

## HB606 INTRODUCED



1 HB606  
2 W1GT2EE-1  
3 By Representative Blackshear  
4 RFD: Transportation, Utilities and Infrastructure  
5 First Read: 24-Apr-25



SYNOPSIS:

Under existing law, the Director of Transportation may order the relocation of any utility facility when it is determined to be necessary for the construction of any project on a public highway, road, or street.

This bill would require the Director of Transportation to obtain the estimated cost of utility relocation and would further define the term "utility" to include providers at retail or at wholesale of electricity, any type of gas, water, sewer, broadband, cable, and telecommunications services.

A BILL  
TO BE ENTITLED  
AN ACT

Relating to public highways; to amend Sections 23-1-5, 23-1-45, and 23-2-146, Code of Alabama 1975, to further provide for the procedures for the relocation of certain publicly, privately, and cooperatively owned utility facilities associated with the construction of a public highway, road, or street; to prohibit the Department of Transportation for charging a fee for the use of the state



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right-of-way; and to further provide for definitions.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 23-1-5, 23-1-45, and 23-2-146, Code of Alabama 1975, are amended to read as follows:

"§23-1-5

(a) Whenever the Director of Transportation ~~shall~~ determines and ~~order~~ orders that the relocation of any utility facility is necessitated by the construction of any project on the national system of interstate and defense highways, including the extensions thereof within urban areas, the utility owning or operating the utility facility shall relocate the facility in accordance with the order of the Director of Transportation. In such instance, the Director of Transportation shall obtain from the utility the estimated cost of utility relocation and shall include the estimate in any request for federal participation or other federal funding. ~~Notwithstanding the foregoing, if~~ If the cost of the utility facility relocation is eligible and approved for reimbursement by the federal government, the cost of the relocation of the utility facility shall be paid by the state as a part of the cost of the construction of the project out of the funds then or thereafter available for the highway construction after the utility has furnished the Director of Transportation with all papers, records, or other supporting documents required by the director. After the final federal Bureau of Public Roads' audit, the utility shall repay to the state the difference, if any, between the total amount paid by the state to the utility for the relocation and the total



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amount collected by the state from federal participation on the utility relocation, plus the state's matching share of the federal participation.

(b) Whenever the Director of Transportation shall determine and order that the relocation of any utility facility is necessitated by the construction of any highway, road, or street, other than the highways that are a part of the national system of interstate and defense highways referred to in subsection (a) ~~of this section~~, the utility owning or operating the facility shall relocate the facility in accordance with the order of the Director of Transportation ~~at its own expense. Notwithstanding the foregoing, if the facilities to be relocated are owned by any utility which had a gross income of two hundred fifty million dollars (\$250,000,000) or less for the calendar year immediately preceding the relocation, or in the case of utilities which may be hereafter organized and created, which have a gross income of two hundred fifty million dollars (\$250,000,000) or less in their first complete year of operation or in the calendar year immediately preceding the relocation or, in the case of utilities owned or operated by a corporation organized pursuant to Article 8, Chapter 50, Title 11, the~~The cost of the relocation of the utility facility shall be paid by the state as a part of the cost of the construction of the project out of the funds then or thereafter available for the highway construction after the utility has furnished the Director of Transportation with all papers, records, or other supporting documents required by the director. ~~After the final federal~~



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~~Bureau of Public Roads' audit, the utility shall repay to the state the difference, if any, between the total amount paid by the state to the utility for the relocation and the total amount collected by the state from federal participation on the utility relocation, plus the state's matching share of the federal participation.~~

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

(d) For purposes of this section, the following words have the following meanings:

(3) UTILITY. Includes a privately, publicly, or cooperatively owned line, facility, or system for producing, transmitting, or distributing communications, cable television, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, or any other similar commodity, including any fire or police signal system or street lighting system, which directly or indirectly serves the public. The term also includes the utility company inclusive of any wholly owned or controlled subsidiary~~The word utility shall include publicly, privately, and cooperatively owned utilities.~~

(1) ~~The words cost of relocation shall include~~COST OF RELOCATION. Includes the entire amount paid by the utility properly attributable to the relocation after deducting therefrom any increase in the value of the new facility and any salvage value derived from the old facility.



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~~(2) The words national system of interstate and defense highways mean the~~NATIONAL SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS. The national system of interstate and defense highways or interstate system described in ~~subsection (d) of Section 103 of Title 23, United States Code~~23 U.S.C. § 103."

