

The Senate Committee on Regulated Industries and Utilities offered the following substitute to HB 499:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 4 of Chapter 3 of Title 46 of the Official Code of Georgia Annotated,  
2 relating to electric membership corporations and foreign electric cooperatives, so as to permit  
3 the use of electric easements for broadband services; to provide for a definition; to provide  
4 for legislative findings and declarations as to certain utility easements; to provide for related  
5 matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 4 of Chapter 3 of Title 46 of the Official Code of Georgia Annotated, relating to  
9 electric membership corporations and foreign electric cooperatives, is amended by adding  
10 a new paragraph to Code Section 46-3-171, relating to definitions, to read as follows:

11 "(2.1) 'Electric easement' means a right of way or an easement, whether acquired by  
12 eminent domain, prescription, or conveyance, that is used or may be used for transmitting,  
13 distributing, or providing electrical energy and services by utilizing aboveground or  
14 underground wires, cables, lines, or similar facilities."

15 **SECTION 2.**

16 Said article is further amended by adding a new Code section to read as follows:

17 "46-3-205.

18 (a) The General Assembly finds that electric membership corporations providing  
19 broadband services should be permitted to use existing electric easements to provide or  
20 expand access to broadband services. The General Assembly also finds that utilizing  
21 existing electric easements to provide broadband services, without the placement of  
22 additional poles or other ground based structures, does not change the physical use of the  
23 easement, interfere with or impair any vested rights of the owner or occupier of the real  
24 property subject to the electric easement, or place any additional burden on the property  
25 interests of such owner or occupier. Consequently, the installation and operation of

26 broadband services within any electric easement are merely changes in the manner or  
27 degree of the granted use as appropriate to accommodate a new technology and, absent any  
28 applicable express prohibition contained in the instrument conveying or granting the  
29 electric easement, shall be deemed as a matter of law to be a permitted use within the scope  
30 of every electric easement.

31 (b) Subject to compliance with any express prohibitions in an electric easement, the owner  
32 of an electric easement may use an electric easement to install, maintain, lease, and operate  
33 broadband services without incurring liability to the owner or occupant of the real property  
34 subject to the electric easement or paying additional compensation to the owner or  
35 occupant of the real property subject to the electric easement, so long as no additional poles  
36 or other ground based structures are installed; provided, however, that any electric utility  
37 owning an electric easement may assess fees and charges and impose reasonable conditions  
38 on the use of its facilities within an electric easement for the purpose of providing or  
39 supporting broadband services."

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### SECTION 3.

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