

**Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 24-0679.01 Rebecca Bayetti x4348

HOUSE BILL 24-1266

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A BILL FOR AN ACT

101 **CONCERNING THE RELOCATION OF UTILITY FACILITIES IN A LOCAL**
102 **GOVERNMENT RIGHT-OF-WAY.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill requires local governments to notify affected utility companies of road improvement projects and establishes the process by which local governments and utility companies may enter into agreements governing the relocation of utility facilities. The bill requires local governments and utility companies to coordinate on road improvement projects necessitating the removal, relocation, or alteration of utility lines

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

SENATE
3rd Reading Unamended
April 22, 2024

SENATE
Amended 2nd Reading
April 19, 2024

HOUSE
3rd Reading Unamended
March 18, 2024

HOUSE
Amended 2nd Reading
March 15, 2024

in a local government's right-of-way and to commit to a schedule for utility relocation by means of either a utility relocation agreement or a clearance letter. If the actions of a utility company unreasonably delay the utility relocation schedule or the schedule of the road improvement project, the utility company must pay for the costs associated with the delay. The bill does not alter the terms of any franchises or licenses granted pursuant to statute or the state constitution.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) Colorado statutes outline the use of public highways for the
5 operation and maintenance of the transportation system, and utilities must
6 be constructed so as not to obstruct or hinder the usual travel on such
7 highways, as described in section 38-5-101, Colorado Revised Statutes;

8 (b) From time to time, local governments provide improvements
9 to their transportation systems through projects within their jurisdictions;

10 (c) The scheduling and timely performance of a road improvement
11 project partially depends on coordination with utility companies for the
12 prompt performance of utility relocation work necessitated by
13 construction of the road improvement project;

14 (d) Increased coordination between local governments and utility
15 companies is in the public interest, and prompt performance of utility
16 relocation work according to the project schedule will reduce delays and
17 the costs of construction;

18 (e) Colorado statute outlines this type of coordination between the
19 regional transportation district and utility companies in section
20 32-9-119.1, Colorado Revised Statutes;

21 (f) Colorado statute outlines this type of coordination between the
22 Colorado department of transportation and utility companies in section

1 43-1-1411, Colorado Revised Statutes; and

2 (g) Construction-related delays to road improvement projects can
3 cost local governments millions of dollars of unbudgeted and
4 unanticipated costs, thereby affecting the taxpayers of that community.

5 **SECTION 2.** In Colorado Revised Statutes, **add** 38-5-109 as
6 follows:

7 **38-5-109. Utility relocation clearance letter - definitions.**

8 (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
9 REQUIRES:

10 (a) "CLEARANCE LETTER" MEANS A WRITTEN AGREEMENT
11 BETWEEN A LOCAL GOVERNMENT PROPOSING A ROAD IMPROVEMENT
12 PROJECT AND A UTILITY COMPANY, IN WHICH THE UTILITY COMPANY AND
13 THE LOCAL GOVERNMENT MUTUALLY ESTABLISH THE SCOPE, CONDITIONS,
14 AND SCHEDULE FOR THE UTILITY RELOCATION REQUIRED FOR THE ROAD
15 IMPROVEMENT PROJECT.

16 (b) "FORCE MAJEURE" MEANS FIRE, EXPLOSION, FLOODS, ACTION
17 OF THE ELEMENTS, STRIKE, LABOR DISPUTES, INTERRUPTION OF
18 TRANSPORTATION, RATIONING, SHORTAGE OF EQUIPMENT OR MATERIALS,
19 COURT ACTION, ILLEGALITY, UNUSUALLY SEVERE WEATHER, ACT OF GOD,
20 ACT OF WAR OR TERRORISM, EPIDEMICS OR PANDEMICS, QUARANTINES,
21 SEASONAL LIMITATIONS ON UTILITY OPERATIONS, OR ANY OTHER CAUSE
22 THAT IS BEYOND THE REASONABLE CONTROL OF THE ENTITY PERFORMING
23 THE UTILITY RELOCATION.

