may be in such amounts and on such terms as the cooperative determines to be prudent, subject to the requirements established by the Public Service Commission's General Orders dated March 18, 1994, and November 13, 1996, or any subsequent related orders.

Proposed law requires each cooperative, or the statewide or trade association of each cooperative, to report in writing to the Senate Committee on Commerce, Consumer Protection and International Affairs and the House Committee on Commerce on an annual basis, beginning March 1, 2021, any impediments to providing broadband high-speed internet access to rural residents. Requires such written report to include, at a minimum, the number of broadband affiliates and broadband service providers who have requested to use a cooperative's electric delivery system and the number of broadband operators, including any broadband affiliate, who have accessed a cooperative's electric delivery system to deploy broadband to rural residents in the state.

Proposed law defines "broadband affiliate", "broadband operator", "broadband service provider", "broadband services", "broadband system", and "electric delivery system".

Proposed law requires the Louisiana Cable & Telecommunications Association and the Louisiana Telecommunications Association to jointly submit a written report to the Senate Committee on Commerce, Consumer Protection and International Affairs and the House Committee on Commerce on March 1, 2021, and every March thereafter regarding any impediments to providing broadband high-speed internet access or any prohibitive requirements to access the cooperative's electric delivery system for the purpose of providing broadband in the state. Requires such report to include, at a minimum, broadband deployment data publicly available from the Federal Communications Commission.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 12:430.1 and 430.2)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Commerce, Consumer Protection, and International Affairs to the original bill

1. Allows a cooperative to grant permission to a broadband affiliate or a broadband service provider to use the cooperative's electric delivery system for the provision of broadband services and such use shall not be considered an additional burden on the property. Makes an exception for land owned or controlled by a railroad company operating in La.
2. Provides for a landowner's action for recovery of damages for property the landowner believes to have been damaged by the use of the broadband affiliate or broadband service provider for the purpose of providing broadband services and provides that the damages shall be the sole responsibility of the broadband affiliate or the broadband service provider.

3. Removes certain reporting requirements for cooperatives and the La. Cable & Telecommunications Association and the Louisiana Telecommunications Association relating to applications submitted to and approved or denied by a cooperative.
4. Defines "broadband affiliate", "broadband service provider", and "broadband services" and removes the definition of "Louisiana rural electric cooperative".
5. Repeals Act. No. ___ of the 2020 R.S. of the La. Legislature, which originated as SB 406.

Senate Floor Amendments to engrossed bill

1. Requires rather than allows a cooperative to grant permission to a broadband affiliate or a broadband service provider to use the cooperative's electric delivery system for the provision of broadband services.
2. Requires a cooperative to provide certain entities access in locating equipment for provision of broadband services on such cooperative's delivery system based upon certain criteria.
3. Requires written notice to a cooperative from entities wishing to attach to the cooperative's delivery system and requires the cooperative to respond to the notice in accordance with certain PSC orders.
4. Requires a cooperative to charge certain entities for the construction, installation, operation, use, and maintenance of those parts of its delivery system that are used or reserved by such entities.
5. Requires a cooperative to charge a pole attachment fee to any broadband affiliate if the affiliate uses such poles and requires the fee to be the same amount charged by the cooperative to any other broadband operator.
6. Prohibits a cooperative from performing certain acts.
7. Authorizes a cooperative to make capital investments in a broadband affiliate, issue bonds on behalf of a broadband affiliate, make loans to a broadband affiliate at fair market rate, and enter into loan guarantees for the benefit of such affiliate.
8. Adds definitions for "broadband operator" and "broadband system".
9. Changes language regarding the information required in the annual written report submitted by a cooperative to certain Senate and House committees to include the number of broadband affiliates and broadband service providers who have requested to use a cooperative's electric delivery system and the number of broadband operators, including any broadband affiliate, who have accessed a cooperative's electric delivery system to deploy broadband to rural residents in the state.
10. Changes language regarding the annual written report to be submitted by the Louisiana Cable & Telecommunications Association and the Louisiana Telecommunications Association to certain Senate and House committees from individual reports to a joint report regarding any impediments to providing broadband high-speed internet access or any prohibitive requirements to access the cooperative's electric delivery system for the purpose of providing broadband in the state and requires such report to include certain information.
11. Removes repeal language and effective date language.

12. Adds language making the legislation effective upon signature of the governor or lapse of time for gubernatorial action.
13. Makes technical changes.

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Commerce to the reengrossed bill:

1. Codify a provision of federal law, which allows a cooperative to deny a broadband affiliate or service provider access to its equipment in certain circumstances, in proposed law.