Senate Engrossed

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
Senate
Fiftieth Legislature
Second Regular Session
2012

CHAPTER 195

SENATE BILL 1402

AN ACT

AMENDING TITLE 28, CHAPTER 20, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 14; AMENDING SECTION 28-7701, ARIZONA REVISED STATUTES; RELATING TO BROADBAND CONDUIT INSTALLATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 28, chapter 20, Arizona Revised Statutes, is amended by adding article 14, to read:

ARTICLE 14. BROADBAND CONDUIT INSTALLATION

28-7381. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "BROADBAND CONDUIT" MEANS A CONDUIT, INNERDUCT OR MICRODUCT FOR FIBER OPTIC CABLES THAT SUPPORT BROADBAND AND WIRELESS FACILITIES FOR BROADBAND SERVICE.

2. "BROADBAND SERVICE":

(a) MEANS PROVIDING ACCESS AND TRANSPORT TO THE INTERNET, COMPUTER PROCESSING, INFORMATION STORAGE OR PROTOCOL CONVERSION AT A RATE OF AT LEAST ONE MEGABIT PER SECOND IN EITHER THE UPSTREAM OR DOWNSTREAM DIRECTION, AS ESTABLISHED BY THE FEDERAL COMMUNICATIONS COMMISSION.

(b) DOES NOT INCLUDE INFORMATION CONTENT OR SERVICE APPLICATIONS PROVIDED OVER THE ACCESS SERVICE OR ANY INTRASTATE SERVICE THAT WAS SUBJECT TO A TARIFF AS OF JANUARY 1, 2012.

3. "COST-BASED RATE" MEANS A LEASE RATE THAT IS ONLY COMPRISED OF DIRECT AND ACTUAL ASSOCIATED INDIRECT COSTS OF OBTAINING AND MAINTAINING THE ASSOCIATED RIGHT-OF-WAY AND BROADBAND CONDUIT AND MUST BE EQUITABLY ALLOCATED AMONG USERS OF THE ASSOCIATED RIGHT-OF-WAY, BROADBAND CONDUIT AND INNERDUCT OR MICRODUCT.

4. "COVERED RURAL HIGHWAY CONSTRUCTION PROJECT" MEANS A PROJECT TO CONSTRUCT A NEW RURAL HIGHWAY OR TO CONSTRUCT OR RELOCATE AN ADDITIONAL LANE OR SHOULDER FOR AN EXISTING RURAL HIGHWAY THAT IS COMMENCED AFTER THE EFFECTIVE DATE OF THIS SECTION AND THAT RECEIVES FUNDING FROM STATE OR FEDERAL MONIES.

5. "PROVIDER" MEANS AN ENTITY THAT PROVIDES FOR THE SALE OR RESALE OF WHOLESALE OR RETAIL BROADBAND SERVICES IN THIS STATE AND THAT IS RECOGNIZED AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER BY THE ARIZONA CORPORATION COMMISSION OR THAT MEETS FEDERAL COMMUNICATIONS COMMISSION AND INDUSTRY CARRIER CLASS SERVICE GUIDELINES OR IS A POLITICAL SUBDIVISION THAT HAS STATUTORY AUTHORITY TO PROVIDE COMMUNICATIONS SERVICES.

6. "RURAL HIGHWAY" MEANS THAT PORTION OF ANY HIGHWAY IN THIS STATE THAT IS EITHER OF THE FOLLOWING:

(a) OUTSIDE OF THE MUNICIPAL BOUNDARY OF ANY CITY OR TOWN HAVING A POPULATION OF TEN THOUSAND PERSONS OR MORE.

(b) OUTSIDE OF FEDERAL METROPOLITAN AND MICROPOLITAN STATISTICAL AREAS.

28-7382. Broadband conduit installation; rural highway construction projects

A. THE DIRECTOR MAY INSTALL BROADBAND CONDUIT IN ACCORDANCE WITH THIS ARTICLE AS PART OF A COVERED RURAL HIGHWAY CONSTRUCTION PROJECT IF FUNDING IS RECEIVED BY THE DEPARTMENT TO COVER THE COST.