24 (c) "HAZARDOUS MATERIAL" MEANS ANY SUBSTANCE, POLLUTANT,
25 CONTAMINANT, CHEMICAL, MATERIAL, OR WASTE, OR ANY SOIL OR WATER
26 CONTAMINATED WITH SUCH HAZARDOUS MATERIAL, THAT IS:

27 (I) INCLUDED IN THE DEFINITION OF HAZARDOUS SUBSTANCE,

1 HAZARDOUS WASTE, TOXIC SUBSTANCE, HAZARDOUS POLLUTANT, TOXIC
2 POLLUTANT, NONHAZARDOUS WASTE, OR UNIVERSAL WASTE, AS
3 REGULATED BY ANY APPLICABLE ENVIRONMENTAL LAW; OR

4 (II) TOXIC, EXPLOSIVE, CORROSIVE, FLAMMABLE, IGNITABLE,
5 INFECTIOUS, RADIOACTIVE, CARCINOGENIC, MUTAGENIC, OR THAT
6 OTHERWISE POSES A HAZARD TO LIVING THINGS OR THE ENVIRONMENT.

7 (d) "LOCAL GOVERNMENT" MEANS A STATUTORY OR HOME RULE
8 COUNTY, CITY AND COUNTY, MUNICIPALITY, OR TOWN, EXCLUDING A
9 LOCAL GOVERNMENT THAT HAS GRANTED A FRANCHISE TO A UTILITY
10 COMPANY PURSUANT TO SECTION 31-32-101 OR ARTICLE XX OF THE
11 STATE CONSTITUTION.

12 (e) "PLANS AND SPECIFICATIONS" MEANS THE PLANS, DRAWINGS,
13 AND SPECIFICATIONS DESIGNED AND ENGINEERED BY A LOCAL
14 GOVERNMENT OR ITS CONTRACTOR, WHICH ARE NECESSARY TO COMPLETE
15 THE ROAD IMPROVEMENT PROJECT IN ACCORDANCE WITH APPLICABLE
16 LAWS, RULES, AND REGULATIONS.

17 (f) "PRIVATE PROJECT RELOCATION" MEANS ANY CONSTRUCTION
18 OR RECONSTRUCTION PROJECT FOR THE ADJUSTMENT, EXPANSION, OR
19 REALIGNMENT OF A PUBLIC ROADWAY OR PUBLIC RIGHT-OF-WAY THAT:

20 (I) REQUIRES THE REMOVAL, RELOCATION, OR ALTERATION OF
21 UTILITY FACILITIES;

22 (II) IS NECESSARY TO FACILITATE THE DEVELOPMENT OF PRIVATE
23 PROPERTY; AND

24 (III) IS REQUIRED BY REASON OF A LOCAL GOVERNMENT ZONING,
25 APPROVAL, OR OTHER LAND USE REGULATION PERMITTING REQUIREMENT.

26 (g) "PROMPT PERFORMANCE" MEANS ACTING IN GOOD FAITH AND
27 MAKING ALL REASONABLE EFFORTS TO PERFORM THE SPECIFIC ACTIONS

1 AND OBLIGATIONS SET FORTH IN A CLEARANCE LETTER, EXCEPT AS MAY BE
2 EXCUSED BY SUBSEQUENT AGREEMENT BETWEEN THE UTILITY COMPANY
3 AND THE LOCAL GOVERNMENT TO WHICH THE CLEARANCE LETTER APPLIES.

4 (h) "PUBLIC ROADWAY" MEANS PROPERTY CONTROLLED BY A
5 LOCAL GOVERNMENT THAT IS ACQUIRED, DEDICATED, OR RESERVED FOR
6 THE CONSTRUCTION, OPERATION, AND MAINTENANCE OF A STREET OR
7 PUBLIC HIGHWAY AND THAT IS OPEN TO PUBLIC TRAVEL OR ANY OTHER
8 PUBLIC HIGHWAY ESTABLISHED BY LAW.

9 (i) (I) "ROAD IMPROVEMENT PROJECT" MEANS ANY CONSTRUCTION
10 OR RECONSTRUCTION PROJECT FOR THE ADJUSTMENT, EXPANSION, OR
11 REALIGNMENT OF A PUBLIC ROADWAY OR PUBLIC RIGHT-OF-WAY,
12 INCLUDING BUT NOT LIMITED TO MAINTENANCE, REPLACEMENT, BRIDGE,
13 CULVERT, OR TRAFFIC SIGNAL PROJECTS.

