

HOUSE BILL No. 5016

October 22, 2015, Introduced by Reps. Leutheuser, Iden, Barrett and Chirkun and referred to the Committee on Communications and Technology.

A bill to amend 1925 PA 368, entitled

"An act to prohibit obstructions and encroachments on public highways, to provide for the removal thereof, to prescribe the conditions under which telegraph, telephone, power, and other public utility companies, cable television companies and municipalities may enter upon, construct and maintain telegraph, telephone, power or cable television lines, pipe lines, wires, cables, poles, conduits, sewers and like structures upon, over, across or under public roads, bridges, streets and waters and to provide penalties for the violation of this act,"

by amending section 13 (MCL 247.183), as amended by 2005 PA 103.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 13. (1) Except as otherwise provided under subsection
2 (2), telegraph, telephone, power, and other public utility
3 companies, cable television companies, and municipalities may enter
4 upon, construct, and maintain telegraph, telephone, or power lines,

1 ~~pipe lines, PIPELINES~~, wires, cables, poles, conduits, sewers or
2 similar structures upon, over, across, or under any public road,
3 bridge, street, or public place, including, longitudinally within
4 limited access highway rights-of-way, and across or under any of
5 the waters in this state, with all necessary erections and fixtures
6 for that purpose. A telegraph, telephone, power, and other public
7 utility company, cable television company, and municipality, before
8 any of this work is commenced, shall first obtain the consent of
9 the governing body of the city, village, or township through or
10 along which these lines and poles are to be constructed and
11 maintained.

12 (2) A utility as defined in 23 CFR ~~645.105(m)~~ **645.105** may
13 enter upon, construct, and maintain utility lines and structures,
14 including ~~pipe lines, PIPELINES~~, longitudinally within limited
15 access highway rights-of-way and under any public road, street, or
16 other subsurface that intersects any limited access highway at a
17 different grade, in accordance with standards approved by the state
18 transportation commission and the Michigan public service
19 commission that conform to governing federal laws and regulations
20 and is not required to obtain the consent of the governing body of
21 the city, village, or township as required under subsection (1).
22 The standards shall require that the lines and structures be
23 underground and be placed in a manner that will not increase
24 highway maintenance costs for the state transportation department.
25 The standards may provide for the imposition of a reasonable charge
26 for longitudinal use of limited access highway rights-of-way. The
27 imposition of a reasonable charge is a governmental function,

1 offsetting a portion of the capital, maintenance, and permitting
2 expense of the limited access highway, and is not a proprietary
3 function. The charge shall be calculated to reflect a 1-time
4 installation permit fee that shall not exceed \$1,000.00 per mile of
5 longitudinal use of limited access highway rights-of-way with a
6 minimum fee of \$5,000.00 per permit. If the 1-time installation
7 permit fee does not cover the reasonable and actual costs to the
8 department in issuing the permit, the department may assess the
9 utility for the remaining balance. All revenue received under this
10 subsection shall be used for capital and maintenance expenses
11 incurred for limited access highways, including the cost of issuing
12 the permit.

13 (3) SUBJECT TO SUBSECTION (6), A CITY, VILLAGE, TOWNSHIP, OR
14 COUNTY OR THE STATE TRANSPORTATION DEPARTMENT SHALL REIMBURSE AN
15 ENTITY HOLDING A LICENSE UNDER THE MICHIGAN TELECOMMUNICATIONS ACT,
16 1991 PA 179, MCL 484.2101 TO 484.2603, OR HOLDING A FRANCHISE UNDER
17 THE UNIFORM VIDEO SERVICES LOCAL FRANCHISE ACT, 2006 PA 480, MCL
18 484.3301 TO 484.3315, FOR RELOCATION COSTS IF BOTH OF THE FOLLOWING
19 APPLY:

20 (A) THE CITY, VILLAGE, TOWNSHIP, OR COUNTY OR THE STATE
21 TRANSPORTATION DEPARTMENT DID EITHER OF THE FOLLOWING:

22 (i) REQUESTED THE ENTITY TO TEMPORARILY OR PERMANENTLY
23 RELOCATE ITS FACILITIES.

24 (ii) REQUESTED THE ENTITY TO TEMPORARILY OR PERMANENTLY
25 RELOCATE ITS FACILITIES TO PROTECT THOSE FACILITIES DUE TO
26 CONSTRUCTION OR OTHER ACTIVITY BY THE CITY, VILLAGE, TOWNSHIP, OR
27 COUNTY OR THE STATE TRANSPORTATION DEPARTMENT.

1 (B) THE ENTITY INVESTS MONEY IN BROADBAND INFRASTRUCTURE IN
2 THIS STATE.

