

**54-3-29 Removal, relocation, or alteration of utility facility in public highway construction or reconstruction -- Notice -- Cooperation.**

- (1) As used in this section:
  - (a) "Design-build" means a design-build transportation project for which a design-build transportation project contract is issued, within the meaning of Section 63G-6a-1402.
  - (b) "Municipality" is as defined in Section 10-1-104.
  - (c) "Political subdivision" means a:
    - (i) county; or
    - (ii) municipality.
  - (d) "Public agency" means an entity of state government or a political subdivision.
  - (e) "Public highway" means a highway, street, road, or alley constructed for public use in the state.
  - (f) "Utility company" means a privately, cooperatively, or publicly owned utility, including a utility owned by a political subdivision, that provides service using a utility facility.
  - (g) "Utility facility" means:
    - (i) a telecommunications, gas, electricity, cable television, water, sewer, or data facility;
    - (ii) a video transmission line;
    - (iii) a drainage and irrigation system; or
    - (iv) a facility similar to those listed in Subsections (1)(g)(i) through (iii) located in, on, along, across, over, through, or under any public highway.
- (2) If a public agency engages in or proposes to engage in a construction or reconstruction project on a public highway that may require the removal, relocation, or alteration of a utility facility, the public agency shall:
  - (a) contact an association, established under Title 54, Chapter 8a, Damage to Underground Utility Facilities, to identify each utility company that may have a utility facility in the area of the construction or reconstruction project;
  - (b) identify a utility company that has an above-ground utility facility in the area of the proposed construction or reconstruction project; and
  - (c) electronically notify each utility company identified in accordance with Subsections (2)(a) and (b).
- (3) The notice required by Subsection (2)(c) shall:
  - (a) be made as early as practicable and at least 30 days:
    - (i) before the preliminary design or project development meeting;
    - (ii) before issuance of a request for proposal for a design-build project; or
    - (iii) after a change in scope of a design-build project;
  - (b) include:
    - (i) information concerning the proposed project design;
    - (ii) the proposed date of a required removal, relocation, or alteration of a utility facility;
    - (iii) the federal identifying project number, if applicable; and
  - (c) advise the utility company if the proposed project may qualify for aid for the utility company's expense in removing, relocating, or altering a utility facility.
- (4) A public agency shall permit a utility company notified under Subsection (2) to participate in the preliminary design or project development meeting, or similar meeting at which the project design is addressed.
- (5)
  - (a) A public agency shall, not less than 30 days after providing notice under Subsection (2) to each utility company, provide the utility company an opportunity to meet with the public agency to allow the utility company to:

- (i) review project plans;
  - (ii) understand the objectives and funding sources for the proposed project;
  - (iii) provide and discuss recommendations to the public agency that may reasonably eliminate or minimize utility removal, relocation, or alteration costs, limit the disruption of utility company services, or eliminate or reduce the need for present or future utility facility removal, relocation, or alteration; and
  - (iv) provide reasonable schedules to enable coordination of the construction project and removal, relocation, or alteration of a utility facility.
- (b) If a public agency provides a utility company with reasonable opportunities to meet in accordance with Subsection (5)(a), the utility company's failure to meet does not affect the public agency's ability to proceed with the project.
- (6) While recognizing the essential goals and objectives of the public highway agency in proceeding with and completing a project, the parties shall use their best efforts to find ways to:
- (a) eliminate the cost to the utility of relocation of the utility facilities; or
  - (b) if elimination of the costs is not feasible, minimize the relocation costs to the extent reasonably possible.
- (7) A utility company notified under Subsection (2) shall coordinate with the public agency concerning the utility facility removal, relocation, or alteration, including the scheduling of the utility facility removal, relocation, or alteration.
- (8) A public agency and a utility company may address the removal, relocation, or alteration of a utility facility in relation to a construction or reconstruction project on a public highway in a franchise agreement in lieu of this section, if the public agency is otherwise permitted to enter into the franchise agreement.
- (9) This chapter does not affect a public agency's authority over a public right-of-way, including any rule, ordinance, order to relocate a utility as provided in Section 72-6-116, or other valid provision governing the use of the public right-of-way.

Amended by Chapter 347, 2012 General Session