

2024 -- S 2853

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

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A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- RHODE ISLAND UTILITY FAIR
SHARE ROADWAY REPAIR ACT

Introduced By: Senators Britto, Ciccone, DiPalma, Zurier, Raptakis, Sosnowski, Felag,
Miller, F. Lombardi, and DiMario

Date Introduced: March 22, 2024

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 39-2.2-3 and 39-2.2-5 of the General Laws in Chapter 39-2.2 entitled
2 "Rhode Island Utility Fair Share Roadway Repair Act" are hereby amended to read as follows:

3 **39-2.2-3. State road repair.**

4 (a) Any repaving and repair of a state road required by § 39-2.2-2 shall be to the satisfaction
5 of the director of the department of transportation.

6 (b) All utility work within and/or upon a state road or state right-of-way requires a state
7 utility permit issued by the department of transportation prior to the work commencing. Any public
8 utility or utility facility violating this section for non-emergency utility work without a state utility
9 permit shall be fined five hundred dollars (\$500) per incident in addition to the required road
10 repaving and repair (restoration).

11 (c) As part of the state utility permit requirements:

12 (1) The public utility or utility facility shall obtain and submit to the state a performance
13 bond in accordance with the state utility permit application requirements prior to the state utility
14 permit being issued by the department of transportation; and

15 (2) The department of transportation will contract with pre-qualified vendors (Master Price
16 Agreement) to conduct state-certified testing and inspection services on all utility work in
17 accordance with the state utility permit requirements, and the public utility or utility facility shall
18 reimburse the department of transportation for these costs.

1 (d) Effective January 1, 2026, for state roads or state right-of-way listed in the state
2 transportation improvement program (STIP), the public utility or utility facility shall plan utility
3 work in accordance with the STIP project schedules. The utilities shall develop and provide the
4 department a comprehensive project schedule for utility projects with an immediate need and those
5 occurring within two (2) years. The project list shall include, but not be limited to, the location of
6 the project, duration, utility repair or replacement taking place, anticipated alterations to the
7 roadway, and any additional information the department may request.

8 (e) The department and public utility or utility facility shall conduct a long-range planning
9 schedule for any projects commencing within five (5) years. For long-range projects the department
10 shall provide a comprehensive list to the utility of the proposed projects, timetables and any
11 information pertinent to the utility for planning purposes. The public utility or utility facility shall
12 conduct a review of those roadways to identify any infrastructure that may require replacing or
13 upgrade, new customer connections, and any additional activities that require road opening. The
14 department and public utility or utility facility shall use this information to develop a coordinated
15 long-range five (5) year plan.

16 (f) In accordance with subsection (b) of this section the public utility or utility facility may
17 conduct utility work on roadways in subsection (d) and (e) of this section at any period up to the
18 department commencing the roadway project. The public utility or utility facility may, with the
19 approval of the department, continue to conduct infrastructure work during the utility phase of the
20 project. Utility work shall be completed prior to the completion of the road surface.

21 (g) In the event the STIP schedule is amended, the department shall provide notification to
22 the public utility or utility facility of any changes. Notification shall include, but not be limited to,
23 projects being delayed or accelerated in the schedule, and projects removed from the STIP.

24 (h) If a project schedule is amended the department and public utility or utility facility shall
25 coordinate and develop a new project schedule for the utility work. If a project is accelerated and
26 the public utility or utility facility is unable to adjust their schedule due to limited material
27 inventory, labor shortages, or other proven hardships the public utility or utility facility may seek
28 a waiver from the department from performing the work. If a waiver is granted and the public utility
29 or utility facility performs work after the roadway project is completed the public utility or utility
30 facility shall restore the altered roadway in its entirety in accordance with subsection (a) of this
31 section and § 39-2.2-2.

32 (i) If a public utility or utility facility alters a newly constructed roadway and fails to
33 properly restore the roadway in accordance with subsection (a) of this section and § 39-2.2-2 the
34 public utility or utility facility shall be fined in accordance § 39-2.2-5(d).

1 (j) Nothing in subsections (d) or (e) of this section shall prevent a public utility or utility
2 facility from performing infrastructure work subject to federal funding and timelines.

3 (k) A public utility or utility facility performing emergency work on a newly paved
4 roadway shall be responsible for restoring the roadway in accordance with subsection (a) of this
5 section and § 39-2.2-2.

6 **39-2.2-5. Recovery for failure to repair state road.**

7 (a) If the director of the department of transportation deems any repaving or repair of a
8 state road insufficient, defective, noncompliant, or incomplete and requests repairs, it will be the
9 responsibility of the public utility or utility facility to complete the repairs to the satisfaction of the
10 director of the department of transportation within thirty (30) days of being notified.

11 (b) If the public utility or utility facility fails to complete the repairs, the department of
12 transportation will initiate the repairs through the performance bond claim process and/or
13 recovering the amount required for the repairs from the public utility or utility facility.

14 (c) If any payment determined to be due from any public utility or utility facility for
15 reparation, reconstruction, or repaving shall not be paid to the state within one year from the date
16 of the determination, the state shall be entitled to recover the amount due in an action of debt,
17 together with interest from six (6) months from the date of determination at the rate of ten percent
18 (10%) per annum.

19 (d) Effective January 1, 2026, if a public utility or utility facility alters a newly restored
20 state roadway within the first year of restoration the public utility or utility facility shall be subject
21 to fines at the discretion of the director. Fines shall be waived in emergency situations or if a waiver
22 was issued in accordance with § 39-2.2-3(h).

23 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- RHODE ISLAND UTILITY FAIR
SHARE ROADWAY REPAIR ACT

- 1 This act would require that public utilities plan utility work in accordance with the state
- 2 transportation improvement program schedules when working on state roads.
- 3 This act would take effect upon passage.

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