

**SUBSTITUTE FOR
SENATE BILL NO. 399**

A bill to amend 1909 PA 283, entitled

"An act to revise, consolidate, and add to the laws relating to the establishment, opening, discontinuing, vacating, closing, altering, improvement, maintenance, and use of the public highways and private roads; the condemnation of property and gravel therefor; the building, repairing and preservation of bridges; maintaining public access to waterways under certain conditions; setting and protecting shade trees, drainage, and cutting weeds and brush within this state; providing for the election or appointment and defining the powers, duties, and compensation of state, county, township, and district highway officials; and to prescribe penalties and provide remedies,"

by amending section 19b of chapter IV (MCL 224.19b), as added by 1980 PA 212.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

CHAPTER IV

2

Sec. 19b. (1) A person, partnership, association, corporation,

3

or governmental entity shall not construct, operate, maintain, or

1 remove a facility or perform any other work within the ~~right-of-way~~
2 **RIGHT-OF-WAY** of a county road, except sidewalk installation and
3 repair, without first obtaining a permit from the county road
4 commission having jurisdiction over the road and from the township,
5 city, or village in which the county road is located when a permit
6 is required by ordinance of the township, city, or village,
7 pursuant to authority conferred by ~~article VII,~~ section 29 of
8 **ARTICLE VII OF** the ~~Michigan~~-**STATE** constitution of 1963. The
9 adjacent property owner ~~shall~~-**IS** not ~~be~~-required to obtain a permit
10 for work incidental to the maintenance of the ~~right-of-way~~ **RIGHT-**
11 **OF-WAY** lying outside of the shoulder and roadway.

12 (2) A county road commission and a local unit of government
13 may adopt, after a public hearing of which notice has been given by
14 publication at least twice in a newspaper circulated in the county
15 not more than 30 days nor less than 7 days ~~prior to~~-**BEFORE** the
16 hearing, reasonable permit requirements and, **SUBJECT TO SUBSECTION**
17 **(5)**, a schedule of fees to be charged sufficient to cover only the
18 necessary and actual costs applied in a reasonable manner for ~~the~~
19 ~~issuance of~~-**ISSUING** the permit and for review of the proposed
20 activity, inspection, and related expenses. After the work
21 authorized in the permit has been completed, itemization of all
22 costs shall be supplied upon request of the permit holder.

23 (3) When a road commission adopts procedures for ~~the issuance~~
24 ~~of~~-**ISSUING** permits or adopts a schedule of fees in accordance with
25 ~~the provisions of~~ this section, separate procedures and fee
26 schedules shall be adopted for ~~the issuance of~~-**ISSUING** annual and
27 emergency permits ~~which~~-**THAT** reflect the minimal administrative

1 burden of issuing an annual permit for frequent but routine and
2 unobtrusive work such as surveying and the extraordinary emergency
3 repairs to municipal or public utilities.

4 (4) A county road commission may not refuse a permit requested
5 by a government entity for the installation of a facility or
6 utility owned by that **GOVERNMENT** entity if security is given by the
7 permittee or its contractor to the county road commission
8 sufficient to insure restoration of the road and appurtenances
9 thereto and adjacent ~~right-of-way~~ **RIGHT-OF-WAY** to a condition
10 reasonably equal to or better than that existing ~~prior to such~~
11 **BEFORE THAT** installation. ~~nor may a~~

12 (5) A county road commission **SHALL NOT** charge a government
13 entity **OR A PROVIDER** a permit fee exceeding \$300.00 per permit or
14 \$1,000.00 total for all permits per project.

15 (6) **SUBJECT TO THIS SUBSECTION, A COUNTY ROAD COMMISSION SHALL**
16 **NOT REQUIRE A PROVIDER TO HAVE MORE THAN 1 SECURITY BOND OR RIGHT-**
17 **OF-WAY BOND FROM A STATE OR FEDERALLY REGULATED ENTITY TO SECURE**
18 **THE PERFORMANCE OF THE CONDITIONS OF ALL PERMITS ISSUED THAT**
19 **AUTHORIZE THE PROVIDER TO CONSTRUCT, OPERATE, MAINTAIN, OR REMOVE A**
20 **FACILITY OR PERFORM ANY OTHER WORK ANYWHERE WITHIN THE RIGHT-OF-WAY**
21 **OF ANY ROAD UNDER THE JURISDICTION OF THE COUNTY ROAD COMMISSION.**
22 **THE PROVIDER SHALL DETERMINE WHETHER THE SECURITY BOND OR RIGHT-OF-**
23 **WAY BOND DESCRIBED IN THIS SUBSECTION IS AN INSURANCE BOND OR A**
24 **CASH BOND. A COUNTY ROAD COMMISSION SHALL NOT REQUIRE THE SECURITY**
25 **BOND OR RIGHT-OF-WAY BOND TO BE A CASH BOND. THE AMOUNT OF A**
26 **SECURITY BOND OR RIGHT-OF-WAY BOND DESCRIBED IN THIS SUBSECTION**
27 **SHALL NOT EXCEED \$20,000.00. UPON THE REQUEST OF A PROVIDER, THE**

