

ENROLLED

CS/HB 1221

2023 Legislature

1
 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
 20 to 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

ENROLLED

CS/HB 1221

2023 Legislature

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.

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

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

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

ENROLLED

CS/HB 1221

2023 Legislature

51 Constitution.

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

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

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

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

60 (2) To have perpetual existence. ~~†~~

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

63 (4) To generate, manufacture, purchase, acquire,
 64 accumulate and transmit electric energy, and to distribute,
 65 sell, supply, and dispose of electric energy in rural areas to
 66 its members, to governmental agencies and political
 67 subdivisions, and to other persons not in excess of 10 percent
 68 of the number of its members; to process, treat, sell, and
 69 dispose of water and water rights; to purchase, construct, own
 70 and operate water systems; to own and operate sanitary sewer
 71 systems; and to supply water and sanitary sewer services.

72 However, a ~~ne~~ cooperative may not ~~shall~~ distribute or sell any
 73 electricity~~†~~ or electric energy to any person residing within
 74 any town, city, or area in which the person is receiving
 75 adequate central station service or who at the time of

ENROLLED

CS/HB 1221

2023 Legislature

76 | commencing such service, or offer to serve, by a cooperative, is
 77 | receiving adequate central station service from any utility
 78 | agency, privately or municipally owned individual partnership or
 79 | corporation.†

80 | (5) 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 person in, wiring their premises and
 83 | installing therein electric and plumbing fixtures, appliances,
 84 | apparatus and equipment of any and all kinds and character, and
 85 | in connection therewith, to purchase, acquire, lease, sell,
 86 | distribute, install and repair such electric and plumbing
 87 | fixtures, appliances, apparatus and equipment, and to accept or
 88 | otherwise acquire, and to sell, assign, transfer, endorse,
 89 | pledge, hypothecate and otherwise dispose of notes, bonds and
 90 | other evidences of indebtedness and any and all types of
 91 | security therefor.†

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

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

98 | (8) To construct, purchase, take, receive, lease as
 99 | lessee, or otherwise acquire, and to own, hold, use, equip,
 100 | maintain, and operate, and to sell, assign, transfer, convey,

ENROLLED

CS/HB 1221

2023 Legislature

101 exchange, lease as lessor, mortgage, pledge, or otherwise
 102 dispose of or encumber, electric transmission and distribution
 103 lines or systems, electric generating plants, electric
 104 refrigeration plants, lands, buildings, structures, dams, plants
 105 and equipment, and any and all kinds and classes of real or
 106 personal property whatsoever, which shall be deemed necessary,
 107 convenient or appropriate to accomplish the purpose for which
 108 the cooperative is organized.‡

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

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

120 (11) To construct, maintain, and operate electric
 121 transmission and distribution lines along, upon, under and
 122 across all public thoroughfares, including without limitation,
 123 all roads, highways, streets, alleys, bridges and causeways, and
 124 upon, under and across all publicly owned lands, subject,
 125 however, to the requirements in respect of the use of such

ENROLLED

CS/HB 1221

2023 Legislature

126 | thoroughfares and lands that are imposed by the respective
 127 | authorities having jurisdiction thereof upon corporations
 128 | constructing or operating electric transmission and distribution
 129 | lines or systems.~~†~~

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

134 | (13) To engage in the provision of broadband pursuant to
 135 | s. 364.391.

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

138 | ~~(15)-(14)~~ To adopt, amend, and repeal bylaws.~~†~~~~and~~

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

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

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