

STATE OF NEW YORK

8544

IN SENATE

March 10, 2022

Introduced by Sen. COONEY -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the highway law and the transportation corporations law, in relation to fees associated with agreements between municipalities and fiber optic utility companies

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

1 Section 1. Subdivision 24-e of section 10 of the highway law, as added
2 by section 1 of part RRR of section 59 of the laws of 2019, is amended
3 to read as follows:

4 24-e. The commissioner of transportation is hereby authorized to enter
5 into an agreement with any fiber optic utility for use and occupancy of
6 the state right of way for the purposes of installing, modifying, relo-
7 cating, repairing, operating, or maintaining fiber optic facilities.
8 Such agreement may include a fee for use and occupancy of the right of
9 way, provided, however, such fee shall not be greater than fair market
10 value. Any provider using or occupying a right of way in fulfillment of
11 a state grant award through the New NY Broadband Program or funding from
12 the federal government shall not be subject to a fee for such use or
13 occupancy. Any fee for use or occupancy charged to a fiber optic utility
14 shall not be passed through in whole or in part as a fee, charge,
15 increased service cost, or by any other means by a fiber optic utility
16 to any person or entity that contracts with such fiber optic utility for
17 service. Any compensation received by the state pursuant to such agree-
18 ment shall be deposited by the comptroller into the special obligation
19 reserve and payment account of the dedicated highway and bridge trust
20 fund established pursuant to section eighty-nine-b of the state finance
21 law. Nothing herein shall impair, inhibit, or otherwise affect the abil-
22 ity of any municipality to regulate zoning, land use, or any other power
23 or authority granted under the law. For purposes of this subdivision,
24 "municipality" shall include a county, city, village, or town.

25 § 2. Section 7 of the transportation corporations law, as added by
26 section 2 of part RRR of section 59 of the laws of 2019, is amended to
27 read as follows:

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

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1 § 7. Agreement for fiber optic utility use and occupancy of state
2 right of way. The commissioner of transportation is hereby authorized to
3 enter into an agreement with any fiber optic utility for use and occu-
4 pancy of the state right of way for the purposes of installing, modify-
5 ing, relocating, repairing, operating, or maintaining fiber optic facil-
6 ities. Such agreement may include a fee for use and occupancy of the
7 right of way, provided, however, such fee shall not be greater than fair
8 market value. Any provider using or occupying a right of way in fulfill-
9 ment of a state grant award through the New NY Broadband Program or
10 funding from the federal government shall not be subject to a fee for
11 such use or occupancy. Any fee for use or occupancy charged to a fiber
12 optic utility shall not be passed through in whole or in part as a fee,
13 charge, increased service cost, or by any other means by a fiber optic
14 utility to any person or entity that contracts with such fiber optic
15 utility for service. Any compensation received by the state pursuant to
16 such agreement shall be deposited by the comptroller into the special
17 obligation reserve and payment account of the dedicated highway and
18 bridge trust fund established pursuant to section eighty-nine-b of the
19 state finance law. Nothing herein shall impair, inhibit, or otherwise
20 affect the ability of any municipality to regulate zoning, land use, or
21 any other power or authority granted under the law. For purposes of this
22 section, "municipality" shall include a county, city, village, or town.

23 § 3. This act shall take effect on the ninetieth day after it shall
24 have become a law; provided, however, that the amendments to subdivision
25 24-e of section 10 of the highway law made by section one of this act
26 and the amendments to section 7 of the transportation corporations law
27 made by section two of this act shall not affect the repeal of such
28 provisions and shall be deemed repealed therewith.