

## State Corporation Commission 2020 Fiscal Impact Statement

**1. Bill Number:** SB794

House of Origin	<input type="checkbox"/>	Introduced	<input type="checkbox"/>	Substitute	<input type="checkbox"/>	Engrossed
Second House	<input type="checkbox"/>	In Committee	<input type="checkbox"/>	Substitute	<input checked="" type="checkbox"/>	Enrolled

**2. Patron:** Lewis

**3. Committee:** Passed Both Houses

**4. Title:** Utility easements; broadband and other communications services.

**5. Summary:** Declares that it is the policy of the Commonwealth that (i) easements for the location and use of electric and communications facilities may be used to provide or expand broadband or other communications services; (ii) the use of easements to provide or expand broadband or other communications services is in the public interest; (iii) the installation, replacement, or use of public utility conduit, including the costs of installation, replacement, or use of conduit of a sufficient size to accommodate the installation of infrastructure to provide or expand broadband or other communications services, is in the public interest; (iv) the use of easements to provide or expand broadband or other communications services (a) does not constitute a change in the physical use of the easement, (b) does not interfere with, impair, or take any vested or other rights of the owner or occupant of the servient estate, (c) does not place any additional burden on the servient estate other than a de minimis burden, if any; (iv) has value to the owner or occupant of the servient estate greater than any de minimis impact; and (v) the installation and operation of broadband or other communications services within easements, appurtenant or gross, are merely changes in the manner, purpose, or degree of the granted use as appropriate to accommodate a new technology. The measure further provides that (1) absent any express prohibition on the installation and operation of broadband or other communications services in an easement that is contained in a deed or other instrument by which the easement was granted, the installation and operation of broadband or other communications services within any easement shall be deemed, as a matter of law, to be a permitted use within the scope of every easement for the location and use of electric and communications facilities and (2) subject to compliance with any express prohibitions in a written easement, any incumbent utility or communications provider may use an easement to install, construct, provide, maintain, modify, lease, operate, repair, replace, or remove its communications equipment, system, or facilities, and provide communications services through the same, without such incumbent utility or communications provider paying additional compensation to the owner or occupant of the servient estate or to the incumbent utility, provided that no additional utility poles are installed. The measure provides that, in cases of a prescriptive easement, such easement is deemed to exist and that any incumbent utility or communications provider may use a prescriptive easement to install, construct, provide, maintain, modify, lease, operate, repair, replace, or remove its communications equipment, system, or facilities, and provide communications services through the same, without such incumbent utility or communications provider paying additional compensation to the owner or occupant of the

servient estate or to the incumbent utility, provided that no additional utility poles are installed.

**6. Budget Amendment Necessary:** No

**7. Fiscal Impact Estimates:** No fiscal impact on the State Corporation Commission.

**8. Fiscal Implications:** No fiscal impact on the State Corporation Commission.

**9. Specific Agency or Political Subdivisions Affected:** None

**10. Technical Amendment Necessary:** No

**11. Other Comments:** None

SLK 3/5/2020