

Senate Engrossed House Bill

ADOT; telecommunication facilities installation

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

HOUSE BILL 2596

AN ACT

AMENDING SECTIONS 28-7048, 28-7381 AND 28-7382, ARIZONA REVISED STATUTES;
AMENDING TITLE 28, CHAPTER 20, ARTICLE 14, ARIZONA REVISED STATUTES, BY
ADDING SECTIONS 28-7383, 28-7384, 28-7385, 28-7386 AND 28-7387; RELATING
TO THE DEPARTMENT OF TRANSPORTATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 28-7048, Arizona Revised Statutes, is amended to
3 read:

4 28-7048. Lease of areas above and below highways; exceptions

5 A. The director may lease to any public agency, as defined in
6 section 11-951, or to a private person or entity the use of areas above or
7 below state highways, subject to reservations, restrictions and conditions
8 the director deems necessary to assure adequate protection of the safety
9 and integrity of highway facilities and to secure the safety of
10 motorists. Before entering into the lease, the director shall:

11 1. Determine that the proposed use by a lessee is not in conflict
12 with the zoning regulations of the local government concerned.

13 2. Make the lease pursuant to procedures prescribed by the board.

14 3. Make a lease with a private person or entity only after
15 competitive bidding.

16 B. The transportation board may reject any or all bids or call for
17 additional bids if in the opinion of the board the bids submitted are not
18 in the best interest of this state. The board shall not accept a bid that
19 does not yield at least a fair rental value for the property to the state
20 highway fund.

21 C. The department shall deposit, pursuant to sections 35-146 and
22 35-147, the revenues derived from the leases in the state highway fund.

23 D. The authority granted to the director by this section does not
24 include the right to lease public rights-of-way to public service
25 corporations, and this section does not affect any rights of public
26 service corporations to use public rights-of-way or to obtain permits or
27 easements associated with public uses of public rights-of-way.

28 E. THIS SECTION DOES NOT APPLY TO THE USE OF HIGHWAY RIGHTS-OF-WAY
29 FOR TELECOMMUNICATION FACILITY INSTALLATION PURSUANT TO ARTICLE 14 OF THIS
30 CHAPTER.

31 Sec. 2. Heading change

32 The article heading of title 28, chapter 20, article 14, Arizona
33 Revised Statutes, is changed from "BROADBAND CONDUIT INSTALLATION" to
34 "TELECOMMUNICATION FACILITY INSTALLATION".

35 Sec. 3. Section 28-7381, Arizona Revised Statutes, is amended to
36 read:

37 28-7381. Definitions

38 In this article, unless the context otherwise requires:

39 ~~1. "Broadband conduit" means a conduit, innerduct or microduct for~~
40 ~~fiber optic cables that support broadband and wireless facilities for~~
41 ~~broadband service.~~

42 ~~2.~~ 1. "Broadband service":

43 (a) Means providing access and transport to the internet, computer
44 processing, information storage or protocol conversion ~~at a rate of at~~

1 ~~least one megabit per second~~ in either the upstream or downstream
2 direction, as established by the federal communications commission.

3 (b) Does not include information content or service applications
4 provided over the access service or any intrastate service that was
5 subject to a tariff as of January 1, 2012.

6 ~~3. "Cost-based rate" means a lease rate that is only comprised of
7 direct and actual associated indirect costs of obtaining and maintaining
8 the associated right-of-way and broadband conduit and must be equitably
9 allocated among users of the associated right-of-way, broadband conduit
10 and innerduct or microduct.~~

11 ~~4. "Covered rural highway construction project" means a project to
12 construct a new rural highway or to construct or relocate an additional
13 lane or shoulder for an existing rural highway that is commenced after the
14 effective date of this section and that receives funding from state or
15 federal monies.~~

16 2. "LONGITUDINAL ACCESS" MEANS ACCESS TO OR USE OF ANY PART OF A
17 RIGHT-OF-WAY OF A HIGHWAY THAT EXTENDS GENERALLY PARALLEL TO THE
18 RIGHT-OF-WAY FOR A TOTAL OF THIRTY OR MORE LINEAR METERS.