3 (4) IF A CITY, VILLAGE, TOWNSHIP, OR COUNTY OR THE STATE
4 TRANSPORTATION DEPARTMENT REQUESTS AN ENTITY TO RELOCATE
5 FACILITIES, THE CITY, VILLAGE, TOWNSHIP, OR COUNTY OR THE STATE
6 TRANSPORTATION DEPARTMENT SHALL WAIVE ANY PERMIT FEES OR INSPECTION
7 FEES INCLUDING, BUT NOT LIMITED TO, ANY PERMIT FEE UNDER SUBSECTION
8 (2).

9 (5) IF A CITY, VILLAGE, TOWNSHIP, OR COUNTY OR THE STATE
10 TRANSPORTATION DEPARTMENT REQUESTS AN ENTITY TO CONDUCT ANY SURVEY
11 OR STUDY RELATED TO RELOCATING FACILITIES, THE CITY, VILLAGE,
12 TOWNSHIP, OR COUNTY OR THE STATE TRANSPORTATION DEPARTMENT SHALL
13 REIMBURSE THE ENTITY FOR THOSE SURVEY OR STUDY COSTS.

14 (6) A REIMBURSEMENT OF RELOCATION COSTS BY A CITY, VILLAGE,
15 TOWNSHIP, OR COUNTY OR THE STATE TRANSPORTATION DEPARTMENT AS
16 PROVIDED UNDER SUBSECTION (3) SHALL BE MADE TO AN ENTITY AS
17 FOLLOWS:

18 (A) IF THE ENTITY'S FACILITIES WERE PLACED IN THE PUBLIC
19 RIGHT-OF-WAY LESS THAN 5 YEARS BEFORE THE DATE OF THE REQUEST TO
20 RELOCATE THOSE FACILITIES, THE ENTITY SHALL BE REIMBURSED 100% OF
21 THE RELOCATION COSTS.

22 (B) IF THE ENTITY'S FACILITIES WERE PLACED IN THE PUBLIC
23 RIGHT-OF-WAY 5 YEARS OR MORE BUT LESS THAN 9 YEARS BEFORE THE DATE
24 OF THE REQUEST TO RELOCATE THOSE FACILITIES, THE ENTITY SHALL BE
25 REIMBURSED 75% OF THE RELOCATION COSTS.

26 (C) IF THE ENTITY'S FACILITIES WERE PLACED IN THE PUBLIC
27 RIGHT-OF-WAY 9 YEARS OR MORE BUT LESS THAN 12 YEARS BEFORE THE DATE

1 OF THE REQUEST TO RELOCATE THOSE FACILITIES, THE ENTITY SHALL BE
2 REIMBURSED 50% OF THE RELOCATION COSTS.

3 (D) IF THE ENTITY'S FACILITIES WERE PLACED IN THE PUBLIC
4 RIGHT-OF-WAY 12 YEARS OR MORE BUT LESS THAN 15 YEARS BEFORE THE
5 DATE OF THE REQUEST TO RELOCATE THOSE FACILITIES, THE ENTITY SHALL
6 BE REIMBURSED 25% OF THE RELOCATION COSTS.

7 (7) ~~(3)~~—A person engaged in the collection of traffic data or
8 the provision of travel-related information or assistance may enter
9 upon, construct, and maintain electronic devices and related
10 structures within limited access and other highway rights-of-way in
11 accordance with standards approved by the state transportation
12 commission that conform to governing federal laws and regulations.
13 The standards shall require that the devices and structures be
14 placed in a manner that will not impede traffic and will not
15 increase maintenance costs for the state transportation department.
16 The state transportation department may enter into agreements to
17 authorize the use of property acquired for or designated as a
18 highway or acquired for or designated for ancillary purposes for
19 the installation, operation, and maintenance of commercial or
20 noncommercial electronic devices and related structures for the
21 collection of traffic data or to assist in providing travel-related
22 information or assistance to motorists who subscribe to travel-
23 related services, the public, or the department. Any revenue
24 generated by the agreements shall be deposited in the state trunk
25 line fund **ESTABLISHED UNDER SECTION 11 OF 1951 PA 51, MCL 247.661.**
26 The department may accept facilities or in-kind services to be used
27 for public purposes in lieu of, or in addition to, monetary

1 compensation.

2 (8) AS USED IN THIS SECTION:

3 (A) "BROADBAND INFRASTRUCTURE" MEANS THAT TERM AS DEFINED IN
4 SECTION 3 OF THE MICHIGAN BROADBAND DEVELOPMENT AUTHORITY ACT, 2002
5 PA 49, MCL 484.3203.

6 (B) "RELOCATION COSTS" MEANS ALL COSTS FOR RELOCATING AN
7 ENTITY'S FACILITIES IN THE PUBLIC RIGHT-OF-WAY, INCLUDING, BUT NOT
8 LIMITED TO, BORING COSTS AND LABOR COSTS ASSOCIATED WITH THAT
9 RELOCATION.

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