



Rep. Jay Hoffman

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10400SB2493ham001

LRB104 09146 AAS 26705 a

1 AMENDMENT TO SENATE BILL 2493

2 AMENDMENT NO. _____. Amend Senate Bill 2493 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Electric Supplier Act is amended by adding
5 Sections 17, 17.1, 17.2, 17.3, 17.4, 17.5, 17.6, 17.7, and
6 17.8 as follows:

7 (220 ILCS 30/17 new)

8 Sec. 17. Short title. This Section through Section 17.8 of
9 this Act may be referred to as the Electrical Service
10 Broadband Deployment and Access Law.

11 (220 ILCS 30/17.1 new)

12 Sec. 17.1. Purpose. This Law authorizes certain electric
13 cooperatives to deploy broadband infrastructure and to provide
14 broadband service to residential and business locations within
15 an electric cooperative's service territory.

1 (220 ILCS 30/17.2 new)

2 Sec. 17.2. Definitions. As used in this Law:

3 "Broadband grant recipient" means an electric cooperative
4 that has received grant funding pursuant to any State or
5 federal grant program with the purpose of expanding broadband
6 deployment of and access to broadband services.

7 "Broadband infrastructure" means aboveground or
8 underground wires, cables, fiber optic lines, conduit, pipe,
9 innerduct, or microduct for fiber optic or other cables and
10 facilities, including ancillary equipment such as power
11 supplies, backhaul, and support structures, that are used in
12 the provision of broadband service.

13 "Broadband service" means broadband Internet access
14 service as defined in 47 CFR 8.1(b).

15 "Deploy" means, with respect to broadband infrastructure,
16 to install, operate, maintain, access, inspect, upgrade,
17 replace, repair, remove, and perform activities ancillary to
18 those activities.

19 "Electric easement" means any recorded or unrecorded
20 easement held by any electricity supplier for the siting of
21 electric facilities, regardless of whether the easement is for
22 the exclusive benefit of the electricity supplier or for use
23 in connection with other utility services and regardless of
24 whether the electricity supplier provides other utility
25 services.

1 "Grant service area" means the defined location in the
2 broadband grant where the broadband grant recipient is to
3 provide broadband service subject to the broadband grant.

4 "Property owner" does not include a public utility as
5 defined in Section 3-105 of the Public Utilities Act.

6 (220 ILCS 30/17.3 new)

7 Sec. 17.3. Rights granted to electric cooperative
8 broadband grant recipients.

9 (a) In the grant service area, a broadband grant
10 recipient, subject to the recipient's broadband grant, may
11 access and use (i) any existing electric easement held or
12 controlled by the broadband grant recipient or (ii) any other
13 existing electric easement contingent upon an agreement with
14 the easement holder or controller for the delivery of
15 broadband service by the broadband grant recipient.

16 (b) If the proper permits are acquired by State and local
17 authorities, no property owner of property located within the
18 grant service area shall forbid or prevent a proposed
19 broadband grant recipient from entering upon the property for
20 purposes of and in connection with the deployment of broadband
21 infrastructure, nor shall any such property owner forbid or
22 prohibit the broadband grant recipient from deploying upon,
23 beneath, or over that property broadband infrastructure
24 utilized by the broadband grant recipient for such broadband
25 service. The property owner may be entitled to the payment of

1 just compensation by that broadband grant recipient as
2 provided in Section 17.4, and the broadband grant recipient
3 shall indemnify the owner of the property for any physical
4 damage caused by deployment of the broadband infrastructure
5 and service.

6 (220 ILCS 30/17.4 new)

7 Sec. 17.4. Notice and compensation.

8 (a) The broadband grant recipient must notify the property
9 owner in writing by sending notification to the property
10 owner's address specified in the online or publicly available
11 records of the applicable county assessor (i) by the United
12 States Postal Service, certified mail, return receipt
13 requested; (ii) by a designated private delivery service, as
14 defined by the Internal Revenue Service, that provides the
15 same function as certified mail with return receipt; or (iii)
16 by personally serving the notification. The property owner
17 shall be notified at least 14 days, but not more than 60 days,
18 prior to the broadband grant recipient entering upon such
19 property for purposes of or in connection with the deployment
20 of broadband infrastructure. The notice shall include the
21 following information:

22 (1) the address of the property;

23 (2) the name of the broadband grant recipient and
24 contact information for notice to the broadband grant
25 recipient;

1 (3) the anticipated date of the proposed installation,
2 maintenance, repair, or removal of the broadband
3 infrastructure and projected length of time required to
4 complete the installation, maintenance, or repair;

5 (4) information as to the time within which the owner
6 may give notice and demand just compensation under this
7 Section if the property owner believes that the property
8 is diminished in value due to the burden on the property
9 from the expanded use of the electric easement or
10 right-of-way;

11 (5) the manner and method of, and the detailed design
12 and construction plans for, such installation,
13 maintenance, repair, and removal, including the location
14 of the proposed entry and path of broadband facilities
15 proposed to be placed, repaired, maintained, or removed
16 upon the property;

17 (6) for installation of broadband infrastructure that
18 will occur overhead, the details regarding how the
19 broadband infrastructure installation will conform to
20 applicable National Electric Safety Code standards for
21 overhead clearance; and

22 (7) for installation of broadband infrastructure that
23 will occur below ground, a statement absolving the
24 property owner or the property owner's tenant from
25 liability for any damages to broadband infrastructure that
26 occur in the event of normal property use, including

1 normal farming operations if the property is used for
2 farming purposes.

3 (b) If the property owner intends to demand just
4 compensation, the property owner must serve written notice
5 thereof upon the broadband grant recipient within 45 days
6 after the anticipated date of broadband deployment as provided
7 in the notice to the property owner. Unless timely notice as
8 provided in this subsection is given by the property owner to
9 the broadband grant recipient, it will be conclusively
10 presumed that the property owner does not claim just
11 compensation for the burden on the property from the expanded
12 use of the electric easement or the right-of-way.