1 COUNTY ROAD COMMISSION SHALL RETURN A SECURITY BOND OR RIGHT-OF-WAY
2 BOND TO THE PROVIDER WITHIN 60 DAYS AFTER THE PROVIDER COMPLETES
3 CONSTRUCTION WORK IN THE RIGHT-OF-WAY. INSTEAD OF PROVIDING A
4 SECURITY BOND OR RIGHT-OF-WAY BOND, A PROVIDER MAY PROVIDE SECURITY
5 THAT CONSISTS OF AN IRREVOCABLE LETTER OF CREDIT ISSUED BY A STATE
6 OR FEDERALLY REGULATED FINANCIAL INSTITUTION TO SECURE THE
7 PERFORMANCE OF THE CONDITIONS OF ALL PERMITS ISSUED THAT AUTHORIZE
8 THE PROVIDER TO CONSTRUCT, OPERATE, MAINTAIN, OR REMOVE A FACILITY
9 OR PERFORM ANY OTHER WORK ANYWHERE WITHIN THE RIGHT-OF-WAY OF ANY
10 ROAD UNDER THE JURISDICTION OF THE COUNTY ROAD COMMISSION.

11 (7) A PROVIDER SHALL MAINTAIN GENERAL LIABILITY INSURANCE WITH
12 MINIMUM POLICY LIMITS OF \$1,000,000.00 PER OCCURRENCE FOR PROPERTY
13 DAMAGE AND \$1,000,000.00 PER OCCURRENCE FOR BODILY INJURY THAT
14 APPLY TO ALL CLAIMS, DEMANDS, SUITS, OR CAUSES OF ACTION ARISING IN
15 CONNECTION WITH OR AS A DIRECT RESULT OF THE PROVIDER'S USE AND
16 OCCUPANCY OF A RIGHT-OF-WAY UNDER THE JURISDICTION OF A COUNTY ROAD
17 COMMISSION. THE COUNTY ROAD COMMISSION SHALL NOT REQUIRE THE
18 PROVIDER TO FURNISH A POLICY OF GENERAL LIABILITY INSURANCE NAMING
19 THE COUNTY, THE COUNTY ROAD COMMISSION, ITS OFFICERS, EMPLOYEES,
20 AND OTHERS AS ADDITIONAL INSUREDS.

21 (8) AS USED IN THIS SECTION:

22 (A) "COUNTY ROAD COMMISSION" MEANS THE BOARD OF COUNTY ROAD
23 COMMISSIONERS ELECTED OR APPOINTED PURSUANT TO SECTION 6 OF THIS
24 CHAPTER, OR, IN THE CASE OF A CHARTER COUNTY WITH A POPULATION OF
25 750,000 OR MORE WITH AN ELECTED COUNTY EXECUTIVE THAT DOES NOT HAVE
26 A BOARD OF COUNTY ROAD COMMISSIONERS, THE COUNTY EXECUTIVE FOR
27 MINISTERIAL FUNCTIONS AND THE COUNTY COMMISSION PROVIDED FOR IN

1 SECTION 14(1)(D) OF 1966 PA 293, MCL 45.514, FOR LEGISLATIVE
2 FUNCTIONS. IN ADDITION, IF A BOARD OF COUNTY ROAD COMMISSIONERS IS
3 DISSOLVED AS PROVIDED IN SECTION 6 OF THIS CHAPTER, COUNTY ROAD
4 COMMISSION INCLUDES THE COUNTY BOARD OF COMMISSIONERS OF THE
5 COUNTY.

6 (B) "PROVIDER" MEANS EITHER OF THE FOLLOWING:

7 (i) A TELECOMMUNICATION PROVIDER AS THAT TERM IS DEFINED IN
8 SECTION 102 OF THE MICHIGAN TELECOMMUNICATIONS ACT, 1991 PA 179,
9 MCL 484.2102.

10 (ii) A VIDEO SERVICE PROVIDER AS THAT TERM IS DEFINED IN
11 SECTION 1 OF THE UNIFORM VIDEO SERVICES LOCAL FRANCHISE ACT, 2006
12 PA 480, MCL 484.3301.

13 Enacting section 1. This amendatory act takes effect 90 days
14 after the date it is enacted into law.