

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

**Introduced**

### **House Bill 2392**

**FISCAL  
NOTE**

By Delegate G. Howell

[Introduced February 14, 2025; referred  
to the Committee on Energy and Public Works]

1 A BILL to amend and reenact §17-2E-3 of the Code of West Virginia, 1931, as amended, relating  
2 to permit applications to the Division of Highways for broadband installations rights-of-way  
3 that run through multiple districts.

*Be it enacted by the Legislature of West Virginia:*

1 **ARTICLE 2E. DIG ONCE POLICY.**

**§17-2E-3. Use of rights-of-way; broadband conduit installation in rights-of-way; permits;  
agreements; compensation; valuation of compensation; telecommunications  
facilities construction and installation in rights-of-way.**

1 (a) If in-ground construction or installation of a telecommunications facility in rights-of-way  
2 owned or controlled by the division serves a public purpose and shall be accommodated as a utility  
3 pursuant to federal and state law, the division ~~will~~ shall receive applications and issue a permit  
4 consistent with this section with respect to requirements and conditions for performing work in  
5 division rights-of-way.

6 (1) If a permit application for a telecommunications facility in rights-of-way owned and/or  
7 controlled by the division runs through multiple districts of the division, the applicant may submit a  
8 single unified application for the entire project with the division headquarters in Charleston.

9 (2) The division may scale the permit fee according to the size of the project, but in no  
10 instance may the project permit fees exceed a cumulative total of \$10,000, or one percent of the  
11 total cost of the project, whichever is less.

12 (3) If the telecommunications facility in rights-of-way project applied for runs through  
13 multiple division districts, the division may distribute the percentage of the permit fee proceeds  
14 among the multiple districts either equally or in proportion to the percentage the project touches in  
15 each district.

16 (b) Upon receipt of a complete application as specified in the Accommodation of Utilities  
17 on Highway Right-of-Way and Adjustment and Relocation of Utility Facilities on Highway Projects  
18 Policy, or equivalent policy, as may be currently enforced by the division consistent with §17-2E-3,

that specifies the requirements and conditions for performing work in a right-of-way, the division shall, within 60 business days, advise applicant in writing of any deficiencies with the planned project that:

(1) Adversely affect the safety, design, construction, operation, maintenance, or stability of the state road system;

(2) Interfere with or impair the present use or planned future expansion of any affected highway or bridge;

(3) Conflict with applicable division policy with respect to requirements and conditions for performing work in division rights-of-way; ~~or~~

(4) Violates applicable federal or state law; or

(5) Any permit application not acted upon by the division within 60 days shall be considered approved.

(c) An applicant may correct any deficiencies and resubmit the application, which shall be reviewed by the division and either approved or denied within 30 days of the resubmittal. Any resubmittal not acted upon by the division within 30 days shall be considered approved. Any denial of a resubmittal shall be in writing and explain any deficiencies as provided in subsection (b) of this section. After the division approves a permit application, notwithstanding any other provision of this code to the contrary, the division shall issue a specific district level construction authorization for the approved project within 10 business days unless specific logistical issues reasonably prevent commencement.

(d) Compliance with applicable environmental laws shall at all times be the responsibility of the applicant. If any environmental clearance must be performed by the division before an application is approved, the division ~~will~~ shall notify the applicant in writing of all necessary requirements for such clearance within 15 business days of receiving a complete application. The division ~~will~~ shall also provide a list of all known federal and state entities with whom an applicant may also need to consult and coordinate for environmental clearance purposes.

45           (e) The division ~~will~~ shall create and make available for potential applicants an  
46 informational notice consistent with §17-2E-3 specific to in-ground telecommunications facility  
47 construction and installation that explains routine issues for such projects, including a  
48 consolidated checklist or flow chart of all state or federal regulatory requirements, including but not  
49 limited to applicable permits, required reviews, required approvals, and required forms. The  
50 division shall annually update such informational notice for accuracy and completeness by  
51 coordination with each state or federal agency having required regulatory action in the permitting  
52 process legal, regulatory, and division requirements and may request the assistance of the Office  
53 of Broadband in preparing this informational notice.

54           (f) The provisions of this article shall not apply to the relocation or modification of existing  
55 telecommunications facilities in a right-of-way, nor shall these provisions apply to aerial  
56 telecommunications facilities or associated apparatus or equipment in a right-of-way. Relocation  
57 of telecommunications facilities within rights-of-way for state highways shall be in accordance with  
58 the provisions of §17-4-17b of this code.

NOTE: The purpose of this bill is to regulate permit applications to the Division of Highways for broadband installations rights-of-way that run through multiple districts for a telecommunications facility in rights-of-way owned and/or controlled by the division; and to provide for regulation of these permits, including fees for the permits and procedure for obtaining these permits.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.