

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

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 24-0679.01 Rebecca Bayetti x4348

**HOUSE BILL 24-1266**

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**HOUSE SPONSORSHIP**

**Hamrick and Frizell,**

**SENATE SPONSORSHIP**

**Zenzinger,**

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**House Committees**

Transportation, Housing & Local Government

**Senate Committees**

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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.

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) From time to time, local governments provide improvements  
5 to their transportation systems through projects within their jurisdictions;

6 (b) The scheduling and timely performance of a road  
7 improvement project partially depends on coordination with utility  
8 companies for the prompt performance of utility relocation work  
9 necessitated by construction of the road improvement project;

10 (c) Increased coordination between local governments and utility  
11 companies is in the public interest, and prompt performance of utility  
12 relocation work according to the project schedule will reduce delays and  
13 the costs of construction;

14 (d) Colorado statute outlines this type of coordination between the  
15 regional transportation district and utility companies in section  
16 32-9-119.1, Colorado Revised Statutes;

17 (e) Colorado statute outlines this type of coordination between the  
18 Colorado department of transportation and utility companies in section  
19 43-1-1411, Colorado Revised Statutes; and

20 (f) Construction-related delays to road improvement projects can  
21 cost local governments millions of dollars of unbudgeted and  
22 unanticipated costs, thereby affecting the taxpayers of that community.

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

3           **38-5-109. Utility relocation clearance letter - definitions.**

4           (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
5 REQUIRES:

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

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

20           (c) "HAZARDOUS MATERIAL" MEANS ANY SUBSTANCE, POLLUTANT,  
21 CONTAMINANT, CHEMICAL, MATERIAL, OR WASTE, OR ANY SOIL OR WATER  
22 CONTAMINATED WITH SUCH HAZARDOUS MATERIAL, THAT IS:

23           (I) INCLUDED IN THE DEFINITION OF HAZARDOUS SUBSTANCE,  
24 HAZARDOUS WASTE, TOXIC SUBSTANCE, HAZARDOUS POLLUTANT, TOXIC  
25 POLLUTANT, NONHAZARDOUS WASTE, OR UNIVERSAL WASTE, AS  
26 REGULATED BY ANY APPLICABLE ENVIRONMENTAL LAW; OR

27           (II) TOXIC, EXPLOSIVE, CORROSIVE, FLAMMABLE, IGNITABLE,

1 INFECTIOUS, RADIOACTIVE, CARCINOGENIC, MUTAGENIC, OR THAT  
2 OTHERWISE POSES A HAZARD TO LIVING THINGS OR THE ENVIRONMENT.

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

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

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

16 (I) REQUIRES THE REMOVAL, RELOCATION, OR ALTERATION OF  
17 UTILITY FACILITIES;

18 (II) IS NECESSARY TO FACILITATE THE DEVELOPMENT OF PRIVATE  
19 PROPERTY; AND

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

22 (g) "PROMPT PERFORMANCE" MEANS ACTING IN GOOD FAITH AND  
23 MAKING ALL REASONABLE EFFORTS TO PERFORM THE SPECIFIC ACTIONS  
24 AND OBLIGATIONS SET FORTH IN A CLEARANCE LETTER, EXCEPT AS MAY BE  
25 EXCUSED BY SUBSEQUENT AGREEMENT BETWEEN THE UTILITY COMPANY  
26 AND THE LOCAL GOVERNMENT TO WHICH THE CLEARANCE LETTER APPLIES.

27 (h) "PUBLIC ROADWAY" MEANS PROPERTY CONTROLLED BY A

1 LOCAL GOVERNMENT THAT IS ACQUIRED, DEDICATED, OR RESERVED FOR  
2 THE CONSTRUCTION, OPERATION, AND MAINTENANCE OF A STREET OR  
3 PUBLIC HIGHWAY AND THAT IS OPEN TO PUBLIC TRAVEL OR ANY OTHER  
4 PUBLIC HIGHWAY ESTABLISHED BY LAW.

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

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

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

20 (k) "UTILITY CONFLICT" MEANS CIRCUMSTANCES IN WHICH A  
21 PROPOSED ROAD IMPROVEMENT PROJECT BRINGS UTILITY FACILITIES OUT  
22 OF COMPLIANCE WITH REGULATORY AGENCY STANDARDS OR EXISTING  
23 UTILITY FACILITIES PRECLUDE OR HINDER THE CONSTRUCTION OF A ROAD  
24 IMPROVEMENT PROJECT.