B. IN CARRYING OUT THIS ARTICLE, THE DIRECTOR MAY LEASE THE BROADBAND CONDUIT TO PROVIDERS AT A COST-BASED RATE AND COORDINATE WITH PROVIDERS

REGARDING PLANNING AND RELOCATING OF BROADBAND CONDUIT AND ANY RELATED PROVIDER FACILITIES WITHIN THE RIGHT-OF-WAY AT THE PROVIDER'S EXPENSE IF FUTURE HIGHWAY IMPROVEMENTS MAKE THE RELOCATIONS NECESSARY. THE DIRECTOR MAY LIMIT PROVIDER ACCESS TO ANY BROADBAND FACILITIES WITHIN THE RIGHT-OF-WAY FOR INITIAL INSTALLATION AND INFREQUENT ACCESS FOR MAINTENANCE PURPOSES AND MAY TAKE OTHER ACTIONS NECESSARY TO MAINTAIN HIGHWAY SAFETY.

C. THE DIRECTOR MAY INSTALL BROADBAND CONDUIT WITHOUT REGARD TO THE TIMING OF A RELATED EXISTING ROAD CONSTRUCTION PROJECT, BASED ON A REQUEST AND RECEIPT OF FUNDING FROM STATE ENTITIES CHARGED WITH RESPONSIBILITY FOR BROADBAND INFRASTRUCTURE AND POLICY.

Sec. 2. Section 28-7701, Arizona Revised Statutes, is amended to read:

28-7701. Definitions

In this chapter, unless the context otherwise requires:

1. "Concession" means any lease, ground lease, franchise, easement, permit or other binding agreement transferring rights for the use or control, in whole or in part, of an eligible facility by the department or other unit of government to a private partner in accordance with this chapter.

2. "Eligible facility" means any facility, whether real or personal property, developed or operated after September 30, 2009 in accordance with this chapter, including any existing, enhanced, upgraded or new facility that is any of the following:

(a) Used or useful for the safe transport of people, INFORMATION or goods via one or more modes of transport, whether involving highways, bridges, tunnels, CONDUITS, railways, monorails, transit, bus systems, guided rapid transit, fixed guideways, ferries, boats, vessels, airports, intermodal or multimodal systems or any other mode of transport.

(b) Used by or useful to the department, including vehicle registration and driver licensing facilities, operating systems and information systems.

(c) Related or ancillary to, or used or useful to provide, operate, maintain or generate revenue for, a facility under subdivision (a) or (b), including administrative buildings and other buildings, structures, parking, rest areas, maintenance yards, rail yards, ports of entry or storage facilities, vehicles, rolling stock, energy systems or other related equipment, items or property.

3. "Private partner" means a person, entity or organization that is not the federal government, this state, a political subdivision of this state or a unit of government.

4. "Unit of government" means any agency, office or department of this state, city, county, district, commission, authority, entity, port or other public corporation organized and existing under statutory law or under a voter approved charter or initiative, and any intergovernmental entity.

Sec. 3. Short title

This act may be cited as the "Digital Arizona Highways Act of 2012".

APPROVED BY THE GOVERNOR APRIL 5, 2012.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 5, 2012.

Passed the House March 27, 2012,

by the following vote: 54 Ayes,

3 Nays, 3 Not Voting

Speaker of the House

Cheryl Laube

Chief Clerk of the House

Passed the Senate February 28, 2012,

by the following vote: 27 Ayes,

3 Nays, 0 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR
This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20_____,

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

S.B. 1402

Passed the House _____, 20_____

by the following vote: _____ Ayes,

_____ Nays, _____ Not Voting

_____
Speaker of the House

_____
Chief Clerk of the House

Passed the Senate _____, 20_____

by the following vote: _____ Ayes,

_____ Nays, _____ Not Voting

_____
President of the Senate

_____
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

2 day of April, 2012

at 2:10 o'clock P M.

Secretary to the Governor

Approved this 5th day of

April

at 10:10 o'clock A. M.

Janice K. Brewer
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 5th day of April, 2012

at 4:20 o'clock P M.

Jim Drake
acting Secretary of State

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