

1                                   **COORDINATION OF REMOVING,**  
2                                   **RELOCATING, OR ALTERING UTILITIES**

3                                   2010 GENERAL SESSION

4                                   STATE OF UTAH

5                                   **Chief Sponsor: Daniel R. Liljenquist**

6                                   House Sponsor: Ryan D. Wilcox

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8                                   **LONG TITLE**

9                                   **General Description:**

10                                  This bill addresses the removal, relocation, or alteration of a utility facility to  
11 accommodate a construction or reconstruction project on a public highway.

12                                  **Highlighted Provisions:**

13                                  This bill:

- 14                                  ▶ defines terms;
- 15                                  ▶ provides for notification and cooperation concerning utility facilities located in the  
16 area of a proposed construction or reconstruction project on a public highway;
- 17                                  ▶ provides a method for a public agency to identify a utility company with a utility  
18 facility in the area of a proposed construction or reconstruction project on a public  
19 highway; and
- 20                                  ▶ makes technical changes.

21                                  **Monies Appropriated in this Bill:**

22                                  None

23                                  **Other Special Clauses:**

24                                  None

25                                  **Utah Code Sections Affected:**

26                                  AMENDS:

27                                  **54-8a-9**, as last amended by Laws of Utah 2008, Chapter 344

28                                  **72-6-116**, as last amended by Laws of Utah 2008, Chapter 382

29                                  ENACTS:

30 **54-3-29**, Utah Code Annotated 1953

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

33 Section 1. Section **54-3-29** is enacted to read:

34 **54-3-29. Removal, relocation, or alteration of utility facility in public highway**  
35 **construction or reconstruction -- Notice -- Cooperation.**

36 (1) As used in this section:

37 (a) "Design-build" means a design-build transportation project for which a  
38 design-build transportation project contract is issued, within the meaning of Section  
39 63G-6-502.

40 (b) "Municipality" is as defined in Section 10-1-4.

41 (c) "Political subdivision" means a:

42 (i) county; or

43 (ii) municipality.

44 (d) "Public agency" means an entity of state government or a political subdivision.

45 (e) "Public highway" means a highway, street, road, or alley constructed for public use  
46 in the state.

47 (f) "Utility company" means a privately, cooperatively, or publicly owned utility,  
48 including a utility owned by a political subdivision, that provides service using a utility  
49 facility.

50 (g) "Utility facility" means:

51 (i) a telecommunications, gas, electricity, cable television, water, sewer, or data  
52 facility;

53 (ii) a video transmission line;

54 (iii) a drainage and irrigation system; or

55 (iv) a facility similar to those listed in Subsections (1)(g)(i) through (iii) located in, on,  
56 along, across, over, through, or under any public highway.

57 (2) If a public agency engages in or proposes to engage in a construction or

58 reconstruction project on a public highway that may require the removal, relocation, or  
59 alteration of a utility facility, the public agency shall:

60 (a) contact an association, established under Title 54, Chapter 8a, Damage to  
61 Underground Utility Facilities, to identify each utility company that may have a utility facility  
62 in the area of the construction or reconstruction project;

63 (b) identify a utility company that has an above-ground utility facility in the area of  
64 the proposed construction or reconstruction project; and

65 (c) electronically notify each utility company identified in accordance with  
66 Subsections (2)(a) and (b).

67 (3) The notice required by Subsection (2)(c) shall:

68 (a) be made as early as practicable and at least 30 days:

69 (i) before the preliminary design or project development meeting;

70 (ii) before issuance of a request for proposal for a design-build project; or

71 (iii) after a change in scope of a design-build project;

72 (b) include:

73 (i) information concerning the proposed project design;

74 (ii) the proposed date of a required removal, relocation, or alteration of a utility  
75 facility;

76 (iii) the federal identifying project number, if applicable; and

77 (c) advise the utility company if the proposed project may qualify for aid for the utility  
78 company's expense in removing, relocating, or altering a utility facility.

79 (4) A public agency shall permit a utility company notified under Subsection (2) to  
80 participate in the preliminary design or project development meeting, or similar meeting at  
81 which the project design is addressed.

82 (5) (a) A public agency shall, not less than 30 days after providing notice under  
83 Subsection (2) to each utility company, provide the utility company an opportunity to meet  
84 with the public agency to allow the utility company to:

85 (i) review project plans;

86 (ii) understand the objectives and funding sources for the proposed project;

87 (iii) provide and discuss recommendations to the public agency that may reasonably  
88 eliminate or minimize utility removal, relocation, or alteration costs, limit the disruption of  
89 utility company services, or eliminate or reduce the need for present or future utility facility  
90 removal, relocation, or alteration; and

91 (iv) provide reasonable schedules to enable coordination of the construction project  
92 and removal, relocation, or alteration of a utility facility.