14 (II) "ROAD IMPROVEMENT PROJECT" DOES NOT INCLUDE A PROJECT
15 ON, ALONG, OR IN A PUBLIC OR STATE HIGHWAY OR ROADWAY UNDER THE
16 CONTROL OF THE COLORADO DEPARTMENT OF TRANSPORTATION UNLESS
17 A LOCAL GOVERNMENT PERFORMS THE CONSTRUCTION OR
18 RECONSTRUCTION AS PART OF A PROJECT UNDER THE DIRECTION OF THE
19 LOCAL GOVERNMENT AND PURSUANT TO AN AGREEMENT WITH THE
20 COLORADO DEPARTMENT OF TRANSPORTATION.

21 (j) "UTILITY COMPANY" MEANS AN INVESTOR-OWNED ELECTRIC OR
22 GAS UTILITY COMPANY WITH MORE THAN TWO HUNDRED FIFTY THOUSAND
23 RETAIL CUSTOMERS.

24 (k) "UTILITY CONFLICT" MEANS CIRCUMSTANCES IN WHICH A
25 PROPOSED ROAD IMPROVEMENT PROJECT BRINGS UTILITY FACILITIES OUT
26 OF COMPLIANCE WITH REGULATORY AGENCY STANDARDS OR EXISTING
27 UTILITY FACILITIES PRECLUDE OR HINDER THE CONSTRUCTION OF A ROAD

1 IMPROVEMENT PROJECT.

2 (l) "UTILITY FACILITIES" MEANS ANY LINES OF ELECTRIC LIGHT OR
3 WIRE, POWER, OR PIPELINE OF A UTILITY COMPANY AND ANY RELATED
4 SUPPORT STRUCTURES, ATTACHMENTS, APPURTENANCES, EQUIPMENT,
5 VALVES, CABLE, OR CONDUIT FOR THE LINES, WIRES, OR PIPELINES.
6 "UTILITY FACILITIES" INCLUDE BOTH THOSE ABOVE AND BELOW GROUND.

7 (m) "UTILITY RELOCATION" OR "RELOCATION OF UTILITY
8 FACILITIES" MEANS THE REMOVAL, RELOCATION, OR ALTERATION OF
9 UTILITY FACILITIES NECESSARY TO RESOLVE A UTILITY CONFLICT CAUSED
10 BY A ROAD IMPROVEMENT PROJECT FUNDED IN FULL OR IN PART BY A
11 LOCAL GOVERNMENT OR WITH STATE, FEDERAL, OR OTHER PUBLIC MONEY;
12 EXCEPT THAT "UTILITY RELOCATION" DOES NOT INCLUDE A PRIVATE
13 PROJECT RELOCATION.

14 (2) (a) IF A LOCAL GOVERNMENT ENGAGES IN OR PROPOSES TO
15 ENGAGE IN A ROAD IMPROVEMENT PROJECT THAT MAY REQUIRE THE
16 RELOCATION OF UTILITY FACILITIES DUE TO A UTILITY CONFLICT, THE
17 LOCAL GOVERNMENT SHALL:

18 (I) NOTIFY THE NOTIFICATION ASSOCIATION, CREATED IN SECTION
19 9-1.5-105 (1), WITH AN ENGINEERING OR SUBSURFACE UTILITY
20 ENGINEERING NOTIFICATION TO IDENTIFY EACH UTILITY COMPANY THAT
21 HAS UTILITY FACILITIES IN THE AREA OF THE ROAD IMPROVEMENT
22 PROJECT; AND

23 (II) ELECTRONICALLY NOTIFY IN WRITING EACH UTILITY COMPANY
24 IDENTIFIED PURSUANT TO SUBSECTION (2)(a)(I) OF THIS SECTION. THE
25 NOTICE PROVIDED MUST FOLLOW THE REQUIREMENTS OF SUBSECTION
26 (2)(b) OF THIS SECTION.