19 ~~5.~~ 3. "Provider":

20 (a) Means an entity that provides for the sale or resale of
21 wholesale or retail broadband services in this state and that is
22 recognized as an eligible telecommunications carrier by the Arizona
23 corporation commission or that meets federal communications commission and
24 industry carrier class service guidelines or is a political subdivision
25 that has statutory authority to provide communications services.

26 (b) INCLUDES A VIDEO SERVICE PROVIDER AS DEFINED BY SECTION
27 11-1901.

28 ~~6. "Rural highway" means that portion of any highway in this state
29 that is either of the following:~~

30 ~~(a) Outside of the municipal boundary of any city or town having a
31 population of ten thousand persons or more.~~

32 ~~(b) Outside of federal metropolitan and micropolitan statistical
33 areas.~~

34 4. "TELECOMMUNICATION FACILITY" MEANS ANY CABLE, LINE, FIBER, WIRE,
35 CONDUIT, INNERDUCT, ACCESS MANHOLE, HANDHOLE, TOWER, HUT, PEDESTAL, POLE,
36 BOX, TRANSMITTING EQUIPMENT, RECEIVING EQUIPMENT OR POWER EQUIPMENT OR ANY
37 OTHER EQUIPMENT, SYSTEM OR DEVICE THAT IS USED TO TRANSMIT, RECEIVE,
38 PRODUCE OR DISTRIBUTE BY WIRELESS, WIRELINE, ELECTRONIC OR OPTICAL SIGNAL
39 FOR COMMUNICATION PURPOSES.

1 Sec. 4. Section 28-7382, Arizona Revised Statutes, is amended to
2 read:

3 28-7382. Telecommunication facility installation; highway
4 construction projects; expanded use; action in
5 superior court; just compensation; excavation;
6 notice

7 A. The director, ~~OR A PROVIDER WITH PERMISSION FROM THE DEPARTMENT,~~
8 may install ~~broadband conduit~~ TELECOMMUNICATION FACILITIES ~~in accordance~~
9 ~~with~~ PURSUANT TO this article ~~as part of a covered rural highway~~
10 ~~construction project if funding is received by the department to cover the~~
11 ~~cost.~~

12 B. ~~In carrying out this article,~~ The director may lease ~~the~~
13 ~~broadband conduit~~ A TELECOMMUNICATION FACILITY to providers ~~at a cost-~~
14 ~~based rate~~ PURSUANT TO THIS ARTICLE and coordinate with providers
15 regarding planning ~~and~~ OR relocating of ~~broadband conduit~~ A
16 TELECOMMUNICATION FACILITY and any related provider TELECOMMUNICATION
17 facilities within the right-of-way at the provider's expense ~~if future~~
18 ~~highway improvements make the relocations necessary.~~ The director may
19 limit provider access to any ~~broadband~~ TELECOMMUNICATION facilities within
20 the right-of-way for initial installation and infrequent access for
21 maintenance purposes and may take other actions necessary to maintain
22 highway safety.

23 C. The director, ~~OR A PROVIDER WITH PERMISSION FROM THE DEPARTMENT,~~
24 may install ~~broadband conduit~~ A TELECOMMUNICATION FACILITY without regard
25 to the timing of a related existing road construction project, ~~based on a~~
26 ~~request and receipt of funding from state entities charged with~~
27 ~~responsibility for broadband infrastructure and policy.~~

28 D. FOR THE PURPOSES OF INSTALLING AND OPERATING A TELECOMMUNICATION
29 FACILITY, IF THE DEPARTMENT, DIRECTLY OR THROUGH A PROVIDER, EXPANDS THE
30 USE OF AN EXISTING EASEMENT OR OTHER PROPERTY RIGHT THAT IS OWNED, HELD OR
31 USED BY THE DEPARTMENT FOR TRANSPORTATION PURPOSES AND THE EXPANDED USE
32 REDUCES THE FAIR MARKET VALUE OF THE PROPERTY OVER WHICH THE EASEMENT OR
33 OTHER PROPERTY RIGHT RUNS, THE PROPERTY OWNER IS ENTITLED TO JUST
34 COMPENSATION FROM THE DEPARTMENT OR PROVIDER.

