

48:3-17.9, 10

January 7, 1970

LEGISLATIVE HISTORY OF R.S. 48:3-17.9, 10  
(Entry upon easements and rights of way)

Similar bills introduced:

COPY NO. :

1968-S688 (Rinaldo, LaCorte, McDermott).

L. 1969, Chapter 182 - S254

Prefiled for introduction by Rinaldo, McDermott & LaCorte.

April 2 - Passed in Senate, amended.

May 1 - Passed in Assembly.

November 5 - Approved, Chapter 182.

Amended during passage (copy enclosed of original bill  
and amendment).

No statement.

We searched the following without success:

V.E.--N.J.--Public utilities.

V.E.--N.J.--Eminent domain.

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SENATE, No. 254

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1969 SESSION

By Senators RINALDO, LACORTE and McDERMOTT

AN ACT requiring the giving of notice by public utilities in certain cases, and supplementing chapter 3 of Title 48 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. As used herein:

2 (a) "Public utility" means any public utility defined in 48:2-13;

3 (b) "Right-of-way" means the area devoted to passing over,  
4 on, through or under lands with utility plant facilities as part of a  
5 way for such purpose;

6 (c) "Easement" means privileges essential or appurtenant to  
7 the enjoyment of a right-of-way; and

8 (d) "Emergency" means any time a public utility service is inter-  
9 rupted or in immediate danger of being interrupted by the elements  
10 or by any other cause or when the condition of the equipment of  
11 the public utility is in need of immediate repair to prevent injury  
12 to persons, or damage to property.

1 2. \***[**Except as may be provided by any easement agreement be-  
2 tween the public utility and the owner of the land, **it]**\* *\*It\** shall be  
3 unlawful for any public utility to enter upon any lands in which  
4 it has acquired an easement or right-of-way, for the purpose of  
5 erecting, installing, moving, removing, altering or maintaining any  
6 structures or fixtures thereon, other than structures or fixtures  
7 owned by the public utility, or for the purpose of maintaining  
8 such easement or right-of-way by clearing, moving, cutting or de-  
9 stroying any trees, shrubs, plants or other growth thereon, unless  
10 and until not less than 5 days' notice of such entry shall be given  
11 to the owner of the lands subject to such easement of right-of-way  
12 personally or by certified or registered mail addressed to the owner

**EXPLANATION**—Matter enclosed in bold-faced brackets [thus] in the above bill  
is not enacted and is intended to be omitted in the law.

13 at his address as shown by the assessment records of the munici-  
14 pality in which the land is situate, but nothing herein shall pro-  
15 hibit entry without notice in any case

16 (a) Of an emergency, or

17 (b) Where such notice is waived by the owner, or

18 (c) Where \***the grant of**\* the easement or right-of-way con-  
19 tains an express \***agreement**\* *provision* permitting entry with-  
20 out notice or upon notice of a lesser period of time, which is  
20A complied with, or

21 (d) Where the owner consents to the entry of the public utility  
22 for such purposes, or (e) Where the structure, fixture, tree, shrub,  
23 plant or other growth, or portion thereof, to be dealt with as afore-  
24 said, is located over, on, through or under any public street, road,  
25 highway or other public thoroughfare.

1 3. This act shall take effect immediately but shall remain in-  
2 operative for 30 days thereafter.

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9 rupted or in immediate danger of being interrupted by the elements  
10 or by any other cause or when the condition of the equipment of  
11 the public utility is in need of immediate repair to prevent injury  
12 to persons. or damage to property.

1 2. Except as may be provided by any easement agreement  
2 between the public utility and the owner of the land, it shall be  
3 unlawful for any public utility to enter upon any lands in which  
4 it has acquired an easement or right-of-way, for the purpose of  
5 erecting, installing, moving, removing, altering or maintaining any  
6 structures or fixtures thereon, other than structures or fixtures  
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13 at his address as shown by the assessment records of the municipi-  
14 pality in which the land is situate, but nothing herein shall pro-

15 hibit entry without notice in any case

16 (a) Of an emergency, or

17 (b) Where such notice is waived by the owner, or

18 (c) Where the grant of the easement or right-of-way contains

19 an express agreement permitting entry without notice or upon

20 notice of a lesser period of time, which is complied with, or

21 (d) Where the owner consents to the entry of the public utility

22 for such purposes, or (e) Where the structure, fixture, tree, shrub,

23 plant or other growth, or portion thereof, to be dealt with as afore-

24 said, is located over, on, through or under any public street, road,

25 highway or other public thoroughfare.

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SENATE AMENDMENTS TO  
**SENATE, No. 254**

**STATE OF NEW JERSEY**

ADOPTED MARCH 24, 1969

Amend page 1, section 2, line 1, delete in its entirety.

Amend page 1, section 2, line 2, delete "between the public utility and the owner of the land, it"; insert therefor "It".

Amend page 2, section 2, line 18, delete "the grant of".

Amend page 2, section 2, line 19, delete "agreement"; insert therefor "provision".