27 (b) THE NOTICE REQUIRED BY SUBSECTION (2)(a)(II) OF THIS

1 SECTION MUST INCLUDE THE FOLLOWING INFORMATION:

2 (I) AN EXPLANATION OF THE PROPOSED DESIGN OF THE ROAD
3 IMPROVEMENT PROJECT, INCLUDING INFORMATION ON FUNDING;

4 (II) ANY POTENTIAL UTILITY CONFLICT THAT MAY BE CREATED BY
5 THE ROAD IMPROVEMENT PROJECT;

6 (III) THE ESTIMATED TIMELINE AND DURATION OF THE ROAD
7 IMPROVEMENT PROJECT;

8 (IV) THE ESTIMATED TIME FRAME IN WHICH THE UTILITY
9 RELOCATION SHOULD BE COMPLETED;

10 (V) THE FEDERAL IDENTIFYING PROJECT NUMBER, IF APPLICABLE;

11 AND

12 (VI) WHETHER THE UTILITY COMPANY MAY QUALIFY FOR
13 ASSISTANCE TO OFFSET EXPENSES INCURRED IN RELOCATING ITS UTILITY
14 FACILITIES TO ACCOMMODATE THE PROPOSED ROAD IMPROVEMENT
15 PROJECT.

16 (c) THE LOCAL GOVERNMENT SHALL GIVE THE NOTICE REQUIRED
17 BY SUBSECTION (2)(a)(II) OF THIS SECTION TO THE UTILITY COMPANY AS
18 EARLY AS PRACTICABLE AND:

19 (I) WITHIN FIFTEEN CALENDAR DAYS OF THE APPROVAL OF THE
20 PRELIMINARY DESIGN OF THE ROAD IMPROVEMENT PROJECT; AND

21 (II) AT LEAST FORTY-FIVE CALENDAR DAYS BEFORE THE
22 INVITATION TO BID FOR CONSTRUCTION OF THE ROAD IMPROVEMENT
23 PROJECT.

24 (d) THE UTILITY COMPANY TO WHICH THE NOTICE REQUIRED BY
25 SUBSECTION (2)(a)(II) OF THIS SECTION IS DIRECTED SHALL ACKNOWLEDGE
26 RECEIPT OF THE NOTICE.

27 (e) IF THERE IS A CHANGE IN THE SCOPE OF A ROAD IMPROVEMENT

1 PROJECT OR THE PLANS AND SPECIFICATIONS THAT AFFECTS THE UTILITY
2 FACILITIES AND THE UTILITY COMPANY'S ABILITY TO REASONABLY MEET
3 ITS OBLIGATIONS FOR THE UTILITY RELOCATION IN ACCORDANCE WITH THE
4 SCHEDULE ESTABLISHED FOR THE ROAD IMPROVEMENT PROJECT, A LOCAL
5 GOVERNMENT SHALL:

6 (I) GIVE EACH AFFECTED UTILITY COMPANY A NEW WRITTEN
7 NOTICE THAT INCLUDES ALL APPLICABLE INFORMATION IN SUBSECTION
8 (2)(b) OF THIS SECTION; AND

9 (II) COORDINATE WITH THE AFFECTED UTILITY COMPANY AND
10 THIRD-PARTY CONTRACTOR, AS APPLICABLE, TO AMEND ANY CLEARANCE
11 LETTER AS NECESSARY TO REFLECT MUTUALLY AGREED UPON CHANGES TO
12 THE ORIGINAL COMMITMENTS IN THE LETTER, INCLUDING REASONABLE
13 SCHEDULE ADJUSTMENTS, IF AN EXECUTED CLEARANCE LETTER COVERING
14 THE UTILITY RELOCATION EXISTS.

15 (f) (I) IF UTILITY FACILITIES WERE NOT PREVIOUSLY IDENTIFIED
16 AND RESULT IN A NEWLY DISCOVERED UTILITY CONFLICT, THE LOCAL
17 GOVERNMENT, THE AFFECTED UTILITY COMPANY, AND THE THIRD-PARTY
18 CONTRACTOR, AS APPLICABLE, SHALL CONFER WITHIN FORTY-EIGHT HOURS
19 OF DISCOVERY TO DETERMINE APPROPRIATE RELOCATION PROCEDURES.

20 (II) WITHIN TEN BUSINESS DAYS OF THE DISCOVERY OF THE
21 UTILITY CONFLICT, THE LOCAL GOVERNMENT AND THE AFFECTED UTILITY
22 COMPANY SHALL NEGOTIATE A CLEARANCE LETTER PURSUANT TO
23 SUBSECTION (3) OF THIS SECTION.