35 E. THE PROPERTY OWNER MUST COMMENCE AN ACTION IN THE SUPERIOR COURT
36 FOR JUST COMPENSATION BASED ON DIMINUTION IN VALUE NOT LATER THAN EIGHTEEN
37 MONTHS AFTER THE DATE THE DEPARTMENT PROVIDES NOTICE TO THE PROPERTY OWNER
38 OF THE EXPANDED USE.

39 F. NOTICE UNDER SUBSECTION E OF THIS SECTION IS PROVIDED IF SENT BY
40 FIRST CLASS MAIL TO THE LAST KNOWN ADDRESS OF THE PROPERTY OWNER.

41 G. IN AN ACTION FOR JUST COMPENSATION BASED ON A CLAIM OF EXPANDED
42 USE FOR INSTALLATION OF A TELECOMMUNICATION FACILITY, ALL OF THE FOLLOWING
43 APPLY:

44 1. THE COURT OR JURY SHALL ASCERTAIN AND ASSESS THE DIMINUTION IN
45 VALUE OF THE PROPERTY BASED ON THE DIFFERENCE BETWEEN THE FAIR MARKET

1 VALUE OF THE ENTIRE PARCEL IMMEDIATELY BEFORE THE EXPANDED USE AND THE
2 FAIR MARKET VALUE OF THE ENTIRE PARCEL IMMEDIATELY AFTER THE EXPANDED USE.

3 2. EVIDENCE OF REVENUES OR PROFITS DERIVED FROM OR THE RENTAL VALUE
4 OF AN ASSEMBLED COMMUNICATIONS CORRIDOR ARE NOT ADMISSIBLE IN DETERMINING
5 FAIR MARKET VALUE.

6 3. ON PAYMENT OF JUST COMPENSATION, THE EXPANDED USE IS DEEMED
7 FULLY VESTED IN THE DEPARTMENT AND THE EXPANDED USE SHALL RUN WITH THE
8 LAND.

9 H. A CLASS ACTION MAY NOT BE MAINTAINED AGAINST THE DEPARTMENT OR
10 PROVIDER IN ANY ACTION FOR JUST COMPENSATION BASED ON A CLAIM OF EXPANDED
11 USE FOR THE INSTALLATION OF A TELECOMMUNICATION FACILITY.

12 I. ACTIONS FOR JUST COMPENSATION AS DESCRIBED IN THIS SECTION
13 INCLUDE TRESPASS, INVERSE CONDEMNATION AND OTHER SIMILAR CAUSES OF ACTION.

14 J. THIS SECTION DOES NOT PROHIBIT THE DEPARTMENT OR A PROVIDER FROM
15 REACHING AN AGREEMENT WITH A PROPERTY OWNER TO WAIVE A CLAIM FOR JUST
16 COMPENSATION RELATED TO EXPANDED USE FOR THE INSTALLATION OF A
17 TELECOMMUNICATION FACILITY OR FROM ACQUIRING THE RIGHT TO USE THE PROPERTY
18 BY OTHER LAWFUL MEANS.

19 K. IF EXCAVATION IS REQUIRED TO INSTALL FIBER OPTIC CABLE OR OTHER
20 UNDERGROUND TELECOMMUNICATION FACILITIES WITHIN AN EXISTING EASEMENT OR
21 OTHER PROPERTY RIGHT THAT IS OWNED, HELD OR USED BY THE DEPARTMENT FOR
22 TRANSPORTATION PURPOSES, A PROVIDER WITH PERMISSION FROM THE DEPARTMENT TO
23 INSTALL PRIVATELY OWNED TELECOMMUNICATION FACILITIES SHALL PROVIDE WRITTEN
24 NOTICE TO THE PROPERTY OWNER OF THE EXPANDED USE FOR INSTALLATION OF THE
25 TELECOMMUNICATION FACILITY BEFORE EXCAVATION. THE PROVIDER SHALL SEND THE
26 NOTICE BY FIRST CLASS MAIL TO THE LAST KNOWN ADDRESS OF THE PROPERTY
27 OWNER. A NOTICE SENT TO THE PROPERTY OWNER ENTITLED TO NOTICE UNDER THIS
28 SUBSECTION MUST INCLUDE ALL OF THE FOLLOWING:

