

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING RELOCATION OF UTILITIES LAWS;
5 GRANTING THE DEPARTMENT OF TRANSPORTATION RULEMAKING AUTHORITY TO ADDRESS THE
6 TIMELINESS AND ACCURACY OF UTILITY AND NONUTILITY RELOCATIONS AND INSTALLATIONS;
7 PROVIDING TIMELINES; PROVIDING FOR A REDUCTION IN REIMBURSEMENT FOR RELOCATION,
8 DISMANTLING, AND REMOVAL WHEN A UTILITY OR NONUTILITY FACILITY IS NOT RELOCATED IN A
9 TIMELY MANNER; PROVIDING LIMITED LIABILITY TO THE DEPARTMENT FOR REMOVAL; AMENDING
10 SECTIONS 60-4-402 AND 60-4-403, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13

14 **Section 1.** Section 60-4-402, MCA, is amended to read:

15 **"60-4-402. Occupancy and relocation of utility facilities -- rules.** (1) The department shall adopt
16 reasonable rules governing right-of-way occupancy by a utility for the following:

17 (a) installation, construction, maintenance, repair, or system upgrade of all utilities on commission-
18 designated highway systems or state highways;

19 (b) except as provided in 60-4-403(2) and (3), reimbursement to a utility for the costs of
20 installation, construction, maintenance, repair, renewal, or relocation of facilities; and

21 (c) issuance of an occupancy permit or, in the case of a facility not within the scope of Title 60,
22 chapter 4, part 4, an encroachment permit.

23 (2) The rules must provide for right-of-way occupancy and relocation of publicly owned water and
24 sewer facilities. The rules must ensure that the nonhighway use of the right-of-way does not affect the
25 department's ability to maintain and operate the highway in a safe manner.

26 (3) The permitting provisions of this section do not apply to existing utility facilities or existing
27 facilities not within the scope of Title 60, chapter 4, part 4, lawfully occupying the highway right-of-way on
28 October 1, 2019."

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2 **Section 2.** Section 60-4-403, MCA, is amended to read:

3 **"60-4-403. Relocation -- costs -- rulemaking.** (1) Except as otherwise provided in ~~subsections (2)~~
4 ~~and (3)~~ this section, 75% of all costs of relocation, dismantling, and removal must be paid by the department as
5 a cost of commission-designated highway systems construction.

6 (2) The department shall pay for the entire cost of relocating a publicly owned water or sewer
7 facility with 500 or fewer service connectors under the following conditions:

8 (a) the facility has had 500 or fewer subscribers during the entire year before the letting of the
9 project contract; and

10 (b) the relocation is the result of state highway or commission-designated highway system
11 construction.

12 (3) The department shall pay for 85% of all costs of relocating a publicly owned water or sewer
13 facility with more than 500 but fewer than 1,000 service connectors, subject to the following conditions:

14 (a) the facility had more than 500 but fewer than 1,000 subscribers during the entire year before
15 the letting of the project contract; and

16 (b) the relocation is the result of state highway or commission-designated highway system
17 construction.

18 (4) (a) The department shall give a preliminary notice to a utility whose facility the department has
19 determined must be relocated due to a planned highway project.

20 (b) The department may incrementally reduce to 0% the amount of its participation in the cost of
21 relocating a facility that is not relocated in a reasonable time following the preliminary notice.

22 (c) The incremental loss of cost participation may not be imposed until at least 90 days after giving
23 the preliminary notice.

24 (d) The first 90 days of a preliminary notice period for a utility may not run simultaneously with any
25 other notice period required or allowed in this section.

26 (5) The department may remove a facility or nonutility facility:

27 (a) whenever the department provides reasonable written notice to a utility or the owner of a
28 nonutility facility that occupies a right-of-way of a commission-designated highway system or a state highway

1 where a project is planned and the utility or owner of the nonutility fails to move its facility or nonutility facility to
2 accommodate the project; or

3 (b) if the utility or nonutility facility was not installed or relocated in accordance with a utility permit.

4 (6) (a) The department may adopt rules under this section to define, address, or otherwise
5 establish what constitutes a preliminary notice, preliminary notice period, reasonable written notice, a
6 reasonable time, accuracy of facility and nonutility facility relocations, compliance with utility permits, the
7 incremental loss of cost participation, and any other matter reasonably related to the relocation or removal of a
8 facility or nonutility facility.

9 (b) Prior to publishing a rule proposal notice in relation to the rulemaking authority granted under
10 this section, the department shall consult with the transportation interim committee established in 5-5-233,
11 representatives of utility companies and cooperatives, telecommunications and broadband companies and
12 cooperatives, cable television companies, highway construction contractors, and any other entities deemed
13 appropriate by the department.

14 (7) (a) Except for the department's or its contractors' own willful misconduct, gross negligence, or
15 violations of 69-4-523, the department and its contractors may not be held liable for a removal carried out in
16 compliance with this section.

17 (b) A claim related to a loss of service interruption may not be pursued, directly or indirectly,
18 against the department or its contractors in relation to a removal carried out in compliance with this section.

19 (8) Subsections (4) through (7) pertain only to highway projects that are to be delivered using the
20 design-bid-build project delivery method."

21
22 NEW SECTION. Section 3. Effective date. [This act] is effective January 1, 2026.

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