A bill to be entitled
An act relating to broadband infrastructure; amending
s. 288.9961, F.S.; revising the duties of the Florida
Office of Broadband to include administering the
Broadband Pole Replacement Program; requiring the
office to submit an annual report to the Governor and
the Legislature by a specified date; creating s.
288.9964, F.S.; providing legislative findings;
defining terms; establishing the Broadband Pole
Replacement Program within the office; providing
responsibilities of the office; providing eligibility
requirements for reimbursement under the program;
providing that reimbursements are subject to the
availability of certain funds; providing that certain
denied applicants may reapply in certain
circumstances; providing requirements for the program
application; requiring the office to provide certain
reimbursements within a certain period of time;
authorizing an applicant to request certain
information from a pole owner under certain
circumstances; requiring an applicant to meet certain
conditions; requiring the office to publish and
continually update certain information on its public
website; authorizing rulemaking; providing an
effective date.

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

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

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

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

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

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

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

288.9964 Broadband Pole Replacement Program.—
(1) LEGISLATIVE FINDINGS.—The Legislature finds that a broadband pole replacement program administered by the Florida Office of Broadband is necessary to further the state’s goal of expanding and accelerating access to broadband service in unserved areas throughout this state.

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

(a) “Applicant” means a private business, including a corporation, a limited liability company, a partnership, a nonprofit corporation, or any other private business entity that provides or will provide qualifying broadband service in this state.

(b) “Application” means an application made under this section for an eligible pole replacement reimbursement.

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

(d) “Eligible pole replacement” means the removal of an existing utility pole and its replacement with a new utility pole in an unserved area in order to accommodate the attachment to such new utility pole of facilities used in whole or in part by a retail provider of qualifying broadband service for the purpose of providing qualifying broadband service access to residences or businesses in that unserved area. The term does not include the removal and replacement of an existing utility pole by the pole owner or an affiliated company unless the removal or replacement is performed as an accommodation to a provider of qualifying broadband service.

(e) “Eligible pole replacement costs” means the actual
costs to perform an eligible pole replacement which are paid by an applicant, excluding any amount separately reimbursed through another state or federal broadband grant program or by some other governmental entity. The term includes the costs to remove and dispose of the existing utility pole, to purchase and install a replacement utility pole, and to transfer any existing facilities to the replacement utility pole.

(f) “Office” means the Florida Office of Broadband.

(g) “Pole” means any pole used in whole or in part for wire communications or electric distribution.

(h) “Pole owner” means any electric utility as defined in s. 366.02(2), public utility as defined in s. 366.02(1), communications services provider as defined in s. 366.02(5), cable television operator, or local exchange carrier that owns or controls a pole.

(i) “Program” means the Broadband Pole Replacement Program established under this section.

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

(k) “Reimbursed through another state or federal broadband grant program” means, with respect to eligible pole replacement costs, that an applicant paying such costs has received or is entitled to receive reimbursement for such costs under the terms of another state or federal broadband grant program for the deployment of broadband facilities, whether through a specific reimbursement for such costs or through support payments that
equal or exceed the person’s actual deployment costs, including eligible pole replacement costs. The term does not include the receipt of a state or federal grant that covers only a portion of the applicant’s actual deployment costs, including eligible pole replacement costs, if the applicant pays the eligible pole replacement costs with its own funds.

(1) “Unserved area” means a location in which:

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

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

(3) BROADBAND POLE REPLACEMENT PROGRAM.—

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

(b) Any applicant that pays eligible pole replacement costs after July 1, 2022, is eligible for reimbursement of such costs under the program and may submit an application for

CODING: Words struck are deletions; words underlined are additions.
reimbursement in accordance with this section.

(c) Reimbursements provided under the program are subject to the availability of funds. The office shall accept applications for reimbursement until all funds appropriated to the program are exhausted. Reimbursements shall be made on a first-come, first-served basis. The office shall publish on its website information regarding the availability of funds and the date when applications may begin to be submitted.

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

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

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

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

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

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

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

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

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

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

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

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

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

2. Agree to refund with interest at the applicable Federal Funds rate as specified by s. 670.506 any reimbursements or portions thereof received under the program to the department, at the direction of the office, if the office finds, upon
substantial evidence and after providing such applicant with notice and an opportunity to respond, that such applicant materially violated a requirement of this section with respect to such reimbursements or portions thereof. Any funds received by the office under this subparagraph shall be deposited into the fund from which the appropriation was made.

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

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

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

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

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

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

Section 3. This act shall take effect July 1, 2022.