



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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| Bill Number: | S.1076 | Introduced on February 5, 2020 |
| Author: | Scott | |
| Subject: | Broadband Accessibility Act | |
| Requestor: | Senate Judiciary | |
| RFA Analyst(s): | Payne | |
| Impact Date: | September 21, 2020 | |

Fiscal Impact Summary

This bill will increase recurring Other Fund expenditures by \$90,000 for the South Carolina Office of Regulatory Staff (ORS) to provide additional inspections, audits, and examinations as provided in this bill.

This bill will not have a fiscal impact on the recurring Other Funds of the South Carolina Public Service Commission (PSC). The PSC expects to handle the increased expenditures associated with additional hearings within its existing budget.

This bill will not have a fiscal impact on the General Fund, Other Funds, or Federal Funds of the circuit courts of the Judicial Branch because any increased expenditures associated with cases related to construction on easements are expected to be handled within their existing budgets.

Explanation of Fiscal Impact

Introduced on February 5, 2020

State Expenditure

This bill creates the Broadband Accessibility Act, which allows electric producers in this state to work with broadband providers to build and maintain broadband infrastructure within electric producers' existing easements. The provisions of the bill apply to both electric cooperatives and electric utilities, as defined in 58-27-10.

Section One

This bill allows electric cooperatives to own, build and operate a broadband system within its existing easements for electric service, whether used for or supporting both utility support services and nonutility support services. Electric cooperatives are allowed to provide broadband service for utility support services or wholesale or retail nonutility support services.

Broadband affiliates or an unaffiliated entity may also own, lease, build and operate a broadband system within the cooperatives' existing electric easements. An electric cooperative and its broadband affiliate are authorized to seek and utilize private or government financing as well as enter into private or government contracts, agreements, or partnerships in efforts to develop broadband systems and operations.

Electric utilities as defined in 58-27-10 may allow a broadband operator or provider to own, lease, build and operate a broadband system within the electric utilities' easements. Electric providers may allow broadband operators and providers to provide broadband service using broadband systems within the electric easements of the utilities. For any broadband system or service existing on or provided from electric utilities' easements, the electric utilities may specify the terms and conditions for the use of their easements by the broadband operator or provider.

Owners of an interest in real property subject to an electric easement may take legal action if they contend the property has been taken or destroyed by the construction, installation, use, or enlargement of broadband systems within the electric easement on the owner's property. Such property owners may file a civil lawsuit in the county circuit court in which the property is located.

Section Three

Section three of this bill expands the authority and jurisdiction of the ORS to include ensuring compliance with the Broadband Accessibility Act. Further, the ORS is allowed to make inspections, audits, or examinations of broadband affiliate subsidiaries of an electric cooperative.

Section Four

Section four of this bill extends the powers of electric cooperatives so that they may wholly or partially own, build and operate a broadband system through themselves or another entity.

Office of Regulatory Staff

The Broadband Accessibility Act expands the ORS's authority over electric cooperatives. Currently, the ORS is an investigative body whose existing authority includes making inspections, audits or examinations into investor-owned utilities and electric cooperatives in this state. The Broadband Accessibility Act allows electric cooperatives to own, build, and operate broadband systems within existing easements and to provide broadband service on a wholesale or retail basis.

The bill further requires that electric cooperatives fully allocate and properly account for all marginal costs arising from the provision of broadband service so that there is no cross-subsidizing their broadband operations with electric service sales revenues. In order to ensure compliance with this provision, section three of the bill expands the ORS's authority to make inspections, audits, or examinations of the electric cooperatives and their broadband affiliate subsidiaries.

ORS has indicated that performing the additional inspection, audit, and examination duties assigned through this bill will require one additional auditor FTE and one-half additional regulatory analyst FTE. ORS anticipates the total cost of these FTE's to be \$90,000. Therefore, this bill will increase recurring Other Fund expenditures of the ORS by \$90,000 for one and a half additional FTE's.

Public Service Commission

The Broadband Accessibility Act expands the PSC’s authority over electric cooperatives. If, at the conclusion of the ORS’s authorized inspection, audit or examination, any outstanding disputes remain, the PSC is the designated forum to resolve such issues.

At this time, the PSC does not know if the additional caseload resulting from the legislation will significantly increase the number of hearings held by the PSC. It is not anticipated that this bill will have a fiscal impact on the PSC, as the agency anticipates handling any increase in caseload expenses within their existing budget.

Judicial Branch

Section one of the bill allows an owner whose property has been taken or destroyed by the construction, installation, use, or enlargement of broadband systems to file a civil action in circuit court to recover damages within the statute of limitations.

The impact on circuit courts is unknown because there is no comparable data to suggest how many additional cases would result; however, the increase is not expected to be significant. It is anticipated that any additional costs resulting from increased circuit court caseloads can be managed within existing resources. Therefore, there will be no expenditure impact on the General Fund, Other Funds, or Federal funds of the department.

State Revenue

N/A

Local Expenditure

N/A

Local Revenue

N/A



Frank A. Rainwater, Executive Director