



**Sub. S.B. 255\***

124th General Assembly  
(As Reported by S. Ways and Means)

**Sen. Blessing**

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**BILL SUMMARY**

- Repeals statutes concerning the use of public ways that were enacted in the 1999-2001 biennial operating appropriations act.
- Enacts new law concerning the use of public ways owned or controlled by a municipal corporation, and declares an emergency regarding that new law for the purpose of resolving litigated issues at the earliest possible time.
- States a public policy regarding the use of such public ways, including among the policy objectives ensuring access to and use of public ways, recognizing municipal authority regarding such access and use and matters of local concern, and ensuring cost recovery for municipalities and public utilities.
- Establishes conditions for the use by any person of a public way of a municipal corporation, including a requirement of municipal consent in accordance with the bill.
- Specifies municipal authority to regulate access to and use of public ways.
- Specifies municipal authority to levy a public way fee or require nonmonetary compensation or free service for the use of a public way by any person, and requires such public way fees to be based only on incurred costs properly allocated and assigned to use of the public way.

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\* *This analysis was prepared before the report of the Senate Ways and Means Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

- Authorizes the Public Utilities Commission (PUCO) to consider a complaint by a public utility that a public way fee is unreasonable, unjust, unjustly discriminatory, or unlawful and to prescribe a just and reasonable fee as necessary.
- Requires the PUCO to suspend the public way fee provisions of a municipal ordinance for the duration of its consideration of the complaint, if the PUCO finds there are reasonable grounds for the complaint.
- Authorizes a public utility subject to the PUCO's rate-making jurisdiction to apply for recovery from its customers, on a per-line basis, of the cost of any public way fee levied after January 1, 2002, and not included in the utility's rates; restricts recovery to customers within the municipal corporation of any difference between a public way fee payable by the utility and determined unreasonable by the PUCO pursuant to a complaint and the reasonable fee determined by the PUCO; and specifies the basis for determining the recovery from sale-for-resale and wholesale telecommunications customers.
- Authorizes such a public utility to apply to the PUCO for recovery of any public way costs *other than* public way fees, incurred after January 1, 2002, and not included in rates, by accounting for those costs as a regulatory asset and thereby deferring their recovery or, where that option is impractical or causes hardship, by recovering those costs through a charge on customers.
- Specifies the conditions under which an existing cable franchise, an agreement with a public utility or cable operator, an ordinance enacted prior to September 29, 1999, and an interstate pipeline operation are exempted from or affected by the public way provisions of the bill.
- Amends township law, but not as an emergency measure, to increase the application fee for a township highway excavation permit and to authorize a permit for excavation in a township highway right-of-way.

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	04-11-02	p. 1660
Reported, S. Ways & Means	---	---

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