

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

**REVISED**

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

LLS NO. 24-0679.01 Rebecca Bayetti x4348

**HOUSE BILL 24-1266**

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**HOUSE SPONSORSHIP**

**Hamrick and Frizell**, Bird, Lindsay, Marshall, Ricks, Snyder, Soper, Story, Taggart,  
Valdez, Vigil, Weinberg

**SENATE SPONSORSHIP**

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Transportation, Housing & Local Government

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**A BILL FOR AN ACT**

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

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**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  
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.

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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.