

State Corporation Commission 2023 Fiscal Impact Statement

1. Bill Number: SB1029

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: Stanley

3. Committee: Passed both Houses.

4. Title: Public utilities; fiber optic broadband lines crossing railroads.

5. Summary: Provides that if a broadband service provider, in the construction of its works, deems it necessary to cross the works of a railroad company, the broadband service provider is required to submit an application to the railroad company. The bill requires the application to include (i) a license fee; (ii) engineering design plans, construction plans, bore plans, fraction mitigation plans, dewatering plans, rigging and lifting plans, and any other pertinent plans deemed necessary and prepared by a registered professional engineer; (iii) the location of the crossing, including whether it is located in a public right-of-way; (iv) the proposed date of commencement of work; (v) the anticipated duration of the work in the crossing; (vi) the areas in which the project personnel will work; and (vii) the contact information of the broadband service provider's point of contact. The bill requires a railroad company to acknowledge receipt of the application, to request any additional information within 15 days, and to approve the application within 35 days unless the railroad company petitions the State Corporation Commission.

The bill requires the broadband service provider to bear the cost of any such crossing, including a license fee of \$2,000 for each crossing, except that for a crossing over an abandoned section of track the license fee shall not exceed \$1,000 and for a crossing of a railroad company's works within a public right-of-way there is not a license fee. Under the bill, the Commonwealth shall grant a right-of-way to any broadband service provider seeking to use the right-of-way for broadband deployment to the extent that the Commonwealth owns any interest in any real property crossed by a railroad or manages any real property not owned by the Commonwealth that is crossed by a railroad. The bill requires the broadband service provider to maintain a general liability insurance policy or railroad protective liability insurance policy that meets certain requirements. The bill also requires a broadband service provider to reimburse the railroad company for direct expenses, not to exceed \$5,000, in addition to the license fee.

The bill provides that a railroad company may petition the State Corporation Commission within 35 days of receiving an application if it asserts (a) the license fee is not adequate compensation for the specified crossing, (b) the proposed crossing will cause undue hardship on the railroad company, or (c) the proposed crossing will create the imminent likelihood of danger to public health or safety. Under the bill, a broadband service provider may petition

the Commission if a railroad company is not in compliance with the requirements of the bill. The bill requires the Commission to adjudicate any such petition within 90 days.

This bill is identical to HB 1752.

6. Budget Amendment Necessary: No.

7. Fiscal Impact Estimates: Final. See Item 8.

8. Fiscal Implications: The bill allows a railroad company or a broadband service provider to petition the State Corporation Commission (Commission), and the Commission may make any necessary findings of fact and determinations, as well as any relief to be granted. The bill permits the Commission to employ engineers to assist with the technical evaluation. The cost of an engineer will be shared equally by the broadband service provider and the railroad company.

The Commission does not have sufficient data to reliably estimate the work involved with this bill or any fiscal impact. In addition to the permission to employ engineers to complete the technical evaluation of the subject matter of the petitions, if there are a significant number of petitions, additional staff may be required.

9. Specific Agency or Political Subdivisions Affected: State Corporation Commission

10. Technical Amendment Necessary: No

11. Other Comments: None