

As Introduced

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Regular Session

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H. B. No. 979

Representative Klopfenstein

To enact sections 4927.23, 4927.24, 4927.25, 1
4927.26, 4927.27, 4927.28, 4939.11, 4939.12, 2
4939.13, 4939.14, 4939.15, 4939.16, 4939.17, 3
5547.031, 5547.041, and 5589.101 of the Revised 4
Code regarding broadband internet access service 5
infrastructure located in a public right-of-way. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4927.23, 4927.24, 4927.25, 7
4927.26, 4927.27, 4927.28, 4939.11, 4939.12, 4939.13, 4939.14, 8
4939.15, 4939.16, 4939.17, 5547.031, 5547.041, and 5589.101 of 9
the Revised Code be enacted to read as follows: 10

Sec. 4927.23. (A) As used in sections 4927.23 to 4927.28 11
of the Revised Code: 12

(1) "Local authority" means the legislative authority of a 13
municipal corporation, a board of township trustees, or a board 14
of county commissioners. 15

(2) "Public right-of-way" means the surface of, and the 16
space within, through, on, across, above, or below, any public 17
street, public road, public highway, public freeway, public 18
lane, public path, public alley, public court, public sidewalk, 19
public boulevard, public parkway, public drive, public easement, 20

and any other land dedicated or otherwise designated for a 21
compatible public use and that is owned or controlled by a local 22
authority. "Public right-of-way" excludes a private easement. 23

(B) Notwithstanding any provision in the Revised Code to 24
the contrary, any person, partnership, or corporation that is 25
also a broadband internet access provider shall comply with all 26
applicable local authority laws, rules, ordinances, and 27
requirements governing the installation, operation, maintenance, 28
relocation, and removal of broadband internet infrastructure 29
within a public right-of-way, including all of the following: 30

(1) Adherence with permit requirements established by 31
local authorities; 32

(2) Documented design plans that adhere to construction 33
standards established for installations within a public right- 34
of-way; 35

(3) Notification and coordination requirements with local 36
authorities prior to and throughout the excavation or 37
installation; 38

(4) Restoration and repair obligations for damage to 39
roads, road surfaces, and drainage systems within the prescribed 40
timeframes required by any applicable permit; 41

(5) Adherence to standards for burial depth, horizontal 42
location, warning markers, and utility separation as required by 43
the local authority; 44

(6) Compliance with and training on the requirements and 45
regulations set forth in sections 153.64, 3781.25 to 3781.38, 46
and 4905.041 of the Revised Code and Chapter 4913. of the 47
Revised Code; 48

(7) Post-installation abandonment, maintenance, and 49
removal obligations, with documented confirmation of completion; 50

(8) Ensure that all broadband internet access service 51
provider employees, contractors, subcontractors, or their agents 52
have been fully trained as to their obligation under applicable 53
state law and can effectively communicate orally and in writing 54
with local authorities, law enforcement, industry entities, 55
state agencies, and the general public; 56

(9) All broadband installation construction vehicles, 57
equipment, trailers operating within a public right-of-way shall 58
be clearly marked with the company name and contact information, 59
including, when applicable, the name of the entity for whom the 60
work is being done. 61

Sec. 4927.24. Section 4927.23 of the Revised Code does not 62
expand or diminish the authority granted to a county engineer 63
under section 5543.14 of the Revised Code, a board of county 64
commissioners under sections 5547.03 and 5547.04 of the Revised 65
Code, township trustees under applicable state law, or municipal 66
corporations to do any of the following: 67

(A) Require removal or relocation of obstructions in a 68
public right-of-way, including broadband infrastructure; 69

(B) Impose reasonable conditions on permits for 70
installation within a public right-of-way; 71

(C) Direct removal or relocation of broadband 72
infrastructure within a county that constitutes an obstruction 73
under section 5547.03 of the Revised Code or interferes with 74
road construction, improvement, maintenance, or repair; 75

(D) Recover costs associated with enforcement or 76
remediation of noncompliance. 77

