

State of Arizona  
Senate  
Fiftieth Legislature  
Second Regular Session  
2012

**CHAPTER 195**  
**SENATE BILL 1402**

AN ACT

AMENDING TITLE 28, CHAPTER 20, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 14; AMENDING SECTION 28-7701, ARIZONA REVISED STATUTES; RELATING TO BROADBAND CONDUIT INSTALLATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 28, chapter 20, Arizona Revised Statutes, is amended  
3 by adding article 14, to read:

4 ARTICLE 14. BROADBAND CONDUIT INSTALLATION

5 28-7381. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "BROADBAND CONDUIT" MEANS A CONDUIT, INNERDUCT OR MICRODUCT FOR  
8 FIBER OPTIC CABLES THAT SUPPORT BROADBAND AND WIRELESS FACILITIES FOR  
9 BROADBAND SERVICE.

10 2. "BROADBAND SERVICE":

11 (a) MEANS PROVIDING ACCESS AND TRANSPORT TO THE INTERNET, COMPUTER  
12 PROCESSING, INFORMATION STORAGE OR PROTOCOL CONVERSION AT A RATE OF AT LEAST  
13 ONE MEGABIT PER SECOND IN EITHER THE UPSTREAM OR DOWNSTREAM DIRECTION, AS  
14 ESTABLISHED BY THE FEDERAL COMMUNICATIONS COMMISSION.

15 (b) DOES NOT INCLUDE INFORMATION CONTENT OR SERVICE APPLICATIONS  
16 PROVIDED OVER THE ACCESS SERVICE OR ANY INTRASTATE SERVICE THAT WAS SUBJECT  
17 TO A TARIFF AS OF JANUARY 1, 2012.

18 3. "COST-BASED RATE" MEANS A LEASE RATE THAT IS ONLY COMPRISED OF  
19 DIRECT AND ACTUAL ASSOCIATED INDIRECT COSTS OF OBTAINING AND MAINTAINING THE  
20 ASSOCIATED RIGHT-OF-WAY AND BROADBAND CONDUIT AND MUST BE EQUITABLY ALLOCATED  
21 AMONG USERS OF THE ASSOCIATED RIGHT-OF-WAY, BROADBAND CONDUIT AND INNERDUCT  
22 OR MICRODUCT.

23 4. "COVERED RURAL HIGHWAY CONSTRUCTION PROJECT" MEANS A PROJECT TO  
24 CONSTRUCT A NEW RURAL HIGHWAY OR TO CONSTRUCT OR RELOCATE AN ADDITIONAL LANE  
25 OR SHOULDER FOR AN EXISTING RURAL HIGHWAY THAT IS COMMENCED AFTER THE  
26 EFFECTIVE DATE OF THIS SECTION AND THAT RECEIVES FUNDING FROM STATE OR  
27 FEDERAL MONIES.

28 5. "PROVIDER" MEANS AN ENTITY THAT PROVIDES FOR THE SALE OR RESALE OF  
29 WHOLESALE OR RETAIL BROADBAND SERVICES IN THIS STATE AND THAT IS RECOGNIZED  
30 AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER BY THE ARIZONA CORPORATION  
31 COMMISSION OR THAT MEETS FEDERAL COMMUNICATIONS COMMISSION AND INDUSTRY  
32 CARRIER CLASS SERVICE GUIDELINES OR IS A POLITICAL SUBDIVISION THAT HAS  
33 STATUTORY AUTHORITY TO PROVIDE COMMUNICATIONS SERVICES.

34 6. "RURAL HIGHWAY" MEANS THAT PORTION OF ANY HIGHWAY IN THIS STATE  
35 THAT IS EITHER OF THE FOLLOWING:

36 (a) OUTSIDE OF THE MUNICIPAL BOUNDARY OF ANY CITY OR TOWN HAVING A  
37 POPULATION OF TEN THOUSAND PERSONS OR MORE.

38 (b) OUTSIDE OF FEDERAL METROPOLITAN AND MICROPOLITAN STATISTICAL  
39 AREAS.

