

2019 -- H 5028 SUBSTITUTE A

LC000084/SUB A/2

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

A N A C T

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

Introduced By: Representatives McNamara, Kazarian, Jackson, Vella-Wilkinson, and
Azzinaro

Date Introduced: January 04, 2019

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 39 of the General Laws entitled "PUBLIC UTILITIES AND
2 CARRIERS" is hereby amended by adding thereto the following chapter:

3 CHAPTER 2.2

4 THE RHODE ISLAND UTILITY FAIR SHARE ROADWAY REPAIR ACT

5 **39-2.2-1 Short title.**

6 This chapter shall be known and may be cited as the "Rhode Island Utility Fair Share
7 Roadway Repair Act."

8 **39-2.2-2. Road repair by public utility or utility facility.**

9 Any public utility as defined by § 39-1-2 or any utility facility as defined by chapter 8.1
10 of title 24 which shall alter, excavate, disrupt or disturb a roadway shall be responsible for
11 complete repaving and repair of the roadway from curblin e to curblin e or as required in
12 accordance with the state or municipal utility permit requirements.

13 **39-2.2-3. State road repair.**

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

16 (b) All utility work within and/or upon a state road or state right-of-way requires a state
17 utility permit issued by the department of transportation prior to the work commencing. Any
18 public utility or utility facility violating this section (for non-emergency utility work without a

1 state utility permit or for emergency utility work without prior notification to the department of
2 transportation) shall be fined five hundred dollars (\$500) per incident in addition to the required
3 road repaving and repair (restoration).

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

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

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

12 (3) No utility permits will be issued for scheduled utility work within a state roadway for
13 a period of five (5) years from the time such roadway was last paved by the department of
14 transportation. If emergency utility work is required within the five (5) year moratorium, the
15 contractor and/or utility owner will be responsible for full depth restoration of the roadway from
16 curb to curb (full width).

17 **39-2.2-4. Municipal road repair.**

18 Any repaving and repair of a municipal road required by § 39-2.2-2 shall be to the
19 satisfaction of the applicable municipal public works director or designated municipal
20 representative.

21 **39-2.2-5. Recovery for failure to repair state road.**

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

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

29 (c) If any payment, determined to be due from any public utility or utility facility for
30 reparation, reconstruction or repaving shall not be paid to the state within one year from the date
31 of the determination, the state shall be entitled to recover the amount due in an action of debt,
32 together with interest from six (6) months from the date of determination at the rate of ten percent
33 (10%) per annum.

34 SECTION 2. Section 24-5-1.1 of the General Laws in Chapter 24-5 entitled

1 "Maintenance of Town Highways" is hereby amended to read as follows:

2 **24-5-1.1. Alteration of roadways.**

3 Any person, firm, or corporation including utilities and contractors who alter a roadway
4 that is subject to the provisions of this chapter shall restore that portion of the roadway which was
5 altered to the same or better condition that existed prior to alteration or as required in accordance
6 with the state or municipal permit requirements. Repaving and repair of a roadway by a public
7 utility or utility facility shall be in accordance with and subject to the provisions of chapter 2.2 of
8 title 39.

9 SECTION 3. Section 24-8-43 of the General Laws in Chapter 24-8 entitled "Construction
10 and Maintenance of State Roads" is hereby amended to read as follows:

11 **24-8-43. Alteration of roadways.**

12 (a) Any person, firm or corporation including utilities and contractors who alter a
13 roadway that is subject to the provisions of this chapter shall restore that portion of the roadway
14 which was altered to the same or better condition that existed prior to alteration or as required in
15 accordance with the state or municipal permit requirements. Repaving and repair of a roadway by
16 a public utility or utility facility shall be in accordance with and subject to the provisions of
17 chapter 2.2 of title 39.

18 (b) Any alteration of roadways which creates a public safety concern, as determined by
19 the public safety official of ~~that community~~ the municipality or the state, including the need to
20 move utility poles, shall be corrected, by the contractor and/or utility, within thirty (30) days of
21 being notified in writing of such public safety concern by the director of the department of
22 transportation.

23 (c) Restoration of any altered roadway shall commence immediately after the completion
24 of the alteration, and shall include, if necessary, temporary or intermediate restoration on an
25 ongoing basis to keep the roadway smooth and bump free until the permanent restoration can be
26 completed.

27 ~~(e)~~(d) Where the alteration involves the installation or upgrading of a traffic signal(s),
28 such signal(s) shall not be activated until the alteration has been substantially completed, as
29 determined by the director of the department of transportation.

30 SECTION 4. 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 - THE RHODE ISLAND UTILITY
FAIR SHARE ROADWAY REPAIR ACT

1 This act would create "The Rhode Island Utility Fair Share Roadway Repair Act" which
2 would require public utilities or utility facilities to repave and repair roadways which have been
3 altered or excavated by the public utility or utility facility. Repaving and repair of the roadway
4 would be to the satisfaction of the state or municipality controlling the roadway. Financial
5 recovery for defective or incomplete repairs is provided.

6 This act would take effect upon passage.

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