

STATE OF NEW YORK

9894

IN ASSEMBLY

April 19, 2022

Introduced by M. of A. PAULIN -- read once and referred to the Committee on Transportation

AN ACT to amend the highway law and the transportation corporations law, in relation to the department of transportation not requiring surveying in certain situations

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 10 of the highway law is amended by adding a new
2 subdivision 24-f to read as follows:

3 24-f. The commissioner shall not require a survey as part of an agree-
4 ment with any fiber optic utility for use and occupancy of a state right
5 of way for the purposes of installing, modifying, relocating, repairing,
6 operating, or maintaining fiber optic facilities as part of the depart-
7 ment's consolidated application, when such use and occupancy of the
8 state right of way is utilizing existing infrastructure, including but
9 not limited to aerial pole attachments and underground conduits.

10 § 2. Section 7 of the transportation corporations law, as added by
11 section 2 of part RRR of chapter 59 of the laws of 2019, is amended to
12 read as follows:

13 § 7. Agreement for fiber optic utility use and occupancy of state
14 right of way. (a) The commissioner of transportation is hereby author-
15 ized to enter into an agreement with any fiber optic utility for use and
16 occupancy of the state right of way for the purposes of installing,
17 modifying, relocating, repairing, operating, or maintaining fiber optic
18 facilities. Such agreement may include a fee for use and occupancy of
19 the right of way, provided, however, such fee shall not be greater than
20 fair market value. Any provider using or occupying a right of way in
21 fulfillment of a state grant award through the New NY Broadband Program
22 shall not be subject to a fee for such use or occupancy. Any fee for use
23 or occupancy charged to a fiber optic utility shall not be passed
24 through in whole or in part as a fee, charge, increased service cost, or
25 by any other means by a fiber optic utility to any person or entity that
26 contracts with such fiber optic utility for service. Any compensation
27 received by the state pursuant to such agreement shall be deposited by

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 the comptroller into the special obligation reserve and payment account
2 of the dedicated highway and bridge trust fund established pursuant to
3 section eighty-nine-b of the state finance law. Nothing herein shall
4 impair, inhibit, or otherwise affect the ability of any municipality to
5 regulate zoning, land use, or any other power or authority granted under
6 the law. For purposes of this section, "municipality" shall include a
7 county, city, village, or town.

8 (b) An agreement granted under this section for fiber optic utility
9 use and occupancy of a state right of way shall not require a survey for
10 the purposes of installing, modifying, relocating, repairing, operating,
11 or maintaining fiber optic facilities as part of the department of
12 transportation's consolidated application, when such use and occupancy
13 of the state right of way is utilizing existing infrastructure, includ-
14 ing but not limited to aerial pole attachments and underground conduits.

15 § 3. This act shall take effect immediately; provided, however, that
16 the amendments to section 7 of the transportation corporations law made
17 by section two of this act shall not affect the repeal of such section
18 and shall be deemed to repeal therewith.