93 (b) If a public agency provides a utility company with reasonable opportunities to  
94 meet in accordance with Subsection (5)(a), the utility company's failure to meet does not affect  
95 the public agency's ability to proceed with the project.

96 (6) While recognizing the essential goals and objectives of the public highway agency  
97 in proceeding with and completing a project, the parties shall use their best efforts to find  
98 ways to:

99 (a) eliminate the cost to the utility of relocation of the utility facilities; or

100 (b) if elimination of the costs is not feasible, minimize the relocation costs to the  
101 extent reasonably possible.

102 (7) A utility company notified under Subsection (2) shall coordinate with the public  
103 agency concerning the utility facility removal, relocation, or alteration, including the  
104 scheduling of the utility facility removal, relocation, or alteration.

105 (8) A public agency and a utility company may address the removal, relocation, or  
106 alteration of a utility facility in relation to a construction or reconstruction project on a public  
107 highway in a franchise agreement in lieu of this section, if the public agency is otherwise  
108 permitted to enter into the franchise agreement.

109 (9) This chapter does not affect a public agency's authority over a public right-of-way,  
110 including any rule, ordinance, order to relocate a utility as provided in Section 72-6-116, or  
111 other valid provision governing the use of the public right-of-way.

112 Section 2. Section **54-8a-9** is amended to read:

113 **54-8a-9. Association for mutual receipt of notice of excavation activities.**

114 (1) (a) (i) Two or more operators may form and operate a statewide association  
115 providing for mutual receipt of notice of excavation activities.

116 (ii) If an association is operational, notice to the association shall be given pursuant to  
117 Section 54-8a-4.

118 (b) (i) If an association is formed, each operator with an underground facility in the  
119 area shall become a member of the association and participate in it to:

120 (A) receive a notice of a proposed excavation submitted to the association;

121 (B) receive the services furnished by it; and

122 (C) pay its share of the cost for the service furnished.

123 (ii) If an operator does not comply with Subsection (1)(b)(i) and Section 54-8a-5, the  
124 operator is liable for damages incurred by an excavator who complies with this chapter's  
125 requirements.

126 (c) An association whose members or participants have underground facilities within a  
127 county shall:

128 (i) file a description of the geographical area served by the association; and

129 (ii) file the name and address of every member and participating operator with the  
130 county clerk.

131 (2) An association receiving notice as provided in Subsection 54-8a-4(1) shall:

132 (a) notify members and participants in the relevant geographic area within 24 hours  
133 after receiving notice from the person who proposes to excavate; and

134 (b) maintain a record of any notice received for a period of five years to document  
135 compliance with the requirements of this chapter.

136 (3) An association contacted by a public agency to identify a utility company in  
137 accordance with Section 54-3-29, shall provide the public agency with a list, including contact  
138 information to the extent available, of each utility company of which the association is aware  
139 that has a utility facility within the area identified by the public agency.

140 Section 3. Section **72-6-116** is amended to read:

141 **72-6-116. Regulation of utilities -- Relocation of utilities.**

142 (1) As used in this section:

143 (a) "Cost of relocation" includes the entire amount paid by the utility company  
144 properly attributable to the relocation of the utility after deducting any increase in the value of  
145 the new utility and any salvage value derived from the old utility.

146 (b) "Utility" includes telecommunication, gas, electricity, cable television, water,  
147 sewer, data, and video transmission lines, drainage and irrigation systems, and other similar  
148 utilities located in, on, along, across, over, through, or under any state highway.

149 (c) "Utility company" means a privately, cooperatively, or publicly owned utility,  
150 including utilities owned by political subdivisions.

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

154 (b) If the department determines under the rules established in this section that it is  
155 necessary that any utilities should be relocated, the utility company owning or operating the  
156 utilities shall relocate the utilities in accordance with this section and the order of the  
157 department.

158 (3) (a) The department shall pay 100% of the cost of relocation of a utility on a state  
159 highway if the:

160 (i) utility is owned or operated by a political subdivision of the state; or

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

163 (b) Except as provided in Subsection (3)(a) or (c), the department shall pay 50% of the  
164 cost of relocation of a utility on a state highway and the utility company shall pay the  
165 remainder of the cost of relocation.

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

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

170           (5) In accordance with this section, the cost of relocating a utility in connection with  
171 any project on a highway is a cost of highway construction.

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

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

177           (c) A utility company notified under this Subsection (6) shall coordinate with the  
178 department and the department's contractor on the utility relocations, including the scheduling  
179 of the utility relocations.