



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB1737

Introduced 1/28/2025, by Rep. Jay Hoffman

SYNOPSIS AS INTRODUCED:

New Act

Creates the Broadband Deployment Act. Sets forth provisions concerning the use of existing electric easements and public road rights-of-way by a broadband provider to install, maintain, and use broadband infrastructure to provide broadband service. Provides that no additional compensation is required for the installation and maintenance of broadband infrastructure within an easement for electricity or along an existing public road right-of-way. Provides notice requirements for a specified entity that intends to provide broadband infrastructure for broadband services pursuant to an agreement to use existing or subsequently acquired utility easements. Sets forth provisions concerning a private right of action and damages for a property owner who is challenging the broadband provider's right to use an easement for broadband services or infrastructure. Requires coordination with the relevant local governmental unit to minimize potential future relocations. Effective immediately.

LRB104 07428 AAS 17469 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Broadband Deployment Act.

6 Section 5. Findings. The General Assembly hereby finds
7 that:

8 (1) Many unserved and underserved parts of Illinois
9 are in desperate need of high-speed, dependable broadband
10 Internet.

11 (2) In an effort to maximize State and federal grant
12 funding for broadband deployment, meet mandated deployment
13 deadlines, and accelerate the availability of broadband in
14 unserved and underserved parts of Illinois, it is
15 necessary to clarify that a public road right-of-way
16 allows the installation of underground broadband
17 facilities and that existing electric utility easements
18 for electricity purposes includes the use of
19 telecommunications so that Internet can be more readily
20 deployed by using existing and regularly maintained
21 corridors.

22 (3) Access to high-speed, dependable broadband
23 Internet adds value to properties and benefits communities

1 and local economies.

2 Section 10. Definitions. As used in this Act:

3 "Broadband infrastructure" means wires, cables, fiber
4 optic lines, conduit, pipe, innerduct, or microduct for fiber
5 optic or other cables and facilities that accommodate current
6 or future broadband facilities for broadband service.

7 "Broadband provider" means the following:

8 (1) an electric cooperative as defined in Section 3.4
9 of the Electric Supplier Act;

10 (2) a telephone or telecommunications cooperative as
11 defined in Section 13-212 of the Public Utilities Act;

12 (3) a telecommunications carrier issued a certificate
13 of public convenience and necessity or a certificate of
14 service authority from the Illinois Commerce Commission;

15 (4) an interconnected voice over Internet protocol
16 provider as defined in Section 13-235 of the Public
17 Utilities Act;

18 (5) a company providing broadband service, as defined
19 in subsection (c) of Section 21-201 of the Public
20 Utilities Act;

21 (6) a cable operator, as defined in subsection (d) of
22 Section 21-201 of the Public Utilities Act; or

23 (7) a holder, as defined in subsection (k) of Section
24 21-201 of the Public Utilities Act.

1 Section 15. Use of existing easements. A broadband
2 provider may use an existing electric easement to install,
3 maintain, and use broadband infrastructure to expand broadband
4 access subject to the following:

5 (1) broadband infrastructure may be installed and
6 maintained above ground or below ground;

7 (2) the electric cooperative or public utility may
8 agree to assign such rights to a broadband provider
9 subject to an agreement, which may include the lease of
10 fiber capacity;

11 (3) when broadband infrastructure is installed above
12 ground, applicable safety standards and structural
13 integrity shall be maintained, which may require different
14 poles or structures to be installed;

15 (4) broadband infrastructure shall be installed and
16 maintained to allow for minimum clearance height as
17 provided in the National Electricity Safety Code;

18 (5) when broadband infrastructure is installed below
19 ground, the installer shall ensure no damage to the
20 landowner's existing drainage facilities. If damage
21 occurs, it must be repaired within 15 days; and

22 (6) any agricultural impacts must be remedied as soon
23 as reasonably practicable.

24 Section 20. Rights-of-way. A broadband provider may
25 install, maintain, and use broadband infrastructure below

1 ground along a public road right-of-way, subject to the
2 following:

3 (1) the broadband infrastructure shall be installed
4 and maintained only in the area within a public road
5 right-of-way, subject to the local jurisdiction permit
6 requirements in accordance with Section 9-113 of the
7 Illinois Highway Code;

8 (2) the broadband provider may assign such rights to
9 another broadband provider subject to an agreement, which
10 may include the lease of fiber capacity;

11 (3) the installer of the broadband infrastructure
12 shall ensure no damage to the landowner's existing
13 drainage facilities. If damage occurs, it must be repaired
14 within 15 days; and

15 (4) any agricultural impacts must be remedied as soon
16 as reasonably practicable.

17 Section 25. Additional compensation. By installing and
18 maintaining broadband infrastructure within an easement for
19 electricity or along an existing public road right-of-way, no
20 additional burden to the property is being created. Access to
21 high-speed, dependable broadband Internet adds value to
22 properties and benefits communities and local economies;
23 therefore, no additional compensation is required.

