

1 HB305
2 116607-4
3 By Representatives Boothe and Spicer
4 RFD: Government Operations
5 First Read: 19-JAN-10

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ENROLLED, An Act,

To amend Section 23-1-5, Code of Alabama 1975, relating to the reimbursement to utilities of the costs of relocations of utility facilities pursuant to an order of the State Director of Transportation when the relocation of any utility facility is necessitated by the construction of any highway, road, or street, other than highways that are a part of the national system of interstate and defense highways; to further provide for the gross income of utilities eligible for reimbursement and to further define utility for the purposes of this section.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 23-1-5 of the Code of Alabama 1975, is amended to read as follows:

"§23-1-5.

"(a) Whenever the Director of Transportation shall determine and order 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. Notwithstanding the foregoing, if the cost of the utility facility relocation is eligible and

1 approved for reimbursement by the federal government, the cost
2 of the relocation of the utility facility shall be paid by the
3 state as a part of the cost of the construction of the project
4 out of the funds then or thereafter available for the highway
5 construction after the utility has furnished the Director of
6 Transportation with all papers, records, or other supporting
7 documents required by the director. After the final federal
8 Bureau of Public Roads' audit, the utility shall repay to the
9 state the difference, if any, between the total amount paid by
10 the state to the utility for the relocation and the total
11 amount collected by the state from federal participation on
12 the utility relocation, plus the state's matching share of the
13 federal participation.

14 "(b) Whenever the Director of Transportation shall
15 determine and order that the relocation of any utility
16 facility is necessitated by the construction of any highway,
17 road, or street, other than the highways that are a part of
18 the national system of interstate and defense highways
19 referred to in subsection (a) of this section, the utility
20 owning or operating the facility shall relocate the facility
21 in accordance with the order of the Director of Transportation
22 at its own expense. Notwithstanding the foregoing, if the
23 facilities to be relocated are owned by any utility which had
24 a gross income of ~~two hundred million dollars (\$200,000,000)~~
25 two hundred fifty million dollars (\$250,000,000) or less for

1 the calendar year immediately preceding the relocation, or in
2 the case of utilities which may be hereafter organized and
3 created, which have a gross income of ~~two hundred million~~
4 ~~dollars (\$200,000,000)~~ two hundred fifty million dollars
5 (\$250,000,000) or less in their first complete year of
6 operation or in the calendar year immediately preceding the
7 relocation or, in the case of utilities owned or operated by a
8 corporation organized pursuant to Article 8, Chapter 50, Title
9 11, the cost of the relocation of the utility facility shall
10 be paid by the state as a part of the cost of the construction
11 of the project out of the funds then or thereafter available
12 for the highway construction after the utility has furnished
13 the Director of Transportation with all papers, records, or
14 other supporting documents required by the director. After the
15 final federal Bureau of Public Roads' audit, the utility shall
16 repay to the state the difference, if any, between the total
17 amount paid by the state to the utility for the relocation and
18 the total amount collected by the state from federal
19 participation on the utility relocation, plus the state's
20 matching share of the federal participation.

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

1 "(d) The word "utility" shall include publicly,
2 privately, and cooperatively owned utilities ~~and each wholly~~
3 ~~owned subsidiary of a utility shall be treated as a separate~~
4 ~~utility for the purpose of the application of this section.~~
5 The words "cost of relocation" shall include the entire amount
6 paid by the utility properly attributable to the relocation
7 after deducting therefrom any increase in the value of the new
8 facility and any salvage value derived from the old facility.
9 The words "national system of interstate and defense highways"
10 mean the national system of interstate and defense highways or
11 interstate system described in subsection (d) of Section 103
12 of Title 23, United States Code."

13 Section 2. This act shall become effective on the
14 first day of the third month following its passage and
15 approval by the Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

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President and Presiding Officer of the Senate

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House of Representatives

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I hereby certify that the within Act originated in
9 and was passed by the House 02-FEB-10 and was passed again as
10 amended by Executive Amendment 25-MAR-10, Yeas 86, Nays 0.

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Greg Pappas
Clerk

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Senate

09-MAR-10

Passed

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Senate

01-APR-10

Passed, as amended
by Exec. Amendment

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Yeas 24, Nays 0,
Abstains 0