

# HOUSE BILL No. 5097

October 12, 2017, Introduced by Reps. Griffin, Hoitenga, Iden and Phelps and referred to the Committee on Communications and Technology.

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 amended by 2016 PA 456.

## 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 remove a facility or perform any other work within the right-of-way

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

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

21 (3) When a road commission adopts procedures for ~~the issuance~~  
22 ~~of~~**ISSUING** permits or adopts a schedule of fees as provided in this  
23 section, separate procedures and fee schedules ~~shall~~**MUST** be  
24 adopted for ~~the issuance of~~**ISSUING** annual and emergency permits  
25 that reflect the minimal administrative burden of issuing an annual  
26 permit for frequent but routine and unobtrusive work such as  
27 surveying and the extraordinary emergency repairs to municipal or

1 public utilities.

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

10 (5) **A COUNTY ROAD COMMISSION SHALL NOT REQUIRE A PROVIDER TO**  
11 **PERFORM OR PAY FOR ANY TOPOGRAPHIC, BOUNDARY, ENVIRONMENTAL, OR**  
12 **OTHER KIND OF SURVEY, STUDY, INSPECTION, OR ANALYSIS OF A RIGHT-OF-**  
13 **WAY AS A CONDITION OF OR IN CONNECTION WITH ISSUING A PERMIT.**

14 (6) A county road commission **SHALL NOT** charge a government  
15 entity **OR A PROVIDER** a permit fee exceeding \$300.00 per permit or,  
16 **EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (7), \$1,000.00 total for**  
17 all permits per project.

18 (7) **A COUNTY ROAD COMMISSION SHALL NOT REQUIRE A PROVIDER TO**  
19 **OBTAIN A PERMIT FOR PERFORMING ROUTINE MAINTENANCE OR REPAIR WORK**  
20 **IN A RIGHT-OF-WAY MORE THAN ONCE A YEAR, AND SHALL NOT CHARGE A**  
21 **PROVIDER AN ANNUAL PERMIT FEE EXCEEDING \$300.00 FOR THAT PERMIT FOR**  
22 **PERFORMING ROUTINE MAINTENANCE OR REPAIR WORK IN A RIGHT-OF-WAY.**  
23 **THE ANNUAL PERMIT FEE PROVIDED IN THIS SUBSECTION IS NOT INCLUDED**  
24 **IN THE PERMIT FEE LIMITATION PROVIDED IN SUBSECTION (6).**

25 (8) ~~(5)~~ This section does not authorize a county road  
26 commission to require a permit for an activity that is otherwise  
27 permissible under the laws of this state. A county road commission

1 shall not be held liable for the failure of a person performing  
2 work for which a permit is not required on a county road right-of-  
3 way to post a sign that gives advance warning of the work being  
4 performed in the right-of-way.

5       (9) SUBJECT TO THIS SUBSECTION, A COUNTY ROAD COMMISSION SHALL  
6 NOT REQUIRE A PROVIDER TO HAVE MORE THAN 1 SECURITY BOND OR RIGHT-  
7 OF-WAY BOND FROM A STATE OR FEDERALLY REGULATED ENTITY TO SECURE  
8 THE PERFORMANCE OF THE CONDITIONS OF ALL PERMITS ISSUED THAT  
9 AUTHORIZE THE PROVIDER TO CONSTRUCT, OPERATE, MAINTAIN, OR REMOVE A  
10 FACILITY OR PERFORM ANY OTHER WORK ANYWHERE WITHIN THE RIGHT-OF-WAY  
11 OF ANY ROAD UNDER THE JURISDICTION OF THE COUNTY ROAD COMMISSION.  
12 THE PROVIDER SHALL DETERMINE WHETHER THE SECURITY BOND OR RIGHT-OF-  
13 WAY BOND DESCRIBED IN THIS SUBSECTION IS AN INSURANCE BOND OR A  
14 CASH BOND. A COUNTY ROAD COMMISSION SHALL NOT REQUIRE THE SECURITY  
15 BOND OR RIGHT-OF-WAY BOND TO BE A CASH BOND. THE AMOUNT OF A  
16 SECURITY BOND OR RIGHT-OF-WAY BOND DESCRIBED IN THIS SUBSECTION  
17 MUST NOT EXCEED \$20,000.00. UPON THE REQUEST OF A PROVIDER, THE  
18 COUNTY ROAD COMMISSION SHALL RETURN A SECURITY BOND OR RIGHT-OF-WAY  
19 BOND TO THE PROVIDER WITHIN 60 DAYS AFTER THE PROVIDER COMPLETES  
20 CONSTRUCTION WORK IN THE RIGHT-OF-WAY. INSTEAD OF PROVIDING A  
21 SECURITY BOND OR RIGHT-OF-WAY BOND, A PROVIDER MAY PROVIDE SECURITY  
22 THAT CONSISTS OF AN IRREVOCABLE LETTER OF CREDIT ISSUED BY A STATE  
23 OR FEDERALLY REGULATED FINANCIAL INSTITUTION TO SECURE THE  
24 PERFORMANCE OF THE CONDITIONS OF ALL PERMITS ISSUED THAT AUTHORIZE  
25 THE PROVIDER TO CONSTRUCT, OPERATE, MAINTAIN, OR REMOVE A FACILITY  
26 OR PERFORM ANY OTHER WORK ANYWHERE WITHIN THE RIGHT-OF-WAY OF ANY  
27 ROAD UNDER THE JURISDICTION OF THE COUNTY ROAD COMMISSION.

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

11           (11) AS USED IN THIS SECTION:

12           (A) "COUNTY ROAD COMMISSION" MEANS THE BOARD OF COUNTY ROAD  
13 COMMISSIONERS ELECTED OR APPOINTED PURSUANT TO SECTION 6 OF THIS  
14 CHAPTER, OR, IN THE CASE OF A CHARTER COUNTY WITH A POPULATION OF  
15 750,000 OR MORE WITH AN ELECTED COUNTY EXECUTIVE THAT DOES NOT HAVE  
16 A BOARD OF COUNTY ROAD COMMISSIONERS, THE COUNTY EXECUTIVE FOR  
17 MINISTERIAL FUNCTIONS AND THE COUNTY COMMISSION PROVIDED FOR IN  
18 SECTION 14(1)(D) OF 1966 PA 293, MCL 45.514, FOR LEGISLATIVE  
19 FUNCTIONS. IN ADDITION, IF A BOARD OF COUNTY ROAD COMMISSIONERS IS  
20 DISSOLVED AS PROVIDED IN SECTION 6 OF THIS CHAPTER, COUNTY ROAD  
21 COMMISSION INCLUDES THE COUNTY BOARD OF COMMISSIONERS OF THE  
22 COUNTY.

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

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

27           (ii) A VIDEO SERVICE PROVIDER AS THAT TERM IS DEFINED IN

1    **SECTION 1 OF THE UNIFORM VIDEO SERVICES LOCAL FRANCHISE ACT, 2006**  
2    **PA 480, MCL 484.3301.**

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