

SENATE BILL No. 399

June 16, 2015, Introduced by Senators SCHMIDT, ZORN and HORN and referred to the Committee on Local Government.

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:

CHAPTER IV

Sec. 19b. (1) A person, partnership, association, corporation, or governmental entity shall not construct, operate, maintain, or

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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~~ **BEFORE**
11 such installation. ~~nor may a~~

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

15 (6) **A COUNTY ROAD COMMISSION SHALL NOT REQUIRE A**
16 **TELECOMMUNICATION PROVIDER TO HAVE MORE THAN 1 SECURITY BOND TO**
17 **SECURE THE PERFORMANCE OF THE CONDITIONS OF ALL PERMITS ISSUED THAT**
18 **AUTHORIZE THE TELECOMMUNICATION PROVIDER TO CONSTRUCT, OPERATE,**
19 **MAINTAIN, OR REMOVE A TELECOMMUNICATION FACILITY OR PERFORM ANY**
20 **OTHER WORK ANYWHERE WITHIN THE RIGHT-OF-WAY OF ANY ROAD UNDER THE**
21 **JURISDICTION OF THE COUNTY ROAD COMMISSION. THE TELECOMMUNICATION**
22 **PROVIDER SHALL DETERMINE WHETHER THE SECURITY BOND DESCRIBED IN**
23 **THIS SUBSECTION IS AN INSURANCE BOND OR A CASH BOND, AND A COUNTY**
24 **ROAD COMMISSION SHALL NOT REQUIRE THAT THE SECURITY BOND BE A CASH**
25 **BOND. THE AMOUNT OF A SECURITY BOND DESCRIBED IN THIS SUBSECTION**
26 **SHALL NOT EXCEED \$10,000.00. UPON THE REQUEST OF A**
27 **TELECOMMUNICATION PROVIDER, THE COUNTY ROAD COMMISSION SHALL RETURN**

1 THE SECURITY BOND TO THE TELECOMMUNICATION PROVIDER WITHIN 60 DAYS
2 AFTER THE TELECOMMUNICATION PROVIDER COMPLETES ALL WORK IN THE
3 RIGHT-OF-WAY.

4 (7) IF A TELECOMMUNICATION PROVIDER MAINTAINS GENERAL
5 LIABILITY INSURANCE WITH MINIMUM POLICY LIMITS OF \$1,000,000.00 PER
6 OCCURRENCE FOR PROPERTY DAMAGE AND \$1,000,000.00 PER OCCURRENCE FOR
7 BODILY INJURY THAT APPLY TO ALL CLAIMS, DEMANDS, SUITS, OR CAUSES
8 OF ACTION ARISING IN CONNECTION WITH OR AS A DIRECT RESULT OF THE
9 TELECOMMUNICATION PROVIDER'S USE AND OCCUPANCY OF A RIGHT-OF-WAY
10 UNDER THE JURISDICTION OF A COUNTY ROAD COMMISSION, THAT COUNTY
11 ROAD COMMISSION SHALL NOT REQUIRE THE TELECOMMUNICATION PROVIDER TO
12 FURNISH A POLICY OF GENERAL LIABILITY INSURANCE NAMING THE COUNTY,
13 THE COUNTY ROAD COMMISSION, ITS OFFICERS, EMPLOYEES, AND OTHERS AS
14 ADDITIONAL INSURED.

15 (8) AS USED IN THIS SECTION:

16 (A) "BROADBAND INTERNET ACCESS TRANSPORT SERVICES" MEANS THE
17 BROADBAND TRANSMISSION OF DATA BETWEEN AN END-USER AND THE END-
18 USER'S INTERNET SERVICE PROVIDER'S POINT OF INTERCONNECTION AT A
19 SPEED OF 200 OR MORE KILOBITS PER SECOND TO THE END-USER'S
20 PREMISES.

21 (B) "TELECOMMUNICATION FACILITIES" MEANS THE EQUIPMENT OR
22 PERSONAL PROPERTY, SUCH AS COPPER AND FIBER CABLES, LINES, WIRES,
23 SWITCHES, CONDUITS, PIPES, AND SHEATHS, WHICH ARE USED TO OR CAN
24 GENERATE, RECEIVE, TRANSMIT, CARRY, AMPLIFY, OR PROVIDE
25 TELECOMMUNICATION SERVICES OR SIGNALS. TELECOMMUNICATION FACILITIES
26 DO NOT INCLUDE ANTENNAS, SUPPORTING STRUCTURES FOR ANTENNAS,
27 EQUIPMENT SHELTERS OR HOUSES, AND ANY ANCILLARY EQUIPMENT AND

1 MISCELLANEOUS HARDWARE USED TO PROVIDE FEDERALLY LICENSED
2 COMMERCIAL MOBILE SERVICE AS DEFINED IN 47 USC 332, AND FURTHER
3 DEFINED AS COMMERCIAL MOBILE RADIO SERVICE IN 47 CFR 20.3, OR
4 SERVICE PROVIDED BY ANY WIRELESS, 2-WAY COMMUNICATIONS DEVICE.

5 (C) "TELECOMMUNICATION PROVIDER" AND "TELECOMMUNICATION
6 SERVICES" MEAN THOSE TERMS AS DEFINED IN SECTION 102 OF THE
7 MICHIGAN TELECOMMUNICATIONS ACT, 1991 PA 179, MCL 484.2102.
8 TELECOMMUNICATION PROVIDER DOES NOT INCLUDE A PERSON OR AN
9 AFFILIATE OF THAT PERSON WHEN PROVIDING A FEDERALLY LICENSED
10 COMMERCIAL MOBILE SERVICE AS DEFINED IN 47 USC 332, AND FURTHER
11 DEFINED AS COMMERCIAL MOBILE RADIO SERVICE IN 47 CFR 20.3, OR
12 SERVICE PROVIDED BY ANY WIRELESS, 2-WAY COMMUNICATION DEVICE. FOR
13 PURPOSES OF THIS SECTION ONLY, A TELECOMMUNICATION PROVIDER
14 INCLUDES ALL OF THE FOLLOWING:

15 (i) A CABLE TELEVISION OPERATOR THAT PROVIDES A
16 TELECOMMUNICATION SERVICE.

17 (ii) A PERSON WHO OWNS TELECOMMUNICATION FACILITIES LOCATED
18 WITHIN A PUBLIC RIGHT-OF-WAY.

19 (iii) A PERSON PROVIDING BROADBAND INTERNET TRANSPORT ACCESS
20 SERVICE.

21 (iv) AN INTERNET SERVICE PROVIDER THAT PROVIDES A
22 TELECOMMUNICATION SERVICE.

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