

HOUSE No. 3676

By Mr. Wagner of Chicopee, petition of Joseph F. Wagner and others for legislation to regulate the excavation of public ways by utility companies. Transportation.

The Commonwealth of Massachusetts

PETITION OF:

Joseph F. Wagner
Robert K. Coughlin

Thomas M. Stanley
Denise Provost

In the Year Two Thousand and Seven.

AN ACT FURTHER REGULATING STREET EXCAVATIONS BY UTILITY COMPANIES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 85 of the General Laws, as appearing in the
2 2004 Official Edition, is hereby amended by inserting after section
3 10A the following section:—

4 Section 10B. Regulation of excavation of ways. A corporation
5 that is subject to the provisions of Chapters 165, 166 or 166A may
6 excavate a public way of a city or town in order to accomplish the
7 objectives of said corporation, but only in accordance with a permit
8 issued by the board or officer having charge of ways in such city or
9 town. A city or town may require the payment of fees for such per-
10 mits insofar as such fees are related to the administrative costs
11 incurred by the municipality in connection with the review and pro-
12 cessing of such permits.

13 Upon completion of excavation, the city or town may require the
14 corporation to restore and repair the affected way to a condition as
15 good as that which existed prior to such excavation, and the expense
16 of such work shall be paid by said corporation. The city or town
17 may require the payment of reasonable fees to recover the costs
18 associated with the inspection of an excavation to ensure that the
19 affected way is repaired or restored to a condition as good as that
20 which existed prior to such excavation; provided, however, that the

21 board or officer having charge of ways in such city or town shall
22 advise the corporation of the inspection fee prior to the issuance of
23 an excavation permit. If the corporation fails to complete such
24 restoration or repair within a reasonable time, the city or town may
25 restore and repair the affected way to such condition as existed prior
26 to excavation, and the expense shall be paid by the corporation.
27 Notwithstanding the provisions of this section, a city or town which,
28 as of January 1, 2002, has an established practice of administering
29 an alternative arrangement with utility companies relative to the
30 repair and restoration of public ways following excavation of public
31 ways shall be authorized to continue to administer such practice as
32 an alternative to the practices set forth in this section; provided, that
33 said city or town shall file notice of such alternative practice, signed
34 by the chief executive officer of the city or town, with the depart-
35 ment of telecommunications and energy within 6 months of the
36 effective date of this act.

1 SECTION 2. Section 70 of Chapter 164 of the General Laws, as
2 so appearing, is hereby amended by striking out the second sentence.

1 SECTION 3. Said Section 70 of said Chapter 164, as so
2 appearing, is hereby further amended by adding the following 2
3 paragraphs:—

4 The gas company may open and dig up the ground in accordance
5 with an excavation permit issued by the board or officer having
6 charge of ways in such city or town. A city or town may require the
7 payment of fees for such permits insofar as such fees are related to
8 the administrative costs incurred by the city or town in connection
9 with the review and processing of such permits.

10 Upon completion of excavation, the city or town may require the
11 corporation to restore and repair the affected way to a condition as
12 good as that which existed prior to such excavation, and the expense
13 of such work shall be paid by said corporation. The city or town may
14 require the payment of reasonable fees to recover the costs associ-
15 ated with the inspection of each excavation to ensure that the
16 affected way is repaired or restored to a condition as good as that
17 which existed prior to such excavation; provided, however, that the
18 board or officer having charge of ways in such city or town shall
19 advise the applicant of the inspection fee prior to the issuance of an

20 excavation permit. If the corporation fails to complete such restora-
21 tion or repair within a reasonable time, the city or town may restore
22 and repair the affected way to such condition as existed prior to
23 excavation, and the expense shall be paid by the corporation.
24 Notwithstanding the provisions of this section, a city or town which,
25 as of January 1, 2002, has an established practice of administering
26 an alternative arrangement with gas companies relative to the repair
27 and restoration of public ways following excavation shall be autho-
28 rized to continue to administer such practice as an alternative to the
29 practices set forth in this section; provided, that said city or town
30 shall file notice of such alternative practice, signed by the chief
31 executive officer of the city or town, with the department of
32 telecommunications and energy within 6 months of the effective date
33 of this act.

1 SECTION 4. This act shall take effect upon its passage and shall
2 apply prospectively.