24 (3) (a) TO FACILITATE A UTILITY RELOCATION, A LOCAL
25 GOVERNMENT AND AN AFFECTED UTILITY COMPANY SHALL NEGOTIATE IN
26 GOOD FAITH AND SHALL ENTER INTO A MUTUALLY AGREEABLE CLEARANCE
27 LETTER.

- 1 (b) THE CLEARANCE LETTER MUST INCLUDE:
- 2 (I) AN ACKNOWLEDGMENT BY THE LOCAL GOVERNMENT AND THE
3 UTILITY COMPANY THAT A UTILITY CONFLICT EXISTS;
- 4 (II) THE SCOPE OF THE UTILITY RELOCATION, INCLUDING THE
5 EXTENT OF THE UTILITY FACILITIES NEEDING TO BE RELOCATED AS
6 EVIDENCED BY THE PLANS AND SPECIFICATIONS;
- 7 (III) WHETHER THE UTILITY RELOCATION WILL BE PERFORMED BY
8 THE UTILITY COMPANY OR BY A THIRD-PARTY CONTRACTOR AGREED TO BY
9 THE UTILITY COMPANY;
- 10 (IV) REQUIREMENTS FOR COORDINATION AMONG THE LOCAL
11 GOVERNMENT, THE UTILITY COMPANY, AND ANY THIRD-PARTY
12 CONTRACTOR THROUGHOUT THE ROAD IMPROVEMENT PROJECT AND
13 UTILITY RELOCATION, INCLUDING THROUGHOUT ANY PREREQUISITE WORK
14 THAT NEEDS TO OCCUR BEFORE THE UTILITY RELOCATION;
- 15 (V) WHICH ENTITY IS RESPONSIBLE FOR TRAFFIC MANAGEMENT
16 DURING THE UTILITY RELOCATION;
- 17 (VI) THE NUMBER OF DAYS OF NOTICE THAT THE LOCAL
18 GOVERNMENT MUST GIVE TO THE UTILITY COMPANY AHEAD OF THE DATE
19 BY WHICH THE UTILITY RELOCATION MUST BE STARTED IN ORDER TO
20 ADHERE TO THE ROAD IMPROVEMENT PROJECT SCHEDULE;
- 21 (VII) AN ESTIMATED SCHEDULE FOR THE PERFORMANCE OF THE
22 UTILITY RELOCATION, INCLUDING THE DURATION OF THE UTILITY
23 RELOCATION;
- 24 (VIII) A REQUIREMENT OF PROMPT PERFORMANCE OF THE UTILITY
25 RELOCATION BY THE UTILITY COMPANY IF THE UTILITY COMPANY IS
26 PERFORMING THE UTILITY RELOCATION OR BY THE THIRD-PARTY
27 CONTRACTOR AGREED TO BY THE UTILITY COMPANY TO PERFORM THE

1 UTILITY RELOCATION, EXCEPT WHEN PERFORMANCE IS EXCUSED DUE TO
2 FORCE MAJEURE, THE DISCOVERY OF HAZARDOUS MATERIAL IN THE PUBLIC
3 ROADWAY, OR A CHANGE IN THE SCOPE OR AGREED-TO SCHEDULE OF A
4 ROAD IMPROVEMENT PROJECT OR THE PLANS AND SPECIFICATIONS THAT
5 AFFECTS THE UTILITY FACILITIES;

6 (IX) A REQUIREMENT OF PAYMENT BY THE UTILITY COMPANY FOR
7 ACTUAL DAMAGES CAUSED BY THE UTILITY COMPANY'S DELAY IN THE
8 PERFORMANCE OF THE UTILITY RELOCATION OR INTERFERENCE WITH THE
9 PERFORMANCE OF THE UTILITY RELOCATION BY ANY CONTRACTOR NOT
10 HIRED BY THE UTILITY COMPANY; EXCEPT THAT DELAY OR INTERFERENCE
11 CAUSED BY THE FOLLOWING WILL NOT BE CHARGED TO THE UTILITY
12 COMPANY:

13 (A) A FORCE MAJEURE;