<u>Sec. 4927.25. A local authority issuing permits for</u>	78
<u>broadband infrastructure installation may only charge reasonable</u>	79
<u>fees that reflect the actual costs of administrative review,</u>	80
<u>inspection, and enforcement. Such fees shall not exceed the</u>	81
<u>reasonable costs to the local authority of processing,</u>	82
<u>inspecting, and monitoring the installation and shall not be</u>	83
<u>imposed as a regulatory tax or charge on the provision of</u>	84
<u>broadband internet access service itself.</u>	85
<u>Sec. 4927.26. Local authorities are authorized do all of</u>	86
<u>the following:</u>	87
<u>(A) Establish reasonable permitting procedures and</u>	88
<u>timelines for broadband requests;</u>	89
<u>(B) Require broadband providers to provide accurate plans</u>	90
<u>showing the location, depth, and design of proposed</u>	91
<u>installations;</u>	92
<u>(C) Require notice to other utility providers and</u>	93
<u>compliance with utility notification and coordination</u>	94
<u>procedures;</u>	95
<u>(D) Establish standards for installation depth consistent</u>	96
<u>with industry standards and applicable federal guidelines;</u>	97
<u>(E) Require surety bonds or other mechanisms to ensure</u>	98
<u>restoration of any damaged roadway and public right-of-way;</u>	99
<u>(F) Establish reasonable restoration standards to return</u>	100
<u>the public right-of-way to its pre-installation condition.</u>	101
<u>Sec. 4927.27. A local authority may do any of the</u>	102
<u>following to enforce sections 4927.23 to 4927.26 of the Revised</u>	103
<u>Code:</u>	104
<u>(A) Suspend or revoke any permit for violations of permit</u>	105

conditions and require an immediate work stoppage; 106

(B) Order removal or relocation of infrastructure within a 107
county that fails to meet permit conditions or constitutes an 108
obstruction under section 5547.03 of the Revised Code; 109

(C) Perform necessary removal, relocation, or restoration 110
work within a county and charge costs to the broadband internet 111
access service provider in accordance with section 5547.03 of 112
the Revised Code or other applicable law; 113

(D) Pursue civil remedies for damages to public roads and 114
infrastructure; 115

(E) Report violations to the appropriate state enforcement 116
authorities. 117

Sec. 4927.28. Sections 4927.23 to 4927.27 of the Revised 118
Code apply only to the management of local public rights-of-way 119
and infrastructure and does not subject broadband providers to 120
utility-style rate or service regulation. Nothing in those 121
sections shall be interpreted to authorize the state or local 122
authorities to regulate the rates, terms, or conditions of 123
broadband internet access service. 124

Sec. 4939.11. As used in sections 4939.11 to 4939.17 of 125
the Revised Code: 126

(A) "Abandoned utility appurtenance" means a utility 127
appurtenance that is no longer in use for its intended purpose 128
and for which the utility appurtenance owner has not provided a 129
written notice of future use to the local authority as required 130
by section 4939.13 of the Revised Code. 131

(B) "Double pole" means a condition where a new utility 132
pole has been installed adjacent to an existing pole that 133

remains in place but is no longer required for the support of 134
active utility lines or equipment. 135

(C) "Local authority" means the legislative authority of a 136
municipal corporation, a board of township trustees, or a board 137
of county commissioners as applicable to the public rights-of- 138
way under its jurisdiction. 139

(D) "Public right-of-way" means the surface of, and the 140
space within, through, on, across, above, or below, any public 141
street, public road, public highway, public freeway, public 142
lane, public path, public alley, public court, public sidewalk, 143
public boulevard, public parkway, public drive, public easement, 144
and any other land dedicated or otherwise designated for a 145
compatible public use and that is owned or controlled by the 146
state or local authority. "Public right-of-way" excludes a 147
private easement. 148

(E) "Utility appurtenance" means any telecommunications or 149
utility component, including a pole, tower, pedestal, cabinet, 150
or meter. 151

(F) "Utility appurtenance owner" means the person, 152
corporation, or entity that owns, operates, or controls the 153
telecommunications or utility facility for which the utility 154
appurtenance exists. 155

Sec. 4939.12. (A) Whenever a utility appurtenance owner 156
installs a new utility pole to replace an existing pole in a 157
public right-of-way, the owner shall coordinate with all other 158
entities having an attachment on the existing pole to transfer 159
those attachments to the new pole. 160

(B) (1) Within ninety days after the installation of the 161
new utility pole, all transfers of attachments shall be 162

completed and, if a pole was replaced, the existing pole shall 163
be completely removed. 164

(2) The local authority may grant an extension of up to 165
ninety additional days if requested by the owner of the utility 166
pole, in writing, stating the delay was caused by circumstances 167
beyond the owner's control, including failure by a third-party 168
attachment owner to move its equipment. 169

