

HB299 INTRODUCED



1 CYLPQJ-1

2 By Representatives Smith, Shedd, Crawford, McCampbell

3 RFD: Transportation, Utilities and Infrastructure

4 First Read: 12-Apr-23

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SYNOPSIS:

Under existing law, the Director of Transportation may order the relocation of a utility facility when the relocation is necessary as a result of various circumstances.

This bill would specify that the Director of Transportation may order the relocation of utilities located within the public right-of-way and would clarify the process for a utility receiving a reimbursement for its relocation expenses.

A BILL
TO BE ENTITLED
AN ACT

Relating to highways; to amend Section 23-1-5, Code of Alabama 1975, to further provide for the relocation of utilities; and to further provide for the reimbursement process for various expenses associated with the relocation.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 23-1-5, Code of Alabama 1975, is amended to read as follows:

"§23-1-5

(a) (1) Whenever the Director of Transportation ~~shall~~



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29 ~~determine and order~~ determines and orders that the relocation
30 of any utility facility then located within the state
31 right-of-way is necessitated by the construction of any
32 project on the national system of interstate and defense
33 highways, including the extensions thereof within urban areas,
34 the utility owning or operating the utility facility shall
35 relocate the facility to another location within the state
36 right-of-way in accordance with the order of the Director of
37 Transportation.

38 (2) Notwithstanding ~~the foregoing~~ subdivision (1), if
39 the cost of the utility facility relocation is eligible and
40 approved for reimbursement by the federal government, the cost
41 of the relocation of the utility facility shall be paid by the
42 state as a part of the cost of the construction of the project
43 out of the funds ~~then or thereafter~~ available for the highway
44 construction after the utility has furnished the Director of
45 Transportation with ~~alla~~ verified statement of the costs of
46 the relocation and any other papers, records, ~~or other~~ and
47 supporting documents as are required by ~~the director~~ federal
48 law. After the final federal Bureau of Public Roads' audit,
49 the utility shall repay to the state the ~~difference~~ excess, if
50 any, between the total amount paid by the state to the utility
51 for the relocation and the total amount collected by the state
52 from federal participation on the utility relocation, plus the
53 state's matching share of the federal participation.

54 (b) (1) Whenever the Director of Transportation ~~shall~~
55 ~~determine and order~~ determines and orders that the relocation
56 of any utility facility then located within a state



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57 right-of-way is necessitated by the construction of any
58 highway, road, or street, other than the highways that are a
59 part of the national system of interstate and defense highways
60 referred to in subsection (a) ~~of this section~~, the utility
61 owning or operating the facility, including any utility owned
62 or operated by a corporation organized pursuant to Article 8,
63 Chapter 50, of Title 11, shall relocate the facility to
64 another location within the state right-of-way in accordance
65 with the order of the Director of Transportation. ~~at its own~~
66 ~~expense~~

67 (2) The utility shall be reimbursed for its costs of
68 relocating the utility facility after the utility has
69 furnished the Director of Transportation with a verified
70 statement of the costs of relocation. The reimbursement shall
71 be paid by the state as a part of the cost of the construction
72 of the project. The Department of Transportation shall make
73 adequate provision for the costs of relocation in the costs of
74 the construction of the project.

75 (3) Notwithstanding the foregoing subdivision (2), if
76 the utility facilities to be relocated are owned by any
77 utility ~~which~~ that had a gross income of more than two hundred
78 fifty million dollars (\$250,000,000) ~~or less~~ for the calendar
79 year immediately preceding the relocation, or ~~in the case of~~
80 ~~utilities which may be hereafter organized and created,~~
81 ~~which~~ that ~~have~~ has a gross income of more than two hundred
82 fifty million dollars (\$250,000,000) ~~or less~~ in their first
83 complete year of operation or in the calendar year immediately
84 preceding the relocation ~~or, in the~~ ~~ease~~ costs of ~~utilities~~



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85 ~~owned or operated by a corporation organized pursuant to~~
86 ~~Article 8, Chapter 50, Title 11, the cost of the~~ relocation of
87 the utility facility shall not be paid by the state as a part
88 of the cost of the construction ~~of the project out of the~~
89 ~~funds then or thereafter available for the highway~~
90 ~~construction after the utility has furnished the Director of~~
91 ~~Transportation with all papers, records, or other supporting~~
92 ~~documents required by the director. After the final federal~~
93 ~~Bureau of Public Roads' audit, the utility shall repay to the~~
94 ~~state the difference, if any, between the total amount paid by~~
95 ~~the state to the utility for the relocation and the total~~
96 ~~amount collected by the state from federal participation on~~
97 ~~the utility relocation, plus the state's matching share of the~~
98 ~~federal participation.~~

99 (c) The Director of Transportation may enter into
100 contracts or agreements and conform any existing contracts or
101 agreements with utilities in order to effectuate the purposes
102 of this section.

103 (d) The word "utility" shall include publicly,
104 privately, and cooperatively owned utilities. The words
105 ~~cost~~ "costs of relocation, as used in subsection (b)," shall
106 include the entire amount paid by the utility properly
107 attributable to the relocation of facilities in the state
108 right-of-way when the area of relocation is in excess of
109 one-half mile of roadway and after deducting therefrom any
110 increase in the value of the new facility and any salvage
111 value derived from the old facility. The words "national
112 system of interstate and defense highways" mean the national



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113 system of interstate and defense highways or interstate system
114 described in ~~subsection (d) of Section 103 of Title 23, United~~
115 ~~States Code~~23 U.S.C. § 103(b)."

116 Section 2. This act shall become effective on the first
117 day of the third month following its passage and approval by
118 the Governor, or its otherwise becoming law.