

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
92nd General Assembly  
Regular Session, 2019

# A Bill

SENATE BILL 588

By: Senator K. Ingram

## For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING THE USE OF THE  
PUBLIC RIGHT-OF-WAY; AND FOR OTHER PURPOSES.

### Subtitle

TO AMEND THE LAW CONCERNING THE USE OF  
THE PUBLIC RIGHT-OF-WAY.

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

SECTION 1. Arkansas Code Title 14, Chapter 296, Subchapter 1, is amended to add an additional section to read as follows:

14-296-102. Use of right-of-way.

(a) As used in this section, "video service provider" means an entity providing video programing services through wireline facilities located at least in part in the public rights-of-way without regard to delivery technology.

(b) The following entities may use the public right-of-way of a municipal or county street, road, or highway for the purpose of installing, constructing, maintaining, laying, or erecting pipelines, sewers, conduits, cables, wires, appurtenances, structures, poles, ditches, railways, or any other purpose, under an existing agreement or permit or an agreement or permit hereinafter made by a state or local governmental entity or under existing laws:

- (1) A political subdivision;
- (2) A rural electric cooperative;
- (3) A telephone company and cooperative;
- (4) A video service provider or a cable company; or



(5) Any other telecommunication provider that uses fiber optic cable to provide network connectivity.

(c) A state or local governmental entity or the owner of any property underlying or abutting the public right-of-way of a county or municipal street, road, or highway shall not regulate or interfere with the use of a public right-of-way by an entity authorized by subsection (b) of this section provided that the entity's use does not interfere with the use of the public right-of-way for transportation purposes.

(d)(1) Except as otherwise provided by law, an entity authorized by subsection (b) of this section to use a public right-of-way shall not owe the owner of any property underlying or abutting the public right-of-way or owe a state or local governmental entity any compensation for use of the public right-of-way, including without limitation compensation in the form of:

- (A) Permitting fees;
- (B) Licensing fees;
- (C) Administrative fees;
- (D) Engineering fees;
- (E) Insurance fees; or
- (F) Construction fees.

(2) This section does not limit the authority of a municipality to impose a franchise fee under § 14-200-101.

SECTION 2. Arkansas Code § 27-67-304(b), concerning the use of a state highway right-of way, is amended to read as follows:

~~(b)(1) Political subdivisions, rural electric cooperatives, rural telephone cooperatives, private television cables, and public utilities of the state~~ The following entities may use any public right-of-way or land, property, or interest therein, ~~the property of the State Highway Commission,~~ for the purpose of laying or erecting pipelines, sewers, wires, poles, ditches, railways, or any other purpose, under existing agreements or permits or ~~such an agreements~~ agreement or ~~permits~~ permit hereinafter made by the ~~commission~~ State Highway Commission or under existing laws, ~~provided that such use does not interfere with the public use of the property for highway purposes:~~

- (A) A political subdivision;
- (B) A rural electric cooperative;

- (C) A telephone company and cooperative;
- (D) A video service provider or a cable company; or
- (E) Any other telecommunication provider that uses fiber optic cable to provide network connectivity.

(2) The commission or the owner of any property underlying or abutting the public right-of-way of a state highway shall not regulate or interfere with the use of the public right-of-way by an entity authorized by subdivision (b)(1) of this section provided that the entity's use does not interfere with the use of the public right-of-way for highway purposes.

(3) Except as provided by law, an entity authorized by subdivision (b)(1) of this section shall not owe the owner of any property underlying or abutting the public right-of-way, the commission, or any other party any compensation for use of the public right-of-way, including without limitation compensation in the form of:

- (A) Permitting fees;
- (B) Licensing fees;
- (C) Administrative fees;
- (D) Engineering fees;
- (E) Insurance fees; or
- (F) Construction fees.

SECTION 3. Arkansas Code § 27-67-304, concerning the use of a state highway right-of-way, is amended to add an additional subsection to read as follows:

(d) As used in this section, "video service provider" means an entity providing video programing services through wireline facilities located at least in part in the public rights-of-way without regard to delivery technology.