25 (l) "UTILITY FACILITIES" MEANS ANY LINES OF ELECTRIC LIGHT OR  
26 WIRE, POWER, OR PIPELINE OF A UTILITY COMPANY AND ANY RELATED  
27 SUPPORT STRUCTURES, ATTACHMENTS, APPURTENANCES, EQUIPMENT,

1 VALVES, CABLE, OR CONDUIT FOR THE LINES, WIRES, OR PIPELINES.

2 "UTILITY FACILITIES" INCLUDE BOTH THOSE ABOVE AND BELOW GROUND.

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

10 (2) (a) IF A LOCAL GOVERNMENT ENGAGES IN OR PROPOSES TO  
11 ENGAGE IN A ROAD IMPROVEMENT PROJECT THAT WILL REQUIRE THE  
12 RELOCATION OF UTILITY FACILITIES DUE TO A UTILITY CONFLICT, THE  
13 LOCAL GOVERNMENT SHALL:

14 (I) NOTIFY THE NOTIFICATION ASSOCIATION, CREATED IN SECTION  
15 9-1.5-105 (1), WITH AN ENGINEERING OR SUBSURFACE UTILITY  
16 ENGINEERING NOTIFICATION TO IDENTIFY EACH UTILITY COMPANY THAT  
17 HAS UTILITY FACILITIES IN THE AREA OF THE ROAD IMPROVEMENT  
18 PROJECT; AND

19 (II) ELECTRONICALLY NOTIFY IN WRITING EACH UTILITY COMPANY  
20 IDENTIFIED PURSUANT TO SUBSECTION (2)(a)(I) OF THIS SECTION. THE  
21 NOTICE PROVIDED MUST FOLLOW THE REQUIREMENTS OF SUBSECTION  
22 (2)(b) OF THIS SECTION.

23 (b) THE NOTICE REQUIRED BY SUBSECTION (2)(a)(II) OF THIS  
24 SECTION MUST INCLUDE THE FOLLOWING INFORMATION:

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

27 (II) ANY POTENTIAL UTILITY CONFLICT THAT MAY BE CREATED BY

1 THE ROAD IMPROVEMENT PROJECT;

2 (III) THE ESTIMATED TIMELINE AND DURATION OF THE ROAD  
3 IMPROVEMENT PROJECT;

4 (IV) THE ESTIMATED TIME FRAME IN WHICH THE UTILITY  
5 RELOCATION SHOULD BE COMPLETED;

6 (V) THE FEDERAL IDENTIFYING PROJECT NUMBER, IF APPLICABLE;  
7 AND

8 (VI) WHETHER THE UTILITY COMPANY MAY QUALIFY FOR  
9 ASSISTANCE TO OFFSET EXPENSES INCURRED IN RELOCATING ITS UTILITY  
10 FACILITIES TO ACCOMMODATE THE PROPOSED ROAD IMPROVEMENT  
11 PROJECT.

12 (c) THE LOCAL GOVERNMENT SHALL GIVE THE NOTICE REQUIRED  
13 BY SUBSECTION (2)(a)(II) OF THIS SECTION TO THE UTILITY COMPANY AS  
14 EARLY AS PRACTICABLE AND AT LEAST FORTY-FIVE CALENDAR DAYS  
15 BEFORE THE EARLIEST OF THE FOLLOWING:

16 (I) THE COMPLETION OF THIRTY PERCENT OF THE PRELIMINARY  
17 DESIGN PLANS;

18 (II) THE PROJECT DEVELOPMENT SCOPING MEETING FOR THE ROAD  
19 IMPROVEMENT PROJECT; OR

20 (III) THE INVITATION TO BID FOR THE ROAD IMPROVEMENT  
21 PROJECT.

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

25 (e) IF THERE IS A CHANGE IN THE SCOPE OF A ROAD IMPROVEMENT  
26 PROJECT OR THE PLANS AND SPECIFICATIONS THAT AFFECTS THE UTILITY  
27 FACILITIES AND THE UTILITY COMPANY'S ABILITY TO REASONABLY MEET

1 ITS OBLIGATIONS FOR THE UTILITY RELOCATION IN ACCORDANCE WITH THE  
2 SCHEDULE ESTABLISHED FOR THE ROAD IMPROVEMENT PROJECT, A LOCAL  
3 GOVERNMENT SHALL:

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

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

13 (e) (I) IF UTILITY FACILITIES ARE DISCOVERED DURING A ROAD  
14 IMPROVEMENT PROJECT THAT WERE NOT PREVIOUSLY IDENTIFIED, THE  
15 LOCAL GOVERNMENT, THE AFFECTED UTILITY COMPANY, AND THE  
16 THIRD-PARTY CONTRACTOR, AS APPLICABLE, SHALL CONFER WITHIN  
17 FORTY-EIGHT HOURS OF DISCOVERY TO DETERMINE APPROPRIATE  
18 RELOCATION PROCEDURES.

