

2023 -- H 6494 AS AMENDED

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LC003168
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

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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: Representatives Shallcross Smith, Ajello, Fogarty, Handy, Felix, Fellela,
Cruz, and Nardone

Date Introduced: June 07, 2023

Referred To: House 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) Prior to altering the conditions of a roadway, the public utility or utility facility shall
2 plan utility work within and/or upon a state road or state right-of-way, in accordance with the state
3 transportation improvement program (STIP) project schedules. The utilities shall develop and
4 provide the department a comprehensive project schedule for utility projects with an immediate
5 need and those occurring within two (2) and five (5) years. The project list shall include the location
6 of the project, duration, utility repair or replacement taking place, anticipated alterations to the
7 roadway, and any additional information the department may request. If a road is not listed in the
8 STIP, the utility shall seek a utility permit in accordance with subsection (b) of this section. If the
9 department denies the request, the utility shall not proceed with any alterations to the roadway,
10 unless they determine an emergency situation exists by providing evidence to the department of the
11 emergency situation. If the department determines no emergency situation exists, the department
12 may issue a violation and impose a penalty in accordance with subsection (b) of this section. The
13 utility shall not pass the expense of a road repair on to the consumer nor shall they recoup funds
14 through rate payer increases.

15 **39-2.2-5. Recovery for failure to repair state road.**

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

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

23 (c) If any payment determined to be due from any public utility or utility facility for
24 reparation, reconstruction, or repaving shall not be paid to the state within one year from the date
25 of the determination, the state shall be entitled to recover the amount due in an action of debt,
26 together with interest from six (6) months from the date of determination at the rate of ten percent
27 (10%) per annum.

28 (d) If a public utility or utility facility violates the provisions of § 39-2.2-3(d), they shall
29 be subject to penalties in accordance with that section. The utility shall not use rate payer funds to
30 pay any penalties assessed for those violations.

31 (e) The public utility shall not request a rate payer increase from the public utilities
32 commission to cover the expenses incurred from violations, nor shall the public utilities
33 commission approve any rate increases that require rate payer funds for expenses incurred from
34 violations.

1 (f) If a residential utility project requires repairs to a state road, the utility shall not charge
2 or pass along the expense of the road repair to the homeowner.

3 SECTION 2. This act shall take effect on January 1, 2024.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO PUBLIC UTILITIES AND CARRIERS -- RHODE ISLAND UTILITY FAIR
SHARE ROADWAY REPAIR ACT

1 This act would require a utility to follow the state transportation improvement program
2 (STIP) project schedules for road repair. This act would also require a permit for any non-road
3 STIP project schedules. Failure to obtain a permit would be a violation subject to the imposition of
4 monetary penalties. This act would further prohibit the utility from using rate payer increases to
5 pay for any expenses for road repair or penalties.

6 This act would take effect on January 1, 2024.

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