

Representative Merrill F. Nelson proposes the following substitute bill:

PUBLIC UTILITY EASEMENT AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Merrill F. Nelson

Senate Sponsor: Ralph Okerlund

LONG TITLE

General Description:

This bill amends provisions relating to public utility easements.

Highlighted Provisions:

This bill:

► provides that, under certain circumstances, a public utility shall provide notice after using a public utility easement.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

54-3-27, as last amended by Laws of Utah 2009, Chapter 245

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **54-3-27** is amended to read:

54-3-27. Public utility easement.

(1) As used in this section:



26 (a) "Protected utility easement" means a recorded easement or right-of-way:

27 (i) for the use and installation of a utility facility; and

28 (ii) the ownership of which a gas corporation, electric corporation, or telephone
29 corporation acquires and holds by any lawful means.

30 (b) "Public utility easement" means the area on a recorded plat map or other recorded
31 document that is dedicated to the use and installation of public utility facilities.

32 (2) ~~(a)~~ A public utility easement provides a public utility with:

33 ~~(i)~~ (a) the right to install, maintain, operate, repair, remove, replace, or relocate public
34 utility facilities; and

35 ~~(ii)~~ (b) the rights of ingress and egress within the public utility easement for public
36 utility employees, contractors, and agents.

37 (3) (a) A public utility shall, no longer than 48 hours after the public utility disturbs the
38 ground, low level vegetation, or personal property on property of a single family residence
39 subject to a public utility easement, provide a written or electronic notice to the property owner
40 or occupant, or leave written notice on the property, in accordance with Subsection (3)(b).

41 (b) The public utility shall:

42 (i) deliver the notice described in Subsection (3)(a) by mail, email, or in person; and

43 (ii) include, in the written or electronic notice described in Subsection (3)(a), the name,
44 address, and phone number of the public utility described in Subsection (3)(a).

45 (c) Subsections (3)(a) and (b) do not apply to ~~H~~ :

45a (i) ~~←H~~ a telephone corporation ~~H~~ [that has fewer
46 than 30,000 subscriber access lines in the state] [i] ; or

46a (ii) an electrical corporation that has fewer than 30,000 customers. ←H

47 ~~(b)~~ (4) (a) Notwithstanding Subsection ~~(3)~~ (4)(b), a public utility shall restore or
48 repair, at the expense of the public utility, any fence, grass, soil, shrubbery, bushes, flowers,
49 other low level vegetation, sprinkler system, irrigation system, gravel, flat concrete, or asphalt
50 damaged or displaced from the exercise of the easement rights described in Subsection (2)~~(a)~~.

51 ~~(3) Except as provided in Subsection (2)(b), if]~~

52 (b) If a property owner places improvements to land that interfere with the easement
53 rights described in Subsection (2)~~(a)~~, the property owner shall bear the risk of loss or damage
54 to those improvements resulting from the exercise of the easement rights described in
55 Subsection (2)~~(a)~~.

56 ~~(4)~~ (5) (a) Except as provided in Subsection ~~(4)~~ (5)(b), a public utility easement is

57 nonexclusive and may be used by more than one public utility.

58 (b) Notwithstanding Subsection [~~(4)~~] (5)(a), a public utility may not:

59 (i) interfere with any facility of another public utility within the public utility easement;

60 or

61 (ii) infringe on the legally required distances of separation between public utility
62 facilities required by federal, state, or local law.

63 [~~(5)~~] (6) A subdivision plat that includes a public utility easement may not be approved
64 by a county or municipality unless the subdivider has provided the county or municipality proof
65 that the subdivider has, as a courtesy, previously notified each public utility that is anticipated
66 to provide service to the subdivision.

67 [~~(6)~~] (7) A person may not acquire, whether by adverse possession, prescription,
68 acquiescence, or otherwise, any right, title, or interest in a public utility easement or protected
69 utility easement that is adverse to or interferes with a public utility's full use of the easement for
70 the purposes for which the easement was created.

71 [~~(7)~~] (8) A gas corporation's, electric corporation's, or telephone corporation's failure to
72 possess, occupy, or use a protected utility easement does not diminish or extinguish any right
73 that the gas corporation, electric corporation, or telephone corporation has under the easement.

74 [~~(8)~~] (9) Nothing in this section may be construed to affect the right of a condemnor to
75 condemn a public utility easement as provided by law.