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

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

27 (b) THE CLEARANCE LETTER MUST INCLUDE:



1 (I) AN ACKNOWLEDGMENT BY THE LOCAL GOVERNMENT AND THE  
2 UTILITY COMPANY THAT A UTILITY CONFLICT EXISTS;

3 (II) THE SCOPE OF THE UTILITY RELOCATION, INCLUDING THE  
4 EXTENT OF THE UTILITY FACILITIES NEEDING TO BE RELOCATED AS  
5 EVIDENCED BY THE PLANS AND SPECIFICATIONS;

6 (III) WHETHER THE UTILITY RELOCATION WILL BE PERFORMED BY  
7 THE UTILITY COMPANY OR BY A THIRD-PARTY CONTRACTOR AGREED TO BY  
8 THE UTILITY COMPANY;

9 (IV) REQUIREMENTS FOR COORDINATION AMONG THE LOCAL  
10 GOVERNMENT, THE UTILITY COMPANY, AND ANY THIRD-PARTY  
11 CONTRACTOR THROUGHOUT THE ROAD IMPROVEMENT PROJECT AND  
12 UTILITY RELOCATION, INCLUDING THROUGHOUT ANY PREREQUISITE WORK  
13 THAT NEEDS TO OCCUR BEFORE THE UTILITY RELOCATION;

14 (V) WHICH ENTITY IS RESPONSIBLE FOR TRAFFIC MANAGEMENT  
15 DURING THE UTILITY RELOCATION;

16 (VI) THE NUMBER OF DAYS OF NOTICE THAT THE LOCAL  
17 GOVERNMENT MUST GIVE TO THE UTILITY COMPANY AHEAD OF THE DATE  
18 BY WHICH THE UTILITY RELOCATION MUST BE STARTED IN ORDER TO  
19 ADHERE TO THE ROAD IMPROVEMENT PROJECT SCHEDULE;

20 (VII) AN ESTIMATED SCHEDULE FOR THE PERFORMANCE OF THE  
21 UTILITY RELOCATION, INCLUDING THE DURATION OF THE UTILITY  
22 RELOCATION;

23 (VIII) A REQUIREMENT OF PROMPT PERFORMANCE OF THE UTILITY  
24 RELOCATION BY THE UTILITY COMPANY IF THE UTILITY COMPANY IS  
25 PERFORMING THE UTILITY RELOCATION OR BY THE THIRD-PARTY  
26 CONTRACTOR AGREED TO BY THE UTILITY COMPANY TO PERFORM THE  
27 UTILITY RELOCATION, EXCEPT WHEN PERFORMANCE IS EXCUSED DUE TO

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

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

12 (A) A FORCE MAJEURE;

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

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

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

25 (XI) A REQUIREMENT THAT, UPON THE DISCOVERY OF HAZARDOUS  
26 MATERIAL IN A PUBLIC ROADWAY IN CONNECTION WITH UTILITY  
27 RELOCATION, THE UTILITY RELOCATION WORK CEASE UNTIL THE LOCAL

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

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

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

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

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

23 (4) (a) UPON BEING PROVIDED WRITTEN DOCUMENTATION FROM  
24 THE UTILITY COMPANY INDICATING, AT A MINIMUM, THE HORIZONTAL AND  
25 VERTICAL LOCATIONS OF THE RELOCATED UTILITY FACILITIES, A LOCAL  
26 GOVERNMENT SHALL COMPLETE ITS REVIEW OF THE UTILITY RELOCATION  
27 AND PROVIDE A WRITTEN DETERMINATION OF WHETHER IT ACCEPTS OR

1 REJECTS THE COMPLETED UTILITY RELOCATION WITHIN FOURTEEN  
2 CALENDAR DAYS OF COMPLETION OF THE RELOCATION OR RECEIPT OF THE  
3 DOCUMENTATION INDICATING THE LOCATION OF THE RELOCATED UTILITY  
4 FACILITIES FROM THE UTILITY COMPANY, WHICHEVER IS LATER.

5 (b) IF THE LOCAL GOVERNMENT ACCEPTS THE UTILITY  
6 RELOCATION, THE LOCAL GOVERNMENT SHALL PROVIDE ITS WRITTEN  
7 ACCEPTANCE OF THE UTILITY RELOCATION TO THE UTILITY COMPANY.

8 (c) (I) IF THE LOCAL GOVERNMENT REJECTS THE UTILITY  
9 RELOCATION, THE LOCAL GOVERNMENT SHALL PROVIDE ITS WRITTEN  
10 REJECTION AND REASONING TO THE UTILITY COMPANY.