24 Section 30. Utility affiliates; notice.

1 (a) A broadband provider, a utility, an affiliate of the
2 utility formed to provide broadband service, or another
3 entity, pursuant to an agreement with the utility or its
4 affiliate, that may include an agreement to lease fiber
5 capacity, may use the utility affiliate or entity's existing
6 or subsequently acquired utility easements for broadband
7 infrastructure and to provide broadband service. To exercise
8 rights granted under this subsection (a), the broadband
9 provider must provide to the property owner on which the
10 easement is located 2 written notices, at least 2 months
11 apart, that the broadband provider intends to use the easement
12 for broadband purposes. The use of the easement for broadband
13 services vests and runs with the land beginning 6 months after
14 the first notice is sent, unless a court action challenging
15 the use of the easement for broadband purposes has been filed
16 before that time by the property owner pursuant to subsection
17 (a) of Section 35. The broadband provider must also file
18 evidence of the notices for recording with the county
19 recorder.

20 (b) The broadband provider's notices must be sent by first
21 class mail to the last known address of the owner of the
22 property on which the easement is located or by printed
23 insertion in the property owner's utility bill. The notice
24 must include the following:

- 25 (1) the name and mailing address of the broadband
26 provider;

1 (2) a description of the nature and purpose of the
2 intended easement use;

3 (3) a description of any trenching or other
4 underground work expected to result from the intended use,
5 including the anticipated timeframe for the work;

6 (4) a phone number of a broadband provider employee to
7 contact regarding the easement; and

8 (5) the following statement in bold red lettering: "It
9 is important to make any challenge by the deadline to
10 preserve any legal rights you may have."

11 Section 35. Right of action; damages.

12 (a) Within 6 months after receiving the notice required
13 under Section 30, a property owner may commence an action
14 seeking to recover damages for a broadband provider's use of
15 an electric transmission or distribution easement for
16 broadband service purposes. If the claim for damages is under
17 \$15,000, the claim may be brought in small claims court.
18 Notwithstanding any other law to the contrary, the procedures
19 and substantive matters set forth in this Section govern an
20 action under this subsection (a) and are the exclusive means
21 to bring a claim for compensation with respect to a notice of
22 intent to use a broadband provider utility easement for
23 broadband purposes. To commence an action under this
24 subsection (a), the property owner must serve a complaint upon
25 the broadband provider in a civil action and file the

1 complaint with the district court for the county in which the
2 easement is located. The complaint must state whether the
3 property owner: (i) is challenging the broadband provider's
4 right to use the easement for broadband services or
5 infrastructure, or (ii) is seeking damages.

6 (b) If the property owner is seeking damages, the
7 broadband provider may, at any time after answering the
8 complaint:

9 (1) deposit with the circuit clerk an amount equal to
10 the broadband provider's estimate of damages, which must
11 be no less than \$1; and

12 (2) after making the deposit, use the utility
13 easements for broadband purposes, conditioned on an
14 obligation to pay the amount of damages determined by the
15 court. If the property owner is challenging the broadband
16 provider's right to use the easement for broadband
17 services or infrastructure under subsection (a), after the
18 broadband provider answers the complaint, the circuit
19 court must promptly hold a hearing on the property owner's
20 challenge. If the district court denies the property
21 owner's challenge, the broadband provider may proceed to
22 make a deposit and make use of the easement for broadband
23 service purposes, as provided under this paragraph (2).

24 (c) In an action involving a property owner's claim for
25 damages, the landowner has the burden to prove the existence
26 and amount of any net reduction in the fair market value of the

1 property, considering the existence, installation,
2 construction, maintenance, modification, operation, repair,
3 replacement, or removal of broadband infrastructure in the
4 easement, as well as any benefit to the property from access to
5 broadband service. Consequential or special damages must not
6 be awarded. Evidence of revenue, profits, fees, income, or
7 similar benefits to the broadband provider, the broadband
8 provider's affiliate, or a third party is inadmissible. Any
9 fees or costs incurred as a result of an action under this
10 Section must be paid by the party that incurred the fees or
11 costs, except that the broadband provider is responsible for
12 the property owner attorney fees if the final judgment or
13 award of damages is more than 140% of the broadband provider's
14 damage deposit.

15 (d) Nothing in this Section limits in any way a broadband
16 provider's existing easement rights, including, but not
17 limited to, rights a broadband provider has or may acquire to
18 transmit communications for utility operations or otherwise.

19 Section 40. Coordination with local government. The
20 placement of broadband infrastructure to provide broadband
21 service in any portion of a utility easement located in the
22 public right-of-way is subject to local government permitting
23 and right-of-way management authority, and the placement must
24 be coordinated with the relevant local governmental unit to
25 minimize potential future relocations. The broadband provider

1 must notify a local governmental unit prior to placing
2 infrastructure for broadband service in an easement that is in
3 or adjacent to the local governmental unit's public
4 right-of-way.

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.