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BILL ANALYSIS

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Senate Bill 399 (as introduced 6-16-15)
Sponsor: Senator Wayne Schmidt
Committee: Local Government

Date Completed: 10-6-15

CONTENT

The bill would amend the county road law to do the following:

- **Prohibit a county road commission from charging a telecommunication provider a fee of more than $300 per permit or $1,000 total, per project, for a project in the right-of-way of a road under the jurisdiction of the road commission.**
- **Prohibit a road commission from requiring a telecommunication provider to have more than one security bond for a project within the right-of-way of any road under the road commission's jurisdiction.**
- **Require the telecommunication provider to determine whether the security bond was an insurance bond or cash bond, and prohibit the road commission from requiring it to be a cash bond.**
- **Provide that a telecommunication provider's security bond could not exceed $10,000.**
- **Require a road commission to return a telecommunication provider's security bond within 60 days after the provider completed the work in the right-of-way and requested the bond's return.**
- **Prohibit a road commission from requiring a telecommunication provider to furnish a policy of general liability insurance naming the county, the road commission, and others as additional insureds, if the provider maintained liability insurance with certain minimum policy limits.**

The bill would take effect 90 days after its enactment.

Fee Limit

Under the county road law, a person, partnership, association, corporation, or governmental entity may not construct, operate, maintain, or remove a facility or perform any other work within a county road right-of-way (except sidewalk installation and repair) without first obtaining a permit from the county road commission having jurisdiction over the road and from the township, city, or village in which the county road is located when a permit is required by ordinance. A county road commission and a local unit of government may adopt reasonable permit requirements and a schedule of fees to be charged sufficient to cover only the necessary and actual costs applied in a reasonable manner for issuing the permit and for review of the proposed activity, inspection, and related expenses.

A county road commission may not charge a government entity a permit fee exceeding $300 per permit or $1,000 total for all permits per project. The bill also would prohibit a road commission from charging a telecommunication provider a permit fee that exceeded those limits.

Under the bill, "telecommunication provider" and "telecommunication services" would mean those terms as defined in the Michigan Telecommunication Act. Under that Act, "telecommunication provider" means a person that for compensation provides one or more telecommunication services, but does not include a provider of commercial mobile services. "Telecommunication services" includes regulated and unregulated services offered to customers for the transmission of two-way interactive communication and associated usage.

The bill specifies that "telecommunication provider" would not include a person or an affiliate of that person when providing a federally licensed commercial mobile service or service provided by any wireless, two-way communication device. "Telecommunication provider" would include all of the following:

-- A cable television operator that provides a telecommunication service.
-- A person who owns telecommunication facilities located within a public right-of-way.
-- A person providing broadband internet transport access service.
-- An internet service provider that provides a telecommunication service.

Security Bond

Under the bill, a county road commission could not require a telecommunication provider to have more than one security bond to secure the performance of the conditions of all permits issued that authorized it to construct, operate, maintain, or remove a telecommunication facility or perform any other work anywhere within the right-of-way of any road under the road commission's jurisdiction.

The telecommunication provider would have to determine whether the security bond was an insurance bond or a cash bond, and a road commission could not require the security bond to be a cash bond. The amount of a security bond could not exceed $10,000. Upon the request of a telecommunication provider, the road commission would have to return the security bond to the provider within 60 days after the provider completed all work in the right-of-way.

Liability Insurance

Under the bill, if a telecommunication provider maintained general liability insurance with minimum policy limits of $1.0 million per occurrence for property damage and $1.0 million per occurrence for bodily injury that applied to all claims, demands, suits, or causes of action arising in connection with or as a direct result of the telecommunication provider's use and occupancy of a right-of-way under a county road commission's jurisdiction, the road commission could not require the provider to furnish a policy of general liability insurance naming the county, the county road commission, its officers, employees, and others as additional insureds.

MCL 224.19b Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact at the State level, and an indeterminate impact at the local level.

To the extent that county road commissions would have to reduce permit and project fees for telecommunication providers, there would be a corollary reduction in fee revenue. It is unknown whether the costs of issuing permit or project approval would exceed the fee limitations prescribed in the bill. These costs can vary greatly depending on the county in which the work is performed and the type of project.

The bill's provision that would limit security bonds for telecommunication providers to $10,000 could result in additional costs to county road agencies to the extent that telecommunication providers' work projects resulted in damage to county road rights-of-way exceeding $10,000 for a project.

In prohibiting a road commission from requiring a telecommunication furnish to provide an insurance policy naming a county road commission as an insured, the bill could result in increased liability exposure for county road commissions or increased costs if a county road commission purchased additional insurance as a result.

Fiscal Analyst: Glenn Steffens