



Senate Fiscal Agency
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BILL



ANALYSIS

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Senate Bill 1050 (as introduced 6-6-18)
Sponsor: Senator Jim Stamas
Committee: Energy and Technology

Date Completed: 9-6-18

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.**

The bill would take effect 90 days after its enactment.

Under the Act, telegraph, telephone, power, and other public utility companies, cable television companies, and municipalities may enter upon, construct, and maintain telegraph, telephone, or power lines, pipe lines, wires, cables, poles, conduits, sewers, or similar structures upon, over, across, or under any public road, bridge, street, or public place, longitudinally within limited access highway rights-of-way, and across or under any of the State's waters, with all necessary erections and fixtures for that purpose. Before any of the work begins, the company or municipality must obtain the consent of the governing body of the city, village, or township through or along which the lines and poles are to be constructed and maintained. Under the bill, these provisions also would apply to a broadband company.

An entity that proposes to construct a utility line or structure upon, over, or under a county road or bridge must obtain the consent of the appropriate board of county road commissioners before beginning the work. In addition, an entity that proposes to construct a utility line or structure upon, over, or under a State trunk line highway or any bridge that the State has participated in constructing must obtain the consent of the State highway commissioner before beginning the work. Under the bill, those requirements also would apply to an entity proposing to construct a broadband line upon, over, or under a county road or bridge, or State trunk line or State-constructed bridge, as applicable.

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.

Fiscal Analyst: Michael Siracuse

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.