



**TESTIMONY BY
THE PENNSYLVANIA STATE ASSOCIATION OF
TOWNSHIP SUPERVISORS**

**BEFORE THE
HOUSE CONSUMER PROTECTION, TECHNOLOGY
& UTILITIES COMMITTEE**

ON

PROPOSED HB 1655

PRESENTED BY

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Good afternoon, Chairman Matzie, Chairman Marshall, and members of the House Consumer Protection, Technology, & Utilities Committee. My name is Joe Gerdes and I am the Director of Government Relations at the Pennsylvania State Association of Township Supervisors (PSATS). Thank you for allowing me the opportunity to present remarks on behalf of the 1,454 townships of the second class represented by our association.

PSATS is a nonprofit, nonpartisan organization committed to preserving and strengthening township government and securing greater visibility and involvement for townships in the state and federal political arenas. Townships of the second class cover 95% of Pennsylvania's land mass and represent more residents — 5.7 million Pennsylvanians — than any other type of municipality in the commonwealth.

Townships are responsible for managing and maintaining all local roads that they own. This was the original purpose for creating townships, so that roads could be better maintained for the traveling public. Townships do have liability under the Political Subdivision Tort Claims Act for maintaining township-owned streets. This includes dangerous conditions on township-owned streets. As such, townships have the responsibility to ensure that their roads are kept in good repair.

While utilities have the right under state law to occupy township rights-of-way, townships have the right and responsibility to require all facilities within its rights-of-way to comply with permit conditions, restrictions, and regulations adopted by township for facilities within the road and on the road under Section 2322 of the Second Class Township Code. This is a critical tool for townships to maintain the safety of their roads.

The proposed HB 1655 would require that all local governments follow the state Department of Transportation's Highway Occupancy Fee schedule in Section 459.4 of Title 67 of the Pennsylvania Code, restrict local regulations for restoration of streets after a utility cut to be no more stringent than PennDOT's regulations in Section 459.8 of Title 67 of the Pennsylvania Code, and restrict regulations for aboveground utilities, including pole placement, to no more stringent than Section 459.9 of Title 67 of the Pennsylvania Code.

We must oppose the legislation as written. First, townships are generally directed to follow PennDOT's HOP fee schedule in Section 2322 of the Second Class Township Code. However, we believe that this fee schedule should not be used as the standard or as a ceiling as it is woefully outdated and was last revised in 1989. Clearly, costs and prices have risen since 1989. The \$50 permit application fee should be \$121.21 according to the Bureau of Labor Statistics Consumer Price Index calculator simply to adjust for inflation. PennDOT attempted to adjust these fees in the early 2000s but additional proposed changes to Chapter 459 would have imposed onerous responsibilities on townships for drainage facilities on state roads. As such, we opposed that change.

It should also be noted that the current language does allow PennDOT to impose additional application and inspection fees based on the actual costs to review the permit application and perform necessary inspections after notification of applicant of the additional fees and reimbursement agreement.

According to the Pennsylvania Code, Sections 459.8 and 459.9 both appear to have last been updated in 1989. While nearly everything else has changed in the last 34 years, this legislation would require that townships revert to standards last revised over 30 years ago. While some townships have very simple standards for roads reconstruction and repair after a utility cut, others have taken a more proactive approach in their attempts to preserve their roads and the enormous investment of taxpayer funds needed to upgrade and maintain roads for the traveling public. We do not believe it is appropriate to ask townships to revert to 1980s standards as an appropriate measure for maintaining roads or to ask their taxpayers to pay for damages caused by utility cuts.

It has been brought to our attention that the utilities have concerns over HOP standards and fees adopted and enforced by some municipalities. We are willing to sit down and discuss these concerns. However, to date, we have not been provided with specific examples or documentation of how a particular requirement is considered by the utilities to be particularly onerous.

As always, we are willing to work with the sponsor, the committee, and the utilities on this issue.