

UTILITY IMPROVEMENT DISTRICT

REVISIONS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kevin T. VanTassell

House Sponsor: Melvin R. Brown

LONG TITLE

General Description:

This bill modifies a provision of the Utah Underground Conversion of Utilities Law.

Highlighted Provisions:

This bill:

- ▶ adds definitions for "point of delivery" and "service entrance equipment";
- ▶ modifies a utility's responsibility regarding the construction work to be done in the conversion of facilities from overhead to underground;
- ▶ modifies the notice that a county or municipality is required to give to property owners in an improvement district for the conversion of overhead facilities to underground;
- ▶ modifies provisions related to the conversion of overhead utility facilities to underground and an owner's responsibilities; and
- ▶ modifies a provision relating to the cost of converting facilities from overhead to underground.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



28 AMENDS:

29 **54-8-3**, as enacted by Laws of Utah 1969, Chapter 157

30 **54-8-25**, as enacted by Laws of Utah 1969, Chapter 157

31 **54-8-26**, as last amended by Laws of Utah 2006, Chapter 129



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

34 Section 1. Section **54-8-3** is amended to read:

35 **54-8-3. Definitions.**

36 As used in this chapter [~~the following words and phrases and any variations thereof~~
37 ~~shall have the following meaning~~]:

38 (1) "Assessment" [~~shall be construed to mean~~] means for the purpose of taxation
39 wherever appropriate.

40 (2) "Communication service" means the transmission of intelligence by electrical
41 means, including[~~, but not limited to~~] telephone, telegraph, messenger-call, clock, police, fire
42 alarm, and traffic control circuits or the transmission of standard television or radio signals.

43 (3) "Convert" or "conversion" means the removal of all or any part of any existing
44 overhead electric or communications facilities and the replacement thereof with underground
45 electric or communication facilities constructed at the same or different locations.

46 (4) (a) "Electric or communication facilities" means any works or improvements used
47 or useful in providing electric or communication service, including[~~, but not limited to,~~] poles,
48 supports, tunnels, manholes, vaults, conduits, pipes, wires, conductors, guys, stubs, platforms,
49 crossarms, braces, transformers, insulators, cut-outs, switches, capacitors, meters,
50 communication circuits, appliances, attachments and appurtenances.

51 (b) "Electric facilities" [~~shall~~] does not include any facilities used or intended to be
52 used for the transmission of electric energy at nominal voltages in excess of thirty-five
53 thousand volts.

54 (5) "Electric service" means the distribution of electricity by an electrical corporation
55 for heat, cooling, light or power.

56 (6) "Governing body" means the board of commissioners, city council, or board of
57 trustees as may be appropriate depending on whether the improvement district is located in a
58 county or within a city or town.

59 (7) "Overhead electric or communication facilities" means electric or communication
60 facilities located, in whole or in part, above the surface of the ground.

61 (8) "Point of delivery" means:

62 (a) a meter, for electric facilities; or

63 (b) a network interface device, for communication facilities.

64 (9) "Public utility" means any electric corporation or communications corporation that
65 provides electric or communication service to the general public by means of electric or
66 communication facilities.

67 (10) "Resolution" [~~shall be construed to mean~~] means ordinance when the governing
68 body properly acts by ordinance rather than by resolution.

69 (11) "Service entrance equipment" means facilities on the property owner's side of the
70 point of delivery that are necessary to accommodate service from a public utility.

71 (12) "Underground electric or communication facilities" means electric or
72 communication facilities located, in whole or in part, beneath the surface of the ground.

73 Section 2. Section **54-8-25** is amended to read:

74 **54-8-25. Utilities responsible for work -- May subcontract -- Title to converted**
75 **facilities retained.**

76 (1) The utility concerned:

77 (a) shall be responsible for the accomplishment of all construction work to the point of
78 delivery; and

79 (b) may contract out [~~such~~] any part of the construction work as it [~~deems~~] considers
80 desirable.

81 (2) Title to the converted facilities shall be at all times solely and exclusively vested in
82 the public utility corporations involved.

83 (3) The public body, improvement district, or the public generally will not own the
84 facilities at any time and the public is purchasing only the intangible benefits which come from
85 converted facilities, that is the removal of the overhead facilities and replacement by
86 underground facilities.

87 Section 3. Section **54-8-26** is amended to read:

88 **54-8-26. Notice that service from underground facilities is available --**
89 **Consequences of failure to convert overhead facilities.**

90 (1) (a) If service from the underground public utility is to be made available to all or
91 part of an improvement district area, the governing body of the county or municipality that
92 created the district shall mail a notice to each owner of real property served from existing
93 overhead facilities stating that:

94 [~~(i) service from the underground facilities is available; and~~]

95 (i) conversion of all facilities owned within the improvement district by a public utility
96 from overhead to underground to the point of delivery is proceeding;

97 (ii) the property owner is responsible for the changes in the service entrance equipment
98 located on the property to accommodate the conversion of the applicable public utility's
99 facilities from overhead to underground at the point of delivery; and

100 [~~(ii) (iii) each owner shall [perform the necessary construction to convert the owner's~~
101 ~~existing overhead electric and communications to underground from the utility-provided~~
102 ~~service point to the service point on the owner's property] coordinate with the applicable public~~
103 ~~utility to make the conversion from overhead to underground service.~~

104 (b) In addition to improvement district assessments, the property owner shall bear the
105 expense of the conversion from overhead to underground described in Subsections (1)(a)(ii)
106 and (iii).

107 [~~(b) (c) Each [owner that converts] conversion of overhead facilities to underground~~
108 ~~facilities shall comply with all applicable state and local laws, ordinances, rules, and~~
109 ~~regulations, and with all tariffs of the applicable public utility.~~

110 (d) The public utility or its contractor shall perform the necessary construction to the
111 point of delivery, unless the public utility authorizes another to perform the construction.

112 (2) (a) Failure to [~~convert~~] have the [~~overhead facilities to~~] property owner's service
113 entrance equipment described in Subsection (1)(a)(ii) converted to accommodate underground
114 [~~facilities] service within [~~60 days after the date of mailing the notice~~] the time that the
115 governing body specifies in writing shall be considered as [a] the property owner's consent to
116 and grant of a construction easement to the county or municipality and as express authority to
117 the county or municipality [and its officers, agents, and employees] to arrange for qualified
118 persons to enter upon the lot or parcel for the purpose of making the [conversion] required
119 changes.~~

120 (b) A construction easement under Subsection (2)(a) terminates upon completion of the

121 conversion of overhead facilities to underground.

122 (3) If the county or municipality [~~converts the overhead facilities to underground~~
123 ~~facilities~~] arranges for the conversion of the service entrance equipment, all county, municipal,
124 and public utility costs and expenses of the conversion, including the engineering, legal,
125 advertising, and incidental expenses, shall be assessed against the property [~~benefitted~~] upon
126 which the service entrance equipment was converted and become a lien upon the property
127 served.

128 [~~(4) The owner shall, at the owner's expense, make all necessary changes in the service~~
129 ~~entrance equipment to accept underground service.]~~

Legislative Review Note
as of 10-25-07 11:49 AM

Office of Legislative Research and General Counsel

S.B. 130 - Utility Improvement District Revisions

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments. Individuals and businesses may be impacted by costs associated with conversions from overhead to underground utility improvements.
