



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 1050 (as reported without amendment)
Sponsor: Senator Jim Stamas
Committee: Energy and Technology

CONTENT

The bill would amend Public Act 368 of 1925, which governs highway obstructions and encroachments, as well as the use of highways by public utilities, to do the following:

- Allow a broadband company to enter upon, construct, and maintain telephone, power, or pipe lines, wires, cables, polls, conduits, sewers, or similar structures upon, over, across, or under public roads, bridges, streets, and waters.
- Require an entity that proposed to construct a broadband line upon, over, or under a county road or bridge, or State trunk line or State-constructed bridge to obtain the consent of the appropriate board of county road commissioners or the State road commissioner, as applicable.

Under the bill, broadband companies also would have to obtain consent prior to construction from the appropriate governing board of a jurisdiction through or along which the above structures would be constructed.

MCL 247.183 & 247.184

Legislative Analyst: Tyler VanHuyse

FISCAL IMPACT

The bill could have a minimal negative fiscal impact on the State and an indeterminate negative fiscal impact on local units of government.

The bill would add broadband companies to the list of companies who are allowed access to the right-of-way (ROW) at the State, county, and city/village/township level. Those companies still would need to get consent from those units of government before doing work within the ROW. Essentially, this would mean that while a unit of government could not prohibit a broadband company from accessing the ROW within its jurisdiction, it could direct which parts of the ROW were used, whether because of available space within the ROW or other technical or engineering constraints.

Access to the ROW at the State and local level involves permitting. The State may not use Michigan Transportation Fund (MTF) revenue to cover the administrative costs associated with issuing these types of permits, so it has in place a fee structure that allows it to cover those administrative costs. The addition of broadband companies to the list of types of companies who currently apply for State permits would mean more permit review and processing by the Department of Transportation, however, it is anticipated that the fee schedule would cover most, if not all, of those additional expenses.

With the enactment of Public Act 97 of 2018, county road commissions may only charge up to \$300 per permit for ROW work or maintenance in counties with a population of 250,000 or less. The limit is \$600 dollars per permit for counties with a population greater than 250,000. Rights-of-Way are not uniform throughout the State; their sizes fluctuate, and they sometimes run through property with restrictions as to its use. As such, the space within a ROW also may be limited or prohibitive of new power or utility lines. For those instances when complications within the ROW would require excessive permit oversight or review, county road commissions would be unlikely to recover sufficient permit fees to cover those costs, meaning the balance of those costs would require supplemental funding from the county road agency, most likely from its annual distribution of MTF revenue from the State. The location and frequency of ROW permitting for broadband companies that would result in a loss for a county are indeterminate.

Date Completed: 9-27-18

Fiscal Analyst: Michael Siracuse