14 (B) THE DISCOVERY OF HAZARDOUS MATERIAL IN THE PUBLIC
15 ROADWAY; OR

16 (C) A CHANGE IN THE SCOPE OR AGREED-TO SCHEDULE OF A ROAD
17 IMPROVEMENT PROJECT OR THE PLANS AND SPECIFICATIONS THAT AFFECTS
18 THE UTILITY FACILITIES AND THE UTILITY COMPANY'S ABILITY TO PERFORM
19 THE RELOCATION WORK AS ESTABLISHED IN THE CLEARANCE LETTER;

20 (X) A REQUIREMENT THAT THE LOCAL GOVERNMENT, AT ITS SOLE
21 COST, SURVEY AND STAKE THE LOCATION WHERE THE UTILITY FACILITIES
22 WILL BE LOCATED PRIOR TO THE BEGINNING OF THE UTILITY RELOCATION,
23 AND THAT THE COST OF ANY REQUIRED RE-STAKING DUE TO THE ACTIONS
24 OF A UTILITY COMPANY OR ITS CONTRACTOR BE PAID BY THE UTILITY
25 COMPANY;

26 (XI) A REQUIREMENT THAT, UPON THE DISCOVERY OF HAZARDOUS
27 MATERIAL IN A PUBLIC ROADWAY IN CONNECTION WITH UTILITY

1 RELOCATION, THE UTILITY RELOCATION WORK CEASE UNTIL THE LOCAL
2 GOVERNMENT TAKES NECESSARY STEPS TO PROVIDE A UTILITY CORRIDOR
3 FREE FROM HAZARDOUS MATERIAL, AND THAT THE LOCAL GOVERNMENT
4 IS RESPONSIBLE FOR THE MANAGEMENT, TRANSPORTATION, AND DISPOSAL
5 OF ANY SOIL FROM THE PUBLIC RIGHT-OF-WAY CONTAMINATED WITH
6 HAZARDOUS MATERIAL;

7 (XII) A REQUIREMENT THAT ALL DESIGN AND CONSTRUCTION OF
8 THE UTILITY RELOCATION ARE SUBJECT TO REVIEW AND APPROVAL BY
9 ENGINEERS FOR THE LOCAL GOVERNMENT AND FOR THE UTILITY
10 COMPANY; AND

11 (XIII) A DISPUTE RESOLUTION PROVISION THAT INCLUDES
12 MECHANISMS FOR NOTICE OF A FAILURE TO PERFORM IN ACCORDANCE
13 WITH THE CLEARANCE LETTER AND FOR A REASONABLE OPPORTUNITY TO
14 CURE.

15 (c) (I) THE CLEARANCE LETTER MAY ALLOW FOR UTILITY
16 COMPANY BETTERMENT AT THE EXPENSE OF THE UTILITY COMPANY;
17 EXCEPT THAT ANY UTILITY COMPANY BETTERMENT MUST NOT
18 MATERIALLY DELAY THE UTILITY RELOCATION.

19 (II) AS USED IN THIS SUBSECTION (3)(c), "UTILITY COMPANY
20 BETTERMENT" MEANS ANY UPGRADE OF THE UTILITY FACILITIES BEING
21 RELOCATED THAT IS NOT ATTRIBUTABLE TO THE ROAD IMPROVEMENT
22 PROJECT AND THAT IS MADE SOLELY FOR THE BENEFIT AND AT THE
23 ELECTION OF THE AFFECTED UTILITY COMPANY.

24 (4) (a) UPON BEING PROVIDED WRITTEN DOCUMENTATION OF THE
25 HORIZONTAL AND VERTICAL LOCATIONS OF THE RELOCATED UTILITY
26 FACILITIES AND A STATEMENT BY THE UTILITY COMPANY OR ITS
27 CONTRACTOR THAT THE UTILITY FACILITIES ARE RELOCATED IN

1 ACCORDANCE WITH THE APPROVED UTILITY RELOCATION PLANS, A LOCAL
2 GOVERNMENT SHALL COMPLETE ITS REVIEW OF THE COMPLETED UTILITY
3 RELOCATION AND PROVIDE A WRITTEN DETERMINATION OF WHETHER IT
4 ACCEPTS OR REJECTS THE COMPLETED UTILITY RELOCATION WITHIN
5 FOURTEEN CALENDAR DAYS OF COMPLETION OF THE RELOCATION OR
6 RECEIPT OF THE DOCUMENTATION INDICATING THE LOCATION OF THE
7 RELOCATED UTILITY FACILITIES FROM THE UTILITY COMPANY, WHICHEVER
8 IS LATER.