29 1. THE NAME AND MAILING ADDRESS OF THE PROVIDER.
30 2. THE MAILING ADDRESS, TELEPHONE NUMBER AND EMAIL ADDRESS OF A
31 REPRESENTATIVE OF THE PROVIDER.

32 3. A SUMMARY STATEMENT DESCRIBING THE ACTIVITIES TO BE CONDUCTED
33 DURING THE EXCAVATION.

34 4. THE APPROXIMATE DATES WHEN THE EXCAVATION WILL START AND END.

35 L. THE NOTICE PRESCRIBED IN SUBSECTION K OF THIS SECTION IS NOT
36 REQUIRED BEFORE THE PROVIDER MAY USE AN EASEMENT OR OTHER PROPERTY RIGHT
37 THAT INCLUDES AN AUTHORIZATION FOR EXCAVATION FOR THE PURPOSES OF
38 INSTALLING A TELECOMMUNICATION FACILITY. FAILURE TO PROVIDE THE NOTICE
39 PRESCRIBED IN SUBSECTION K OF THIS SECTION:

40 1. PROHIBITS THE PROVIDER FROM PROCEEDING WITH AN EXCAVATION UNTIL
41 THE NOTICE IS PROVIDED.

42 2. DOES NOT INVALIDATE OR PREVENT THE DEPARTMENT FROM EXPANDING THE
43 USE OF THE EASEMENT OR PROPERTY RIGHT AS OTHERWISE DESCRIBED IN THIS
44 SECTION.

1 M. COMPENSATION PROVIDED BY THIS SECTION SHALL BE PAID FROM THE
2 SMART HIGHWAY CORRIDOR TRUST FUND ESTABLISHED BY SECTION 28-7387.

3 Sec. 5. Title 28, chapter 20, article 14, Arizona Revised Statutes,
4 is amended by adding sections 28-7383, 28-7384, 28-7385, 28-7386 and
5 28-7387, to read:

6 28-7383. Management of state-owned telecommunication
7 facilities

8 THE DEPARTMENT MAY ENTER INTO AN AGREEMENT WITH A PUBLIC OR PRIVATE
9 ENTITY FOR THE PURPOSE OF USING, MANAGING OR OPERATING STATE-OWNED
10 TELECOMMUNICATION FACILITIES AND COORDINATING ACTIVITIES IN THIS STATE
11 RELATING TO PLANNING, MAPPING AND PROCURING BROADBAND SERVICE.

12 28-7384. Longitudinal telecommunication access in the highway
13 system; agreements; restrictions; rulemaking

14 A. EXCEPT AS PROVIDED IN SUBSECTION E OF THIS SECTION, THE
15 DEPARTMENT MAY ALLOW A PROVIDER LONGITUDINAL ACCESS TO THE RIGHT-OF-WAY OF
16 A HIGHWAY FOR THE INSTALLATION, OPERATION AND MAINTENANCE OF A
17 TELECOMMUNICATION FACILITY.

18 B. THE DEPARTMENT SHALL ENTER INTO AN AGREEMENT WITH A PROVIDER AND
19 ISSUE A PERMIT BEFORE GRANTING THE PROVIDER ANY LONGITUDINAL ACCESS UNDER
20 THIS SECTION.

21 C. EXCEPT AS SPECIFICALLY PROVIDED BY THE AGREEMENT, A PROPERTY
22 INTEREST IN A RIGHT-OF-WAY MAY NOT BE GRANTED UNDER THIS SECTION.