Sec. 4939.13. (A) Not later than three hundred sixty-five 170
days after the effective date of this section, a utility 171
appurtenance owner shall provide an initial written notice of 172
future use regarding each utility appurtenance under the owner's 173
control to each local authority where such appurtenances are 174
located. Subsequent written notices of future use shall be 175
submitted to the local authority within three hundred sixty five 176
days from the date the initial written notice was received by 177
the local authority. 178

(B) Local authorities may develop forms and procedures for 179
the submission of the written notice of future use as described 180
in division (A) of this section, including any specific 181
information to be included. 182

Sec. 4939.14. A local authority may declare that a utility 183
appurtenance is an abandoned utility appurtenance if either of 184
the following apply: 185

(A) The appurtenance has not been used for at least three 186
hundred sixty-five days, and the owner did not submit a written 187
notice of future use as described in section 4939.13 of the 188
Revised Code. 189

(B) The appurtenance is a double pole remaining beyond the 190
period permitted under division (B) of section 4939.12 of the 191

Revised Code. 192

Sec. 4939.15. (A) If a declaration is made pursuant to 193
section 4939.14 of the Revised Code, the local authority shall 194
provide written notice to the utility appurtenance owner, if 195
known, requiring removal of the structure and restoration of the 196
site within forty-five days of receiving the notice. 197

(B) The local authority may remove the structure on its 198
own accord or otherwise cause it to be removed if: 199

(1) The utility appurtenance owner fails to remove the 200
structure within the forty-five day period. 201

(2) The owner cannot be identified after reasonable 202
effort. 203

Sec. 4939.16. (A) A local authority may recover from a 204
utility appurtenance owner all reasonable costs incurred in the 205
removal and disposal of an abandoned utility appurtenance and in 206
the restoration of the site. The authority shall provide an 207
invoice to the owner detailing the costs to be reimbursed. 208

(B) If, within ninety days of receiving the invoice 209
pursuant to division (A) of this section, a utility appurtenance 210
owner fails to reimburse the local authority, the authority may 211
certify the amount to the county auditor to be placed upon the 212
tax list and duplicate, as described in section 319.28 of the 213
Revised Code, and collected as other taxes. 214

Sec. 4939.17. A local authority may establish by ordinance 215
or resolution a civil penalty of not more than one hundred 216
dollars per day for each day a violation of section 4939.12 of 217
the Revised Code continues beyond the authorized period 218
described in that section. 219

Sec. 5547.031. (A) As used in this section, "broadband 220
internet access service" has the same meaning as in 47 C.F.R. 221
8.1. 222

(B) Broadband internet access service infrastructure, 223
including fiber-optic cables, conduits, distribution equipment, 224
and associated appurtenances, are considered objects and 225
structures for purposes of section 5547.03 of the Revised Code. 226
Broadband internet access service providers shall comply with 227
all approval and relocation requirements as specified in that 228
section. 229

(C) The board of county commissioners may impose 230
conditions on any approval or relocation of broadband internet 231
access service infrastructure as it deems necessary to protect 232
the integrity of the public right-of-way and to minimize 233
interference with road construction, improvement, maintenance, 234
and repair. 235

Sec. 5547.041. (A) As used in this section, "broadband 236
internet access service" has the same meaning as in 47 C.F.R. 237
8.1. 238

(B) Notwithstanding the exemption from regulation by the 239
public utilities commission under section 4927.22 of the Revised 240
Code, any broadband internet access service provider seeking to 241
erect or maintain any installation within the bounds of any 242
highway or on the bridges or culverts thereon shall first obtain 243
the approval of the board of county commissioners, board of 244
township trustees, or the appropriate legislative authority of a 245
municipal corporation, as applicable, and be subject to all 246
conditions, standards, and requirements established by the 247
applicable authority pursuant to sections 4927.23 to 4927.28 of 248
the Revised Code. 249

<u>Sec. 5589.101. (A) As used in this section, "broadband</u>	250
<u>internet access service" has the same meaning as in 47 C.F.R.</u>	251
<u>8.1.</u>	252
<u>(B) For purposes of section 5589.10 of the Revised Code,</u>	253
<u>broadband access service providers shall comply with all</u>	254
<u>requirements for obtaining consent from a county engineer or</u>	255
<u>appropriate local authority prior to any excavation,</u>	256
<u>installation, or placement of infrastructure within any public</u>	257
<u>highway.</u>	258