9 (b) IF THE LOCAL GOVERNMENT ACCEPTS THE UTILITY
10 RELOCATION, THE LOCAL GOVERNMENT SHALL PROVIDE ITS WRITTEN
11 ACCEPTANCE OF THE UTILITY RELOCATION TO THE UTILITY COMPANY.

12 (c) (I) IF THE LOCAL GOVERNMENT REJECTS THE UTILITY
13 RELOCATION, THE LOCAL GOVERNMENT SHALL PROVIDE ITS WRITTEN
14 REJECTION AND REASONING TO THE UTILITY COMPANY.

15 (II) THE UTILITY COMPANY SHALL PROMPTLY MAKE THE
16 NECESSARY CHANGES TO THE UTILITY RELOCATION IDENTIFIED IN THE
17 WRITTEN REJECTION TO CONFORM WITH THE PLANS AND SPECIFICATIONS
18 IDENTIFIED IN THE CLEARANCE LETTER. THE UTILITY COMPANY IS
19 RESPONSIBLE FOR PAYMENT OF ACTUAL DAMAGES CAUSED BY ANY DELAY
20 IN THE ROAD IMPROVEMENT PROJECT SCHEDULE AS A RESULT OF THE
21 NECESSARY CHANGES TO THE UTILITY RELOCATION TO BRING THE
22 RELOCATION INTO COMPLIANCE WITH THE PLANS AND SPECIFICATIONS
23 IDENTIFIED IN THE CLEARANCE LETTER.

24 (d) IF THE LOCAL GOVERNMENT FAILS TO TIMELY PROVIDE THE
25 WRITTEN DETERMINATION REQUIRED BY SUBSECTION (4)(a) OF THIS
26 SECTION, THE UTILITY RELOCATION IS DEEMED ACCEPTED.

27 (e) A UTILITY COMPANY SHALL NOT BE REQUIRED TO PAY FOR

1 RELOCATION OF PREVIOUSLY RELOCATED UTILITY FACILITIES WITHIN TWO
2 YEARS FOLLOWING THE ACCEPTANCE OF THE PREVIOUS UTILITY
3 RELOCATION BY THE LOCAL GOVERNMENT PURSUANT TO THIS SUBSECTION
4 (4), EXCEPT IN THE EVENT OF AN EMERGENCY.

5 (5) A LOCAL GOVERNMENT MAY, AFTER OPPORTUNITY FOR RELIEF
6 BETWEEN THE LOCAL GOVERNMENT AND THE UTILITY COMPANY
7 PURSUANT TO THE DISPUTE RESOLUTION PROCESS OUTLINED IN THE
8 CLEARANCE LETTER, WITHHOLD ISSUANCE OF A PERMIT FOR THE LOCATION
9 OR INSTALLATION OF OTHER UTILITY FACILITIES IN A PUBLIC ROADWAY TO
10 A UTILITY COMPANY UNTIL THE DISPUTE IS RESOLVED, WHICH MAY
11 INCLUDE PAYMENT TO THE LOCAL GOVERNMENT FOR ANY ACTUAL
12 DAMAGES CAUSED BY THE UTILITY COMPANY'S DELAY IN THE
13 PERFORMANCE OF A UTILITY RELOCATION.

14 (6) WHEN NECESSARY AND FEASIBLE AND AFTER MUTUAL
15 AGREEMENT WITH AN AFFECTED UTILITY COMPANY, A LOCAL
16 GOVERNMENT MAY OBTAIN ADDITIONAL PUBLIC RIGHTS-OF-WAY OR
17 EASEMENTS TO ACCOMMODATE A UTILITY RELOCATION. THE LOCAL
18 GOVERNMENT IS RESPONSIBLE FOR THE COST OF OBTAINING ANY
19 ADDITIONAL RIGHT-OF-WAY UNLESS THE ADDITIONAL RIGHT-OF-WAY IS
20 ONLY NEEDED TO ACCOMMODATE A UTILITY COMPANY BETTERMENT AND
21 IS NOT REQUIRED FOR A ROAD IMPROVEMENT PROJECT.

