

The Senate Committee on Regulated Industries and Utilities offered the following substitute to SB 411:

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 2 of Article 4 of Chapter 3 of Title 46 of the Official Code of Georgia
2 Annotated, relating to corporate purposes and powers of electric membership corporations,
3 so as to require electric membership corporations to comply with certain requirements in
4 determining the rates for attachments to utility poles by communications service providers;
5 to provide for certain terms and conditions for such attachments; to provide for definitions;
6 to provide for a short title; to provide for related matters; to repeal conflicting laws; and for
7 other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 This Act shall be known and may be cited as the "Georgia Broadband Opportunity Act."

11 **SECTION 2.**

12 Part 2 of Article 4 of Chapter 3 of Title 46 of the Official Code of Georgia Annotated,
13 relating to corporate purposes and powers of electric membership corporations, is amended
14 by repealing in its entirety Code Section 46-3-200.4, relating to rates, terms, and conditions
15 for pole attachments between communications service providers and electric membership
16 corporations and their broadband affiliates, and enacting a new Code Section 46-3-200.4 to
17 read as follows:

18 "46-3-200.4.

19 (a) As used in this Code section, the term:

20 (1) 'Annual recurring rate' means the rate permitted under the formula established in
21 47 U.S.C. Section 224(d) and any Federal Communications Commission rules,
22 regulations, and decisions promulgated thereunder, as such existed on January 1, 2020.

23 (2) 'Attachment' means the connection or fastening of a wire or cable to a utility pole.

24 (3) 'Broadband services' shall have the same meaning as provided in Code
25 Section 50-40-1.

26 (4) 'Communications service provider' means a provider of cable service as defined in
27 47 U.S.C. Section 522(6), telecommunications service as defined in 47 U.S.C.
28 Section 153(53), or information service as defined in 47 U.S.C. Section 153(24), as each
29 such term existed on January 1, 2020.

30 (5) 'Unserved area' shall have the same meaning as provided in Code Section 50-40-1.

31 (6) 'Utility pole' means a pole or similar structure that is used in whole or in part for
32 electric distribution by an electric membership corporation or an affiliate thereof.

33 (b) In order to promote the deployment of broadband services in this state, all electric
34 membership corporations, including those subject to paragraph (2) of subsection (b) of
35 Code Section 46-3-200.2, shall:

36 (1) Ensure that any rates and fees charged by such electric membership corporation for
37 attachments to utility poles by communications service providers shall be
38 nondiscriminatory with regard to the services furnished and shall not exceed the annual
39 recurring rate; provided, however, that for any agreement between an electric
40 membership corporation and a communications service provider for an attachment to any
41 utility poles that is a renewal or extension of an existing agreement that was in effect on
42 or before January 1, 2020, or that is a new agreement entered into after the effective date
43 of this Code section, the electric membership corporation shall not charge any rate for
44 attachments to utility poles in unserved areas for ten years after the effective date of such
45 renewal, extension, or new agreement, if such attachment will result in the provision of
46 broadband services;

47 (2) Establish nondiscriminatory, competitively neutral, and commercially reasonable
48 terms and conditions for attachments to utility poles by any communications service
49 provider that would be permitted if 47 U.S.C. Section 224 applied, including any Federal
50 Communications Commission rules, regulations, and decisions promulgated thereunder,
51 as such existed on January 1, 2020; and

52 (3) Not require compliance by a communications service provider with utility pole
53 attachment specifications that exceed the specifications in the National Electrical Safety
54 Code, applicable fire safety codes, and any building code or similar code of general
55 applicability for the protection of public health, safety, or welfare that was adopted by the
56 applicable local government jurisdiction prior to the filing of a utility pole attachment
57 application.

58 (c) The commission shall have jurisdiction over all electric membership corporations to
59 enforce compliance within the provisions of this Code section. The commission shall
60 provide for an expedited adjudication of any complaint as to a failure to comply with this
61 Code section and may engage an administrative law judge for purposes of such
62 adjudication."

63

SECTION 3.

64 All laws and parts of laws in conflict with this Act are repealed.