40 28-7382. Broadband conduit installation; rural highway  
41 construction projects

42 A. THE DIRECTOR MAY INSTALL BROADBAND CONDUIT IN ACCORDANCE WITH THIS  
43 ARTICLE AS PART OF A COVERED RURAL HIGHWAY CONSTRUCTION PROJECT IF FUNDING IS  
44 RECEIVED BY THE DEPARTMENT TO COVER THE COST.

45 B. IN CARRYING OUT THIS ARTICLE, THE DIRECTOR MAY LEASE THE BROADBAND  
46 CONDUIT TO PROVIDERS AT A COST-BASED RATE AND COORDINATE WITH PROVIDERS  
47 REGARDING PLANNING AND RELOCATING OF BROADBAND CONDUIT AND ANY RELATED

1 PROVIDER FACILITIES WITHIN THE RIGHT-OF-WAY AT THE PROVIDER'S EXPENSE IF  
2 FUTURE HIGHWAY IMPROVEMENTS MAKE THE RELOCATIONS NECESSARY. THE DIRECTOR MAY  
3 LIMIT PROVIDER ACCESS TO ANY BROADBAND FACILITIES WITHIN THE RIGHT-OF-WAY FOR  
4 INITIAL INSTALLATION AND INFREQUENT ACCESS FOR MAINTENANCE PURPOSES AND MAY  
5 TAKE OTHER ACTIONS NECESSARY TO MAINTAIN HIGHWAY SAFETY.

6 C. THE DIRECTOR MAY INSTALL BROADBAND CONDUIT WITHOUT REGARD TO THE  
7 TIMING OF A RELATED EXISTING ROAD CONSTRUCTION PROJECT, BASED ON A REQUEST  
8 AND RECEIPT OF FUNDING FROM STATE ENTITIES CHARGED WITH RESPONSIBILITY FOR  
9 BROADBAND INFRASTRUCTURE AND POLICY.

10 Sec. 2. Section 28-7701, Arizona Revised Statutes, is amended to read:

11 28-7701. Definitions

12 In this chapter, unless the context otherwise requires:

13 1. "Concession" means any lease, ground lease, franchise, easement,  
14 permit or other binding agreement transferring rights for the use or control,  
15 in whole or in part, of an eligible facility by the department or other unit  
16 of government to a private partner in accordance with this chapter.

17 2. "Eligible facility" means any facility, whether real or personal  
18 property, developed or operated after September 30, 2009 in accordance with  
19 this chapter, including any existing, enhanced, upgraded or new facility that  
20 is any of the following:

21 (a) Used or useful for the safe transport of people, **INFORMATION** or  
22 goods via one or more modes of transport, whether involving highways,  
23 bridges, tunnels, **CONDUITS**, railways, monorails, transit, bus systems, guided  
24 rapid transit, fixed guideways, ferries, boats, vessels, airports, intermodal  
25 or multimodal systems or any other mode of transport.

26 (b) Used by or useful to the department, including vehicle  
27 registration and driver licensing facilities, operating systems and  
28 information systems.

29 (c) Related or ancillary to, or used or useful to provide, operate,  
30 maintain or generate revenue for, a facility under subdivision (a) or (b),  
31 including administrative buildings and other buildings, structures, parking,  
32 rest areas, maintenance yards, rail yards, ports of entry or storage  
33 facilities, vehicles, rolling stock, energy systems or other related  
34 equipment, items or property.

35 3. "Private partner" means a person, entity or organization that is  
36 not the federal government, this state, a political subdivision of this state  
37 or a unit of government.

38 4. "Unit of government" means any agency, office or department of this  
39 state, city, county, district, commission, authority, entity, port or other  
40 public corporation organized and existing under statutory law or under a  
41 voter approved charter or initiative, and any intergovernmental entity.

42 Sec. 3. Short title

43 This act may be cited as the "Digital Arizona Highways Act of 2012".

S.B. 1402

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 5, 2012.