



## *Synopsis of House Committee Amendments\**

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Legislative Service Commission

### **Sub. S.B. 255**

124th General Assembly  
(H. Public Utilities)

#### **Statutory conditions on the use of a public way**

Modifies a prohibition against occupying or using a public way of a municipal corporation without municipal consent so that the bill prohibits such occupancy or use without any *required* municipal consent.

#### **Compensation for the right to use public ways**

Prohibits a municipal corporation *levying a tax* for the right or privilege to occupy or use a public way.

Prohibits a public way fee levied by a municipal corporation from including a *return on* the amount of costs reasonably allocated by the municipal corporation to a public way occupant or user or pursuant to any reasonable classification of occupants or users.

States that the bill does not prohibit a municipal corporation from charging a cable operator a franchise fee in accordance with federal cable law or from allowing a credit, offset, or deduction against the payment of a construction permit fee for any franchise fee a cable operator pays to the municipal corporation.

Modifies a requirement that a municipal corporation grant, to a cable operator that pays a franchise fee or provides free service or nonmonetary compensation under a municipal franchise, a credit, offset, or deduction such payments or the value of the service or compensation, so that the requirement refers to *any* franchise fee (not just a franchise fee related to cable service), and so that it requires a credit, offset, or deduction against any public way fee or *like charge*.

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\* This synopsis does not address amendments that may have been adopted on the House floor.

### **Utility appeal of a public way fee to the Public Utilities Commission (PUCO)**

Specifies, in effect, that municipal authority to collect a public way fee that was suspended by the PUCO under authority of the bill but ultimately upheld by the PUCO pursuant to a complaint proceeding includes the authority to collect *for the suspension period* that suspended, but upheld fee.

### **Recovery by a public utility of public way fees or other costs**

Relocates certain cost recovery requirements—namely, that cost recovery by a public utility of a public way fee must be done in a nondiscriminatory and competitively neutral manner and prorated among all telecommunications customers on a per-line basis, so that the requirements pertain to the particular situation under the bill where a portion of the cost of recovery must be borne solely by the utility's customers within the municipal corporation levying the fee.

Authorizes the PUCO to provide such retroactive adjustment as the PUCO determines appropriate for *any* mechanism to recover public way fees or other public way costs specified under the bill, instead of, prior to the amendment, authorizing such an adjustment only for a mechanism to recover public way fee costs from sale-for-resale and wholesale telecommunications customers.

### **Township highways**

Exempts from township highway or highway right-of-way excavation permitting authority any excavation to repair, rehabilitate, or replace a pole already installed for the purpose of providing electric or telecommunications service.

Also exempts an excavation project to install five or fewer poles for the purpose of providing electric or telecommunications service, but requires the person making that excavation to provide verifiable notice of the excavation to the township clerk at least three business days before the excavation date.

Expressly applies the permit authority, and the bill's \$50 per application fee, to a single application for an excavation project to install six or more poles to provide electric or telecommunications service or to install a pole associated with underground electric or telecommunications service.