

HB 2654 -1, -5 STAFF MEASURE SUMMARY

House Committee On Economic Recovery and Prosperity

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Meeting Dates: 2/4, 3/30

WHAT THE MEASURE DOES:

Allows for the use of an electric easement to provide broadband services. Establishes notice requirements if the use of an electric easement for broadband services expands the uses for which the easement was granted. Provides for a cause of action by a property owner for certain damages and stipulates that such action must be brought within 18 months from the date the electric utility provided notice.

ISSUES DISCUSSED:

- Type of easements being used
- Importance of broadband during Covid-19 pandemic
- Access and affordability of broadband
- Extension of broadband to rural areas

EFFECT OF AMENDMENT:

-1 Limits authorization for use of electric easements for provision of broadband services by excluding electric easements granted on property owned, managed or operated by a city, including public rights of way within the city's boundaries. Removes requirement for notice to be provided within property owner's electric utility bill or by specified publications.

-5 Replaces the original measure. Permits an electric cooperative to use or allow for use an electric easement for broadband services. Requires the electric cooperative to provide 60-day written notice to the property owner if the use of the easement would result in an expansion of the uses for which the easement is granted and specifies the contents of the notice. Permits a commercial broadband service provider to request an electric cooperative send notice to a property owner and specifies the contents of the request. Prohibits an electric cooperative from using or allowing for use an electric easement granted on property owned, managed or operated by a city. Limits the use of unrecorded electric easements to those currently used by the electric cooperative for electric facilities. Specifies the requirements by which the provider of broadband services must comply when using an electric easement to include reasonable accommodations to prevent disruption of agricultural or forest operations, compensation to the property owner for damage, and 7-day notice prior to commencement of activities. Provides for an expansion of use to be vested in the electric cooperative. Creates a cause of action by the property owner against the provider of broadband services for damages and specifies that the cause of action must be brought within 18 months of the required notice by the electric cooperative and that the cause of action is the property owner's exclusive remedy with respect to the use of the easement for broadband. Stipulates that the authorization granted to an electric easement does not permit expanded use if it is expressly prohibited by the written easement. Permits the electric cooperative to determine whether the expanded use would interfere with the cooperative's use of the electric easement and to decline the expanded use. Requires an electric cooperative to indemnify and hold harmless a property owner for damage resulting from activities related to the installation of broadband facilities. Establishes limitations on the pricing by electric cooperatives for electric services to broadband service providers.

BACKGROUND:

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An easement is a right to use another person's land for a specified purpose or benefit. Easements are commonly granted to utility companies, including electric utilities, to run utility service lines.

House Bill 2654 authorizes an electric utility that currently holds an easement for purposes of the utility's electric facilities to use, or authorize the use of, that easement for broadband services. The measure requires the electric utility to provide notice to the property owner if the provision of broadband services through the easement expands the use for which the easement was granted. The measure also creates a new cause of action by which the property owner may recover damages from any loss in property value that results from the use of the easement for broadband, and sets a statute of limitations for bringing this cause of action at 18 months from the date of the notice.