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

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

23 (e) A UTILITY COMPANY SHALL NOT BE REQUIRED TO PAY FOR  
24 RELOCATION OF PREVIOUSLY RELOCATED UTILITY FACILITIES WITHIN TWO  
25 YEARS FOLLOWING THE ACCEPTANCE OF THE PREVIOUS UTILITY  
26 RELOCATION BY THE LOCAL GOVERNMENT PURSUANT TO THIS SUBSECTION  
27 (4), EXCEPT IN THE EVENT OF AN EMERGENCY.

1 (5) A LOCAL GOVERNMENT MAY, AFTER OPPORTUNITY FOR RELIEF  
2 BETWEEN THE LOCAL GOVERNMENT AND THE UTILITY COMPANY  
3 PURSUANT TO THE DISPUTE RESOLUTION PROCESS OUTLINED IN THE  
4 CLEARANCE LETTER, WITHHOLD ISSUANCE OF A PERMIT FOR THE LOCATION  
5 OR INSTALLATION OF OTHER UTILITY FACILITIES IN A PUBLIC ROADWAY TO  
6 A UTILITY COMPANY UNTIL THE UTILITY COMPANY PAYS THE LOCAL  
7 GOVERNMENT FOR ANY ACTUAL DAMAGES CAUSED BY THE UTILITY  
8 COMPANY'S DELAY IN THE PERFORMANCE OF A UTILITY RELOCATION.

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

17 (7) A LOCAL GOVERNMENT AND AN AFFECTED UTILITY COMPANY  
18 SHALL MAKE ARRANGEMENTS FOR FUNDING ANY UTILITY RELOCATION AS  
19 SPECIFIED IN ANY EASEMENTS, LICENSES, OR OTHER PROPERTY INTERESTS  
20 OR RIGHTS OF USE HELD BY THE LOCAL GOVERNMENT OR THE UTILITY  
21 COMPANY. THE RECOVERY OF UNDERGROUND UTILITY LOCATE COSTS, AS  
22 INCURRED BY THE UTILITY COMPANY, MUST OCCUR THROUGH  
23 APPROPRIATE RATE ADJUSTMENT CLAUSES.

24 (8) NO PARTY OTHER THAN THE OWNER OF THE UTILITY FACILITIES  
25 MAY RELOCATE UTILITY FACILITIES WITHOUT THE EXPRESS CONSENT OF  
26 THE AFFECTED UTILITY COMPANY.

27 (9) NOTHING IN THIS SECTION:

1 (a) ALTERS OR DIMINISHES THE AUTHORITY OF A LOCAL  
2 GOVERNMENT TO LAWFULLY EXERCISE ITS POLICE POWERS WITH RESPECT  
3 TO THE RELOCATION OF UTILITY FACILITIES WITHIN THE LOCAL  
4 GOVERNMENT BOUNDARIES;

5 (b) ALTERS EXISTING PROPERTY AGREEMENTS, LICENSES,  
6 FRANCHISE AGREEMENTS, OR OTHER VESTED INTERESTS OF A LOCAL  
7 GOVERNMENT OR A UTILITY COMPANY ESTABLISHED IN THE EXISTING  
8 PROPERTY AGREEMENT, LICENSE, FRANCHISE AGREEMENT, OR OTHER  
9 VESTED INTEREST, INCLUDING THE OBLIGATION TO PAY FOR UTILITY  
10 RELOCATION;

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

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

17 (e) ALTERS OR DIMINISHES THE UTILITY COMPANY'S ABILITY TO  
18 RECOVER COSTS OR DAMAGES RESULTING FROM THE DISCOVERY OF  
19 HAZARDOUS MATERIAL, PREVIOUSLY UNIDENTIFIED UTILITY CONFLICTS,  
20 OR THE ACTS OR OMISSIONS OF A THIRD PARTY; OR

21 (f) ALTERS ANY COMMON LAW OF THE STATE ALLOCATING THE  
22 COST OF UTILITY RELOCATION WITHIN A PUBLIC RIGHT-OF-WAY.

23 **SECTION 3. Act subject to petition - effective date -**  
24 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
25 the expiration of the ninety-day period after final adjournment of the  
26 general assembly; except that, if a referendum petition is filed pursuant  
27 to section 1 (3) of article V of the state constitution against this act or an

1 item, section, or part of this act within such period, then the act, item,  
2 section, or part will not take effect unless approved by the people at the  
3 general election to be held in November 2024 and, in such case, will take  
4 effect on the date of the official declaration of the vote thereon by the  
5 governor.

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