23 D. AN AGREEMENT ENTERED INTO BY THE DEPARTMENT UNDER THIS SECTION
24 SHALL:

25 1. SPECIFY THE TERMS AND CONDITIONS FOR RENEGOTIATING THE
26 AGREEMENT.

27 2. SPECIFY MAINTENANCE RESPONSIBILITIES FOR EACH TELECOMMUNICATION
28 FACILITY.

29 3. BE NONEXCLUSIVE.

30 4. BE LIMITED TO A MAXIMUM TERM OF THIRTY YEARS.

31 E. THE DEPARTMENT MAY NOT GRANT ANY LONGITUDINAL ACCESS UNDER THIS
32 SECTION THAT RESULTS IN A SIGNIFICANT COMPROMISE OF THE SAFE, EFFICIENT
33 AND CONVENIENT USE OF THE HIGHWAY FOR THE TRAVELING PUBLIC.

34 F. THE DIRECTOR SHALL ADOPT RULES THAT:

35 1. GOVERN THE INSTALLATION, OPERATION AND MAINTENANCE OF A
36 TELECOMMUNICATION FACILITY GRANTED LONGITUDINAL ACCESS UNDER THIS SECTION.

37 2. SPECIFY THE PROCEDURES FOR ESTABLISHING AN AGREEMENT FOR
38 LONGITUDINAL ACCESS FOR A PROVIDER.

39 3. PROVIDE FOR THE RELOCATION OR REMOVAL OF A TELECOMMUNICATION
40 FACILITY FOR ANY OF THE FOLLOWING:

41 (a) NEEDED CHANGES TO A HIGHWAY.

42 (b) EXPIRATION OF AN AGREEMENT.

43 (c) BREACH OF AN AGREEMENT.

1 28-7385. Longitudinal telecommunication access to highway
2 system right-of-way; compensation

3 A. THE DEPARTMENT SHALL REQUIRE COMPENSATION FROM A PROVIDER FOR
4 LONGITUDINAL ACCESS TO THE RIGHT-OF-WAY OF A STATE HIGHWAY. THE
5 COMPENSATION SHALL BE ALL OF THE FOLLOWING:

- 6 1. FAIR AND REASONABLE.
7 2. COMPETITIVELY NEUTRAL.
8 3. NONDISCRIMINATORY.
9 4. OPEN TO PUBLIC INSPECTION.
10 5. ESTABLISHED TO PROMOTE ACCESS BY MULTIPLE PROVIDERS.
11 6. ESTABLISHED FOR ZONES OF THIS STATE.

12 7. ESTABLISHED TO ENCOURAGE THE DEPLOYMENT OF DIGITAL
13 INFRASTRUCTURE WITHIN THIS STATE.

14 8. A LUMP SUM PAYMENT OR ANNUAL INSTALLMENT, AT THE OPTION OF THE
15 PROVIDER.

16 9. SET PURSUANT TO SUBSECTION I OF THIS SECTION.

17 B. THE COMPENSATION MAY BE CASH, IN-KIND COMPENSATION OR A
18 COMBINATION OF CASH AND IN-KIND COMPENSATION.

19 C. IN-KIND COMPENSATION REQUIRES THE AGREEMENT OF BOTH THE PROVIDER
20 AND THE DEPARTMENT.

21 D. THE DEPARTMENT SHALL DETERMINE THE PRESENT VALUE OF ANY IN-KIND
22 COMPENSATION BASED ON THE INCREMENTAL COST TO THE PROVIDER.

23 E. THE VALUE OF IN-KIND COMPENSATION OR A COMBINATION OF CASH AND
24 IN-KIND COMPENSATION SHALL BE EQUAL TO OR GREATER THAN THE AMOUNT OF CASH
25 COMPENSATION THAT WOULD BE CHARGED IF THE COMPENSATION IS CASH ONLY.

