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MEMORANDUM

To: Committee on Energy, Utilities and Telecommunications
From: Nick Myers, Office of Revisor of Statutes
Date: February 29, 2024
Subject: Bill Brief – House Bill 2806

House Bill 2806 would create a new law to establish certain rights and limitations relating to use of the public right-of-way in counties by certain telecommunication, broadband and video service providers. HB 2806 would grant such telecommunication, broadband and video service providers the right to construct, maintain and operate facilities within the county public right-of-way as long as such use does not obstruct or hinder travel, public safety, or other lawful uses of the public right-of-way.

HB 2506 would prohibit a county from establishing any discriminatory or unreasonable condition or barrier that prohibits a provider from using the public right-of-way. If a county does impose any access or permit requirements for use of the public right-of-way, such requirements must be implemented in a nondiscriminatory and competitively neutral manner amongst all similarly situated providers.

HB 2506 would limit the fees that a county may assess against a provider for use of the public right-of-way and would require any such fees charged by a county to be based on reimbursement to the county for the county's reasonable, actual and verifiable costs of managing the public right-of-way. HB 2506 would authorize a county to impose the following fees:

- A construction permit fee to set fixtures in the public right-of-way;
- An excavation fee for each pavement cut to recover costs associated with construction and repair activities. Such fee shall be based on a regional or other appropriate study that establishes the basis for such cost and that takes into account the remaining life of the road or highway; and
- An inspection fee to recover costs associated with inspections of the work performed.

If a provider causes damages while working in the public right of way, HB 2806 would authorize a county to assess against any provider costs associated with repairing and restoring the public right-of-way due to such damages. Additionally, HB 2806 would authorize a county to require a provider to furnish a performance bond to insure against the appropriate and timely performance of construction and maintenance activities.

HB 2806 would prohibit a county from assessing any other fees or costs upon any provider for the use of the public right-of-way. Upon request by a provider, a county would be required to provide an accounting of the costs incurred by the county that are the basis for any such fee charged by a county.

Lastly, HB 2806 would prohibit a provider from entering into a contract with a county to provide a product or service that the provider's business does not actually sell or provide.

If enacted, HB 2806 would take effect on July 1, 2024.