22 (7) A LOCAL GOVERNMENT AND AN AFFECTED UTILITY COMPANY
23 SHALL MAKE ARRANGEMENTS FOR FUNDING ANY UTILITY RELOCATION AS
24 SPECIFIED IN ANY EASEMENTS, LICENSES, OR OTHER PROPERTY INTERESTS
25 OR RIGHTS OF USE HELD BY THE LOCAL GOVERNMENT OR THE UTILITY
26 COMPANY. THE RECOVERY OF UNDERGROUND UTILITY LOCATE COSTS, AS
27 INCURRED BY THE UTILITY COMPANY, MUST OCCUR THROUGH

1 APPROPRIATE RATE ADJUSTMENT CLAUSES.

2 (8) NO PARTY OTHER THAN THE OWNER OF THE UTILITY FACILITIES
3 MAY RELOCATE UTILITY FACILITIES WITHOUT THE EXPRESS CONSENT OF
4 THE AFFECTED UTILITY COMPANY.

5 (9) NOTHING IN THIS SECTION:

6 (a) ALTERS OR DIMINISHES THE AUTHORITY OF A LOCAL
7 GOVERNMENT TO LAWFULLY EXERCISE ITS POLICE POWERS WITH RESPECT
8 TO THE RELOCATION OF UTILITY FACILITIES WITHIN THE LOCAL
9 GOVERNMENT BOUNDARIES;

10 (b) ALTERS EXISTING PROPERTY AGREEMENTS, LICENSES,
11 FRANCHISE AGREEMENTS, OR OTHER VESTED INTERESTS OF A LOCAL
12 GOVERNMENT OR A UTILITY COMPANY ESTABLISHED IN THE EXISTING
13 PROPERTY AGREEMENT, LICENSE, FRANCHISE AGREEMENT, OR OTHER
14 VESTED INTEREST, INCLUDING THE OBLIGATION TO PAY FOR UTILITY
15 RELOCATION;

16 (c) ALTERS THE TERMS OF ANY FRANCHISE OR LICENSE GRANTED
17 PURSUANT TO SECTION 31-32-101 OR ARTICLE XX OF THE STATE
18 CONSTITUTION;

19 (d) ALTERS OR DIMINISHES THE LOCAL GOVERNMENT'S ABILITY TO
20 RECOVER COSTS OR DAMAGES FROM ANY PARTY RESPONSIBLE FOR
21 HAZARDOUS MATERIAL DISCOVERED IN A PUBLIC ROADWAY;

22 (e) ALTERS OR DIMINISHES THE UTILITY COMPANY'S ABILITY TO
23 RECOVER COSTS OR DAMAGES RESULTING FROM THE DISCOVERY OF
24 HAZARDOUS MATERIAL, PREVIOUSLY UNIDENTIFIED UTILITY CONFLICTS,
25 OR THE ACTS OR OMISSIONS OF A THIRD PARTY; ==

26 (f) ALTERS ANY COMMON LAW OF THE STATE ALLOCATING THE
27 COST OF UTILITY RELOCATION WITHIN A PUBLIC RIGHT-OF-WAY; OR

1 (g) PREVENTS A LOCAL GOVERNMENT FROM PURSUING
2 ALTERNATIVE ARRANGEMENTS FOR ROAD IMPROVEMENT PROJECTS, IN
3 WHICH CASE SUBSECTIONS (2) THROUGH (8) OF THIS SECTION DO NOT
4 APPLY.

5 **SECTION 3. Act subject to petition - effective date -**
6 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
7 the expiration of the ninety-day period after final adjournment of the
8 general assembly; except that, if a referendum petition is filed pursuant
9 to section 1 (3) of article V of the state constitution against this act or an
10 item, section, or part of this act within such period, then the act, item,
11 section, or part will not take effect unless approved by the people at the
12 general election to be held in November 2024 and, in such case, will take
13 effect on the date of the official declaration of the vote thereon by the
14 governor.

15 (2) This act applies to utility relocation work commencing on or
16 after the applicable effective date of this act.