



SENATE BILL 105: 2021 Appropriations Act, Sec. 38.10: Broadband Acceleration

2021-2022 General Assembly

Committee:		Date:	February 22, 2022
Introduced by:		Prepared by:	Aaron McGlothlin Staff Attorney
Analysis of:	Sec. 38.10 of S.L. 2021-180		

OVERVIEW: Section 38.10 of S.L. 2021-180 authorizes counties to provide grants to private or nonprofit providers of broadband service; establishes the Broadband Pole Replacement Program within the Department of Information Technology (Department); expands the definition of the term "city utility pole" for purposes of wireless telecommunication facilities; prohibits municipalities from imposing certain fees and recurring charges for the collocation of small wireless facilities; and makes various other related changes.

This section became effective November 18, 2021. The provisions related to the Broadband Pole Replacement Program expire December 31, 2024.

BILL ANALYSIS:

Section 38.10 of S.L. 2021-180:

- Authorizes counties to (i) provide grants to unaffiliated nonprofit providers of broadband service for the purpose of expanding broadband service in unserved areas and (ii) use State or federal funds for the grants. However, counties are not authorized to provide broadband service. Prior to the enactment of S.L. 2021-180, counties were only authorized to provide grants to unaffiliated qualified private providers of high-speed Internet access with unrestricted general fund revenue.
- Establishes the Broadband Pole Replacement Program in the Department of Information Technology for the purpose of speeding and facilitating the deployment of broadband service to individuals, businesses, agricultural operations, and community access points in unserved areas by reimbursing a portion of eligible pole replacement costs incurred by communications service providers. A communications service provider who pays or incurs the costs of removing and replacing an existing pole in connection with a qualified project may apply to the Department for reimbursement in an amount equal to fifty percent (50%) of eligible pole replacement costs paid or incurred by the applicant or ten thousand dollars (\$10,000), whichever is less, for each pole replaced.
- Expands the definition of "city utility pole" in Part 3 of Article 9 of Chapter 160D (Wireless Telecommunications Facilities) to include poles owned by a city as part of the city's electric service public enterprise.
- Prohibits cities from charging certain wireless providers fees or recurring charges for the collocation of a small wireless facility in the city's right-of-way or for the installation, modification, or replacement of a utility pole or city utility pole in the city's right-of-way.
- Removes certain restrictions imposed on right-of-way charges that may be assessed by a city for use or occupation of the right-of-way by a wireless provider.

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- Prohibits cities from denying, limiting, restricting, or determining the rates, fees, terms, and conditions for the use of or attachment to its utility poles, city utility poles, or wireless support structures by a wireless provider. Electric membership corporations are exempt from this prohibition. Prior to the enactment of S.L. 2021-180, cities that owned or operated electric service as a public utility were exempt from this prohibition.

EFFECTIVE DATE: This section became effective November 18, 2021. The provisions related to the Broadband Pole Replacement Program expire December 31, 2024.

Gayle Moses and Matthew Meinig, Staff Attorneys, substantially contributed to this summary.