"§23-1-45

(a) Any other provision of law to the contrary notwithstanding, the Director of Transportation shall have authority to acquire the rights-of-way deemed necessary by the State Department of Transportation for the construction of a state road, either by purchase or by the exercise of the right of eminent domain in condemnation proceedings as provided under the laws of this state, or the county or municipality in which such road deemed necessary by the Director of Transportation is located shall acquire such rights-of-way deemed necessary by the Director of Transportation, when requested to do so by ~~said the~~ Director of Transportation.

(b) Should the county or municipality fail or refuse to acquire said rights-of-way, the Director of Transportation shall have authority to acquire such rights-of-way as first above authorized.

(c) Rights-of-way acquired under the provision of this section shall be paid for in the manner prescribed by law.

(d) The Director of Transportation may not charge or assess any fee associated with the use or placement of a utility, as defined under 23-1-5, on any state right-of-way."

"§23-2-146



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141 (a) The authority ~~shall have power to~~may construct  
142 grade separations at intersections of any toll road, bridge,  
143 or tunnel project with public highways and to change and  
144 adjust the lines and grades of such highways so as to  
145 accommodate the same to the design of the grade separation.  
146 The cost of such grade separations and any damage incurred in  
147 changing and adjusting the lines and grades of such highways  
148 shall be ascertained and paid by the authority as a part of  
149 the cost of such bridge or tunnel project.

150 (b) If the authority finds it necessary to change the  
151 location of any portion of any public highway, it shall cause  
152 a highway of substantially the same type as the original  
153 highway to be reconstructed at such location as the authority  
154 shall deem most favorable. The cost of reconstruction and any  
155 damage incurred in changing the location of any such highway  
156 shall be ascertained and paid by the authority as a part of  
157 the cost of such bridge or tunnel project.

158 (c) Any change in line or grade, and any relocation of  
159 a public highway, shall be made so as best to serve the  
160 interests of the public and at the same time carry out the  
161 purposes of this article and any change in line or grade and  
162 any relocation shall be approved by the governing body or  
163 public agency having the responsibility of maintaining such  
164 public highway. In the event such body or agency fails or  
165 refuses to approve the change or relocation, the matter may be  
166 submitted by the authority to the circuit court of the county  
167 in which such body or agency has its principal office and the  
168 court shall determine what change in line or grade or



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relocation shall be made. Approval by such body or agency or by the court shall be conclusive as to the public interest.

(d) In addition to the foregoing powers the authority and its authorized agents and employees may enter upon any lands, waters, and premises in the state for the purpose of making surveys, soundings, drillings, and examinations as it may deem necessary or convenient for the purposes of this article, and such entry shall not be deemed a trespass, nor shall an entry for such purpose be deemed an entry under any condemnation proceedings which may be then pending. The authority shall make reimbursement for any actual damages resulting to such lands, waters, and premises as a result of such activities.

(e) The authority shall also have power to make reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation, and removal of tracks, pipes, mains, conduits, cables, wires, towers, poles, and other equipment and appliances (herein called "~~public~~ utility facilities") of any ~~public~~-utility, as that term is defined in Section 23-1-5, in, on, along, over, or under any toll road, bridge, or tunnel project. Whenever the authority shall determine that it is necessary that any ~~public~~-utility facilities which now are, or hereafter may be, located in, on, along, over, or under any toll road, bridge, or tunnel project shall be relocated in such toll road, bridge, or tunnel project, or should be removed from such toll road, bridge, or tunnel project, the ~~public~~-utility owning or operating such facilities shall relocate or remove the same in accordance





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with the order of the authority. The cost and expenses of such relocation or removal, including the cost of installing such facilities in a new location, or new locations, and the cost of any lands or any rights or interests in lands, and any other rights, acquired to accomplish such relocation or removal shall be ascertained and paid by the authority as a part of the cost of such toll road, bridge, or tunnel project. In case of any such relocation or removal of facilities, the ~~public~~-utility owning or operating the facilities, or its successors or assigns, may maintain and operate the facilities with the necessary appurtenances in the new location or new locations for as long a period and upon the same terms and conditions as it had the right to maintain and operate such facilities in their former location or locations."

Section 2. This act shall become effective on October 1, 2026.