

**Senate File 401 - Introduced**

SENATE FILE 401  
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 1152)

**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.