26 F. THE DEPARTMENT SHALL PROVIDE FOR THE PROPORTIONATE SHARING OF
27 COSTS AMONG THE DEPARTMENT AND PROVIDERS FOR JOINT TRENCHING OR TRENCH
28 SHARING BASED ON THE AMOUNT OF CONDUIT INNERDUCT SPACE THAT IS AUTHORIZED
29 IN THE AGREEMENT FOR THE TRENCH.

30 G. IF TWO OR MORE PROVIDERS ARE REQUIRED TO SHARE A SINGLE TRENCH,
31 EACH PROVIDER IN THE TRENCH SHALL SHARE THE COST AND BENEFITS OF THE
32 TRENCH PURSUANT TO SUBSECTION F OF THIS SECTION ON A FAIR, REASONABLE,
33 COMPETITIVELY NEUTRAL AND NONDISCRIMINATORY BASIS.

34 H. THE DEPARTMENT, BY RULE, SHALL ESTABLISH A SCHEDULE OF RATES OF
35 COMPENSATION FOR ANY LONGITUDINAL ACCESS GRANTED UNDER THIS SECTION.

36 I. THE DEPARTMENT MAY NOT PAY ANY COST OF RELOCATION OF A PRIVATE
37 TELECOMMUNICATION FACILITY GRANTED LONGITUDINAL ACCESS TO THE RIGHT-OF-WAY
38 OF A HIGHWAY ON THE INTERSTATE SYSTEM UNDER THIS SECTION.

39 J. THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND
40 35-147, MONIES COLLECTED PURSUANT TO THIS SECTION IN THE SMART HIGHWAY
41 CORRIDOR TRUST FUND ESTABLISHED BY SECTION 28-7387.

42 K. ANY TELECOMMUNICATIONS CAPACITY ACQUIRED AS IN-KIND COMPENSATION
43 SHALL BE USED EXCLUSIVELY FOR THE FURTHER DEVELOPMENT OF
44 TELECOMMUNICATIONS THAT SERVE STATE AGENCIES AND ENHANCE CONNECTIVITY FOR

1 HIGHER AND PUBLIC EDUCATION AND MAY NOT BE SOLD OR LEASED IN COMPETITION
2 WITH TELECOMMUNICATION OR INTERNET SERVICE PROVIDERS.

3 L. A PERSON MAY NOT USE COMPENSATION PAID TO THE DEPARTMENT
4 PURSUANT TO THIS SECTION AS EVIDENCE OF THE MARKET OR OTHER VALUE OF THE
5 ACCESS FOR ANY OTHER PURPOSE, INCLUDING CONDEMNATION PROCEEDINGS, OTHER
6 LITIGATION, THE APPLICATION OF RATES OF TAXATION OR THE ESTABLISHMENT OF
7 FRANCHISE FEES RELATING TO LONGITUDINAL ACCESS RIGHTS.

8 28-7386. Use and access to state-owned conduit; compensation

9 A. THE DEPARTMENT MAY OFFER A PROVIDER USE OF AND ACCESS TO ITS
10 SPARE CONDUIT AND RELATED FACILITIES IF THE DEPARTMENT DOES ALL OF THE
11 FOLLOWING:

12 1. DETERMINES THE SPARE CONDUIT AND RELATED FACILITIES ARE NOT
13 NEEDED FOR HIGHWAY PURPOSES.

14 2. RECEIVES FAIR COMPENSATION FOR THE USE OF AND ACCESS TO THE
15 SPARE CONDUIT AND RELATED FACILITIES.

16 3. OFFERS SUCH USE AND ACCESS IN A COMPETITIVELY NEUTRAL AND
17 NONDISCRIMINATORY MANNER AS TO ALL SIMILARLY SITUATED PROVIDERS.

18 B. THE DEPARTMENT SHALL ESTABLISH RATES OF COMPENSATION FOR THE USE
19 OF AND ACCESS TO ITS SPARE CONDUIT TO ENSURE THAT THE DEPARTMENT RECEIVES
20 FAIR COMPENSATION FOR THE VALUE OF ITS UNDERGROUND INSTALLATIONS OF
21 CONDUIT AND RELATED FACILITIES. THE COMPENSATION MUST BE FAIR AND
22 REASONABLE AND CHARGED IN A COMPETITIVELY NEUTRAL AND NONDISCRIMINATORY
23 MANNER TO ALL SIMILARLY SITUATED PROVIDERS.

