

HB 321 -- BROADBAND

SPONSOR: Fitzwater

This bill establishes the "Electrical Corporation Broadband Authorization Act", which authorizes an electrical corporation to:

- (1) Own, construct, install, maintain, repair, and replace broadband infrastructure;
- (2) Operate the corporation's broadband infrastructure for or in connection with providing electrical service;
- (3) Engage in broadband operation or permit broadband affiliates to engage in broadband operations using the corporation's infrastructure;
- (4) Provide broadband services or permit broadband affiliates to provide broadband services using the corporation's infrastructure; and
- (5) Enter into contracts, leases, licenses or other agreements concerning broadband operations or services with broadband affiliates, customers, or third parties on any terms and conditions at the sole discretion of the corporation without securing authorization, permission, or approval from the Public Service Commission.

When determining the revenue requirement used to set the electrical corporation's base rates in a general rate proceeding, the Commission must include the corporation's test year broadband operations and services revenues and its prudently-incurred investment in broadband infrastructure.

Any ordinance adopted by a municipal or county government that allows the corporation to install and maintain infrastructure for supplying electricity also must grant the right to install and maintain broadband infrastructure, either directly or through broadband affiliates.

The bill also specifies that any cause of action for inverse condemnation or trespass brought against certain utility companies shall be commenced within two years after the cause of action shall have accrued, and no statute of limitations shall extend the period for commencing the action.

If the plaintiff prevails in a cause of action for inverse condemnation, then the damage or taking shall be deemed permanent, the injury to the plaintiff shall not be deemed to continue,

accumulate or accrue, and the damages shall be fixed and determined as of the date the cause of action accrued.

In a cause of action for trespass, a defendant shall be entitled to a determination by the court as to whether the use by defendant or its assignees, alleged by plaintiff to be an expanded use or to exceed the scope of defendant's easement rights, is a public use. No cause of action for trespass or inverse condemnation may be brought as an action on behalf of a class.

In a cause of action for trespass or inverse condemnation, the following shall not be admissible in evidence for purposes of determining plaintiffs damages or any other purposes:

- (1) Profits, fees, or revenue derived by the defendant from uses of the easement; and
- (2) The rental value of the real property or of the easement, including the rental value of an assembled utility corridor of any type.