

UTILITY RELOCATION COST SHARING AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill amends provisions related to allocation of costs to relocate utility infrastructure within state highway and certain public transit rights of way.

Highlighted Provisions:

This bill:

- defines terms;
- requires coordination and cooperation between the Department of Transportation and utilities impacted by certain capital development projects;
- provides for sharing of utility relocation costs caused by certain capital development projects for which the Department of Transportation has oversight and supervision;
- requires the Department of Transportation to abide by agreements with a utility relevant to the relocation of utility infrastructure; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

72-6-116, as last amended by Laws of Utah 2020, Chapter 80

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

Section 1. Section **72-6-116** is amended to read:

72-6-116. Regulation of utilities -- Relocation of utilities.

(1) As used in this section:

(a) "Cost of relocation" includes the entire amount paid by the utility company properly attributable to the relocation of the utility after deducting any increase in the value of the new

utility and any salvage value derived from the old utility.

(b) "Department project" means:

(i) a state highway project, including the construction of a proposed state highway and the improvement, widening, or modification of an existing state highway; or

(ii) a fixed guideway capital development project for which the department has oversight and supervision, including a transit station, passenger loading or unloading zone, parking lot, or other facility that is constructed or reconstructed immediately adjacent to a fixed guideway that is part of a fixed guideway capital development project.

~~[(b)]~~ (c) "Exempt water supplier" means an entity that directly or indirectly supplies at least a portion of the entity's water for culinary purposes to the public for municipal, domestic, or industrial use, and is:

(i) a water corporation, as defined in Section 54-2-1, that is regulated by the Public Service Commission; or

(ii) a community water system:

(A) that either supplies water to at least 100 service connections used by year-round residents, or regularly serves at least 200 year-round residents; and

(B) whose voting members own a share in the community water system, receive water from the community water system in proportion to the member's share in the community water system, and pay the rate set by the community water system based on the water the member receives.

~~[(c)]~~ (d) "Utility" includes telecommunication, crude oil, petroleum products, gas, electricity, cable television, water, sewer, data, and video transmission lines, drainage and irrigation facilities, and other similar utilities whether public, private, or cooperatively owned.

~~[(d)]~~ (e) "Utility company" means a privately, cooperatively, or publicly owned utility, including utilities owned by political subdivisions.

(2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules for the installation, construction, maintenance, repair, renewal, system upgrade, and relocation of all utilities.

(b) If the department determines under the rules established in this section that it is necessary that any utilities should be relocated, notwithstanding any other provision of this section:

(i) the utility company owning or operating the utilities shall relocate the utilities [in accordance with this section and the] after receiving an order of the department[-]; and

(ii) the cost allocations described in Subsection (3) shall apply.

(3) (a) The department shall pay 100% of the cost of relocation of a utility to accommodate construction of a [~~state highway project, including the construction of a proposed state highway and the improvement, widening, or modification of an existing state highway~~] department project if the:

(i) utility is owned or operated by:

(A) a political subdivision of the state; or

(B) an exempt water supplier;

(ii) utility company owns the easement or fee title to the right-of-way in which the utility is located; or

(iii) utility is located in a public utility easement as defined in Section 54-3-27.

(b) Except as provided in Subsection (3)(a), (c), or (d) or Section 54-21-603, the department shall pay 50% of the cost of relocation of a utility to accommodate construction of a [~~state highway project, including the construction of a proposed state highway and the improvement, widening, or modification of an existing state highway~~] department project, and the utility company shall pay the remainder of the cost of relocation.

(c) [~~If the utility described in Subsection (3)(b) is a crude oil or petroleum products pipeline, unless the utility meets the conditions described in Subsection (3)(a):-~~]

[(i) the utility company shall pay the lesser of:] Subject to Subsection (3)(e), if a utility company is responsible to pay for a portion of a utility relocation as described in Subsection (3)(b):

(i) the utility shall pay the lesser of:

(A) 50% of the cost of relocation of the [~~pipeline~~] utility to accommodate construction of a [~~proposed state highway and the improvement, widening, and modification of an existing highway~~] department project; or

(B) 50% of the cost of any structure or facility necessary to avoid impinging on the [~~pipeline, and the department shall pay the remainder of the cost of the structure or facility; and~~] utility;

(ii) the department shall pay the remainder of the cost, which is the total cost less the

portion paid by the utility under Subsection (3)(c)(i); and

(iii) the department shall make the final decision whether to proceed under:

(A) Subsection (3)(c)(i)(A); or

(B) Subsection (3)(c)(i)(B).

(d) This Subsection (3) does not affect the provisions of Subsection 72-7-108(5).

(e) If the department or a large public transit district has entered into a written agreement with a utility before May 1, 2024, regarding the use of right-of-way by the utility and relocation costs, the department shall abide by the terms of the agreement when constructing a fixed guideway capital development project.

(4) If a utility is relocated, the utility company owning or operating the utility, its successors or assigns, may maintain and operate the utility, with the necessary appurtenances, in the new location.

(5) In accordance with this section, the cost of relocating a utility in connection with any ~~[project on a highway is a cost of highway construction]~~ department project is a cost of construction for the department project.

(6) (a) The department shall notify affected utility companies, in accordance with Section 54-3-29, whenever the relocation of utilities is likely to be necessary because of a ~~[reconstruction]~~ department project.

(b) The notification shall be made during the preliminary design of the project or as soon as practical in order to minimize the number, costs, and delays of utility relocations.

(c) ~~[A utility company notified]~~ When the department notifies a utility company under this Subsection (6):

(i) the utility shall coordinate and cooperate with the department and the department's contractor on the utility relocations, including the scheduling of the utility relocations[-]; and

(ii) the department and the utility shall strive to identify conflicts, minimize utility relocation costs and operational impacts, minimize department project costs and delays, and coordinate and cooperate with one another.

Section 2. **Effective date.**

This bill takes effect on May 1, 2024.