

House Study Bill 32 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON COMMERCE BILL BY
CHAIRPERSON CARLSON)

A BILL FOR

1 An Act relating to the imposition of certain fees on public
2 utilities for the use of public rights-of-way.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 480A.2, subsection 2, Code 2019, is
2 amended to read as follows:

3 2. "*Management costs*" means the reasonable, direct, and
4 fully documented costs a local government actually incurs ~~in~~
5 ~~managing to manage~~ public rights-of-way.

6 Sec. 2. Section 480A.3, Code 2019, is amended to read as
7 follows:

8 **480A.3 Fees.**

9 1. A local government shall not recover any fee from a
10 public utility for the use of its available right-of-way, other
11 than a permit fee for ~~its~~ management costs attributable to
12 the public utility's requested use of the local government's
13 right-of-way. ~~A local government may recover from a public~~
14 ~~utility only those management costs caused by the public~~
15 ~~utility's activity in the public right-of-way~~. A fee or
16 other obligation under **this section** shall be imposed on
17 a competitively neutral basis. When a local government's
18 management costs cannot be attributed to only one entity,
19 those costs shall be allocated among all users of the public
20 rights-of-way, including the local government itself. The
21 allocation shall reflect proportionately the costs incurred by
22 the local government as a result of the various types of uses
23 of the public rights-of-way.

24 2. This section does not ~~prohibit~~:

25 a. Prohibit the collection of a franchise fee as permitted
26 in **section 480A.6**.

27 b. Prohibit voluntary agreements between a public utility
28 and local government to share services for the purpose of
29 reducing costs and preserving public rights-of-way for future
30 public safety purposes.

31 Sec. 3. Section 480A.4, Code 2019, is amended to read as
32 follows:

33 **480A.4 In-kind services.**

34 A local government, in lieu of a fee imposed under this
35 chapter, shall not require in-kind services by a public utility

1 right-of-way user, or require in-kind services as a condition
2 of the use of the local government's public right-of-way,
3 unless pursuant to a voluntary agreement between a public
4 utility and local government to share services for the purpose
5 of reducing costs and preserving public rights-of-way for
6 future public safety purposes.

7 EXPLANATION

8 The inclusion of this explanation does not constitute agreement with
9 the explanation's substance by the members of the general assembly.

10 This bill relates to certain fees imposed on public
11 utilities for the use of public rights-of-way. Code chapter
12 480A allows local governments to impose certain fees on public
13 utilities for operating public utility facilities in public
14 rights-of-way. A local government may only impose a fee for
15 management costs, as defined, that are caused by the public
16 utility's activity in the right-of-way, and cannot require
17 in-kind services in lieu of a fee.

18 The bill modifies the definition of "management costs" in
19 Code chapter 480A to provide that such costs must be direct and
20 fully documented. The bill specifies that a local government
21 may only recover a permit fee for management costs attributable
22 to the public utility's requested use of an available public
23 right-of-way, instead of management costs caused by the
24 public utility's activity in the right-of-way. The bill
25 provides that Code section 480A.3, relating to permissible
26 fees imposed on public utilities, shall not prohibit voluntary
27 agreements between a public utility and local government to
28 share services for the purpose of reducing costs and preserving
29 public rights-of-way for future public safety purposes, and
30 allows in-kind services in lieu of a fee if pursuant to such a
31 voluntary agreement.