

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 634

(Senators Eckardt and Hershey)

Finance

Economic Matters

Electric Cooperatives - Powers - Conducting or Communications Facilities

This bill authorizes an electric cooperative to construct, maintain, operate or allow others to construct, maintain, or operate specified facilities that furnish telecommunications services, broadband Internet access, or related services in certain areas, subject to specified notification requirements. To ensure that electric customers do not subsidize the cost of broadband services, an electric cooperative must properly allocate costs incurred under the bill between electricity-related services and broadband services. The bill must be construed to apply retroactively and must be applied to and interpreted to affect all real property, rights-of-way, and easements held by an electric cooperative on and after the bill's effective date.

Fiscal Summary

State Effect: The bill does not materially affect State finances or operations.

Local Effect: Local jurisdictions served by electric cooperatives may experience additional deployment of telecommunications facilities. The effect on a particular local government's revenues or expenditures is unknown, but could be significant.

Small Business Effect: Minimal.

Analysis

Bill Summary: An electric cooperative may construct, maintain, operate or allow others to construct, maintain, or operate specified facilities that furnish telecommunications services, broadband Internet access, or related services in certain areas. Specifically, conducting or communications facilities may be constructed, maintained, or operated

along, on, under, or across (1) real property, personal property, rights-of-way, and easements owned, held, or otherwise used by the cooperative and (2) publicly owned lands, roadways, and public ways, with the prior consent of the local government of the area in which the facilities are proposed to be constructed and under any reasonable regulations and conditions imposed by the local government.

A cooperative must give at least 60 days prior notice to each property owner subject to an electric easement, as defined, before the cooperative (1) constructs conducting or communications facilities within the easement or (2) makes capacity available for telecommunications, broadband Internet access, or related services within the easement. The notice must be posted on the cooperative's website, included with affected customers' billing information, and provided at the next following annual member meeting.

Current Law: An electric cooperative has the powers enumerated in law, including the power to:

- generate, manufacture, purchase, acquire, accumulate, and transmit electricity;
- construct, maintain, and operate electric transmission and distribution lines along, on, under, and across publicly owned lands, roadways, and public ways, with the prior consent of the governing body of the local government of the area in which the lines are proposed to be constructed and under any reasonable regulations and conditions required in the consent;
- exercise the power of condemnation in the same manner as that authorized for corporations that construct or operate electric transmission and distribution lines or systems; and
- do any other act and exercise any other power that may be necessary, convenient, or appropriate to accomplish the purpose for which the cooperative is organized.

Background: The bill facilitates the expansion of rural broadband services by allowing the State's electric cooperatives, which have a large geographic footprint in the rural areas of the State, to lease or otherwise allow the use of existing easements and infrastructure to wireless providers. The 2019 [report](#) by the Task Force on Rural Internet, Broadband, Wireless, and Cellular Service discusses this issue in depth and recommends similar legislative action (see page 17).

As described in the report, electric companies in Maryland have the right to obtain, through contract or condemnation, easements/rights-of-way on public and private property. However, Maryland law does not explicitly authorize access to private electric company rights-of-way for broadband or other uses beyond the provision of electric service. Some electric companies have already installed fiber optic cable on their systems to facilitate communications between devices and enhance electric power reliability. This fiber was

installed, and will continue to be installed, as part of the modern equipment used in the delivery of electric service.

The State has four electric cooperatives. The two large electric cooperatives are Southern Maryland Electric Cooperative (SMECO) and Choptank Electric Cooperative. SMECO serves all of Charles and St. Mary's counties, most of Calvert County, and part of Prince George's County. Choptank serves about half of the Eastern Shore, spread across parts of each county (the rest of the Eastern Shore is primarily served by Delmarva Power, an investor-owned utility). The other two small rural electric cooperatives serve parts of Garrett and Somerset counties.

Local Fiscal Effect: Local jurisdictions served by electric cooperatives may experience additional deployment of telecommunications facilities. The effect on a particular local government's revenues (permits, property taxes) or expenditures, relative to what they would have been under current law, is unknown, but could be significant.

Additional Information

Prior Introductions: None.

Cross File: HB 1357 (Delegate Mautz) - Rules and Executive Nominations.

Information Source(s): Department of General Services; Department of Natural Resources; Maryland Department of Transportation; Office of People's Counsel; Public Service Commission; University System of Maryland; Anne Arundel, Charles, and Montgomery counties; City of Havre de Grace; Maryland Association of Counties; Department of Legislative Services

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