13 (c) Any property owner described in subsection (a) who has
14 given timely written notice to the broadband provider, as
15 provided in subsection (b), may assert a claim for just
16 compensation for diminution in value of the property from the
17 expanded use of the electric easement or right-of-way. Such
18 action must be commenced within 6 months of delivery of the
19 broadband grant recipient's original notice of intent to
20 deploy broadband infrastructure. A property owner who has not
21 given timely notice as provided in subsection (b) is barred
22 from asserting such a claim.

23 (d) Neither the property owner's notice to demand just
24 compensation, nor the property owner's assertion of a specific
25 claim for just compensation, nor the initiation of any legal
26 action to enforce the claim of just compensation shall delay

1 or impair the right of the broadband grant recipient to deploy
2 broadband infrastructure and provide broadband service within
3 or upon, beneath, or over property described in subsection
4 (a).

5 (220 ILCS 30/17.5 new)

6 Sec. 17.5. Rights-of-way. Conditional upon acquiring the
7 proper agreement or permit with the highway right-of-way
8 controller or holder, a broadband grant recipient may install,
9 maintain, and use broadband infrastructure below ground along
10 a highway right-of-way within the grant service area. The
11 broadband grant recipient shall comply with all applicable
12 provisions of Section 9-113 of the Illinois Highway Code and
13 relevant administrative rules. No property owner of property
14 located within the grant service area shall forbid or prevent
15 such proposed broadband grant recipient from entering upon
16 such property for purposes of and in connection with the
17 deployment of broadband infrastructure, nor shall any such
18 property owner forbid or prohibit the covered provider from
19 deploying upon, beneath, or over such property broadband
20 infrastructure utilized by the covered provider for providing
21 broadband service. The property owner may be entitled to
22 payment of just compensation by that broadband grant
23 recipient, as provided in Section 17.4, and the broadband
24 grant recipient shall indemnify the owner of such property for
25 any physical damage caused by the deployment of such broadband

1 infrastructure and service. Nothing in this amendatory Act of
2 the 104th General Assembly shall be construed as reducing the
3 ability of the Department of Transportation from exercising
4 its authority to (1) approve or deny permits for use of its
5 right-of-way, (2) collect fees and compensation required as
6 part of the Department of Transportation's administrative
7 rules, and (3) manage the use of its right-of-way.

8 (220 ILCS 30/17.6 new)

9 Sec. 17.6. Labor standards and protection. Electric
10 cooperative broadband grant recipients under this Law,
11 including any contractors and subcontractors of the broadband
12 grant recipient, performing work subject to this Law shall,
13 when applicable, pay prevailing wages and benefits to workers,
14 comply with the Davis-Bacon Act, and collect any required
15 certified payrolls. A broadband grant recipient shall comply
16 with all requirements set forth in the Prevailing Wage Act,
17 including, but not limited to, inserting into all contracts
18 for construction a stipulation that not less than the
19 prevailing rate of wages, as applicable to the project, shall
20 be paid to all laborers, workers, and mechanics performing
21 work under the contract, and requiring all surety bonds with
22 contractors to include a provision that guarantees the
23 faithful performance of the prevailing wage clause in the
24 contract. The electric cooperative shall report to the
25 Department of Labor on its compliance with the Prevailing Wage

1 Act on a monthly basis. Apprentices performing work subject to
2 this Law shall perform either 10% of the total labor hours
3 actually worked in each prevailing wage classification or 10%
4 of the estimated labor hours in each prevailing wage
5 classification, whichever is less.

6 (220 ILCS 30/17.7 new)

7 Sec. 17.7. Disputes. If there is any dispute regarding the
8 terms, rates, or conditions of access to or use of
9 infrastructure, facilities, and assets to facilitate the
10 delivery of broadband service to Illinois residential and
11 commercial customers under this Law, the Commission, upon the
12 petition of any party, shall hear and decide the dispute in
13 accordance with the Commission's Rules of Practice (83 Ill.
14 Adm. Code Part 200).

15 (220 ILCS 30/17.8 new)

16 Sec. 17.8. Sunset. The rights and obligations of broadband
17 project grant recipients and landowners set forth in this Law
18 do not apply on and after January 1, 2030.

19 Section 10. The Broadband Infrastructure Advancement Act
20 is amended by changing Section 4-20 as follows:

21 (220 ILCS 81/4-20)

22 Sec. 4-20. Use of other broadband funds. The Department of

1 Commerce and Economic Opportunity, the Office of Broadband, or
2 any other State agency, board, office, or commission
3 appropriated funding to provide grants for broadband
4 deployment, broadband expansion, broadband access, broadband
5 affordability, and broadband improvement projects must
6 establish program eligibility and selection criteria by
7 administrative rules.

8 The Department of Commerce and Economic Opportunity, when
9 evaluating grant applications for the deployment of broadband
10 network, must consider the expediency with which a project can
11 be completed and broadband Internet access service delivered.
12 Projects for which the Department awards grants to deploy
13 broadband service in unserved areas or underserved areas shall
14 include, as a project expense, costs necessarily incurred for
15 the acquisition of any license, easement, right-of-way, or
16 other property interest, or for the use of or for access to
17 public utility (as defined in Section 3-105 of the Public
18 Utilities Act) owned or State or local government owned
19 infrastructure or assets for such project that are used
20 directly in the provision of broadband service to locations in
21 such unserved or underserved areas.

22 (Source: P.A. 102-699, eff. 4-19-22.)

23 Section 99. Effective date. This Act takes effect upon
24 becoming law."