24 C. ANY COMPENSATION PURSUANT TO THIS SECTION MUST BE SET FORTH IN
25 AN AGREEMENT ENTERED INTO BETWEEN THE DEPARTMENT AND THE PROVIDER.

26 D. THE DEPARTMENT SHALL DETERMINE THE ANNUAL COMPENSATION TO BE
27 PAID BY EACH PROVIDER FOR THE USE OF ITS CONDUIT AND RELATED FACILITIES
28 BASED ON THE PRESENT VALUE OF THE ESTIMATED, REASONABLE COST TO THE
29 DEPARTMENT OF TRENCHING TO PLACE CONDUIT, FIBER AND OTHER RELATED
30 FACILITIES.

31 E. THE DEPARTMENT MAY ACCEPT IN-KIND COMPENSATION FOR THE USE OF
32 AND ACCESS TO ITS SPARE CONDUIT AND RELATED FACILITIES IN ACCORDANCE WITH
33 THE VALUATION PROCEDURES PRESCRIBED IN SECTION 28-7385.

34 F. THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND
35 35-147, MONIES COLLECTED PURSUANT TO THIS SECTION IN THE SMART HIGHWAY
36 CORRIDOR TRUST FUND ESTABLISHED BY SECTION 28-7387.

37 G. THIS SECTION DOES NOT REQUIRE THE DEPARTMENT TO RECEIVE
38 COMPENSATION FROM ANY BUDGET UNIT OF THIS STATE FOR USE OF AND ACCESS TO
39 CONDUIT AND RELATED FACILITIES.

40 28-7387. Smart highway corridor trust fund; purpose

41 A. THE SMART HIGHWAY CORRIDOR TRUST FUND IS ESTABLISHED CONSISTING
42 OF THE FOLLOWING:

43 1. LEGISLATIVE APPROPRIATIONS.

1 2. MONIES RECEIVED FROM THE SALES OR LEASES OF RIGHTS-OF-WAY,
2 TELECOMMUNICATION FACILITIES AND TELECOMMUNICATION SERVICES PURSUANT TO
3 SECTIONS 28-7385 AND 28-7386.

4 3. MONIES RECEIVED FROM PROVIDERS TO REIMBURSE COSTS FOR
5 COMPENSATION CLAIMS PURSUANT TO SECTION 28-7382.

6 B. MONIES IN THE SMART HIGHWAY CORRIDOR TRUST FUND SHALL BE USED
7 FOR THE FOLLOWING:

8 1. THE MAINTENANCE, OPERATION AND EXPANSION OF TELECOMMUNICATION
9 FACILITIES AND TELECOMMUNICATION SERVICES WITHIN RIGHTS-OF-WAY THAT ARE
10 MANAGED BY THE DEPARTMENT.

11 2. THE PAYMENT OF COMPENSATION PURSUANT TO SECTION 28-7382.

12 C. THE DEPARTMENT SHALL ADMINISTER THE FUND. MONIES IN THE FUND
13 ARE CONTINUOUSLY APPROPRIATED. MONIES IN THE FUND ARE EXEMPT FROM THE
14 PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS.

15 D. ON NOTICE FROM THE DEPARTMENT, THE STATE TREASURER SHALL INVEST
16 AND DIVEST MONIES IN THE FUND AS PROVIDED BY SECTION 35-313, AND MONIES
17 EARNED FROM INVESTMENT SHALL BE CREDITED TO THE FUND.

18 Sec. 6. Exemption from rulemaking

19 Notwithstanding any other law, for the purposes of this act, the
20 department of transportation is exempt from the rulemaking requirements of
21 title 41, chapter 6, Arizona Revised Statutes, for one year after the
22 effective date of this act.