

1 SB287  
2 116607-1  
3 By Senator Mitchell  
4 RFD: Finance and Taxation General Fund  
5 First Read: 19-JAN-10

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8 SYNOPSIS: Under existing law, the Director of  
9 Transportation may order the relocation of any  
10 utility facility necessitated by the construction  
11 of any highway, road, or street. If the highway is  
12 not part of the national system of interstate and  
13 defense highways, the utility is required to pay  
14 the expense of the relocation unless the utility  
15 had a gross income of two hundred million dollars  
16 (\$200,000,000) or less for the calendar year  
17 immediately preceding the relocation or in the case  
18 of a newly organized utility, if the utility had a  
19 gross income of two hundred million dollars  
20 (\$200,000,000) or less in its first complete year  
21 of operation or in the calendar year immediately  
22 preceding relocation, in which case the cost of the  
23 relocation is paid by the state as a part of the  
24 construction of the project.

25 This bill would provide that the cost of  
26 relocation of a utility facility due to  
27 construction of a highway, road, or street that is

1 not a part of the national system of interstate and  
2 defense highways would be reimbursed if the utility  
3 had a gross income of two hundred fifty million  
4 dollars (\$250,000,000) or less during the  
5 immediately preceding calendar year preceding  
6 relocation, or, in the case of a newly organized  
7 utility, if it had a gross income of two hundred  
8 fifty million dollars (\$250,000,000) or less in its  
9 first complete year of operation or in the calendar  
10 year immediately preceding the relocation.

11  
12 A BILL  
13 TO BE ENTITLED  
14 AN ACT  
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16 To amend Section 23-1-5, Code of Alabama 1975,  
17 relating to the reimbursement to utilities of the costs of  
18 relocations of utility facilities pursuant to an order of the  
19 State Director of Transportation when the relocation of any  
20 utility facility is necessitated by the construction of any  
21 highway, road, or street, other than highways that are a part  
22 of the national system of interstate and defense highways; to  
23 further provide for the gross income of utilities eligible for  
24 reimbursement.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. Section 23-1-5 of the Code of Alabama  
27 1975, is amended to read as follows:

1           "§23-1-5.

2           "(a) Whenever the Director of Transportation shall  
3 determine and order that the relocation of any utility  
4 facility is necessitated by the construction of any project on  
5 the national system of interstate and defense highways,  
6 including the extensions thereof within urban areas, the  
7 utility owning or operating the utility facility shall  
8 relocate the facility in accordance with the order of the  
9 Director of Transportation. Notwithstanding the foregoing, if  
10 the cost of the utility facility relocation is eligible and  
11 approved for reimbursement by the federal government, the cost  
12 of the relocation of the utility facility shall be paid by the  
13 state as a part of the cost of the construction of the project  
14 out of the funds then or thereafter available for the highway  
15 construction after the utility has furnished the Director of  
16 Transportation with all papers, records, or other supporting  
17 documents required by the director. After the final federal  
18 Bureau of Public Roads' audit, the utility shall repay to the  
19 state the difference, if any, between the total amount paid by  
20 the state to the utility for the relocation and the total  
21 amount collected by the state from federal participation on  
22 the utility relocation, plus the state's matching share of the  
23 federal participation.

24           "(b) Whenever the Director of Transportation shall  
25 determine and order that the relocation of any utility  
26 facility is necessitated by the construction of any highway,  
27 road, or street, other than the highways that are a part of

1 the national system of interstate and defense highways  
2 referred to in subsection (a) of this section, the utility  
3 owning or operating the facility shall relocate the facility  
4 in accordance with the order of the Director of Transportation  
5 at its own expense. Notwithstanding the foregoing, if the  
6 facilities to be relocated are owned by any utility which had  
7 a gross income of ~~two hundred million dollars (\$200,000,000)~~  
8 two hundred fifty million dollars (\$250,000,000) or less for  
9 the calendar year immediately preceding the relocation, or in  
10 the case of utilities which may be hereafter organized and  
11 created, which have a gross income of ~~two hundred million~~  
12 ~~dollars (\$200,000,000)~~ two hundred fifty million dollars  
13 (\$250,000,000) or less in their first complete year of  
14 operation or in the calendar year immediately preceding the  
15 relocation or, in the case of utilities owned or operated by a  
16 corporation organized pursuant to Article 8, Chapter 50, Title  
17 11, the cost of the relocation of the utility facility shall  
18 be paid by the state as a part of the cost of the construction  
19 of the project out of the funds then or thereafter available  
20 for the highway construction after the utility has furnished  
21 the Director of Transportation with all papers, records, or  
22 other supporting documents required by the director. After the  
23 final federal Bureau of Public Roads' audit, the utility shall  
24 repay to the state the difference, if any, between the total  
25 amount paid by the state to the utility for the relocation and  
26 the total amount collected by the state from federal

1 participation on the utility relocation, plus the state's  
2 matching share of the federal participation.

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

7 "(d) The word "utility" shall include publicly,  
8 privately, and cooperatively owned utilities. The words "cost  
9 of relocation" shall include the entire amount paid by the  
10 utility properly attributable to the relocation after  
11 deducting therefrom any increase in the value of the new  
12 facility and any salvage value derived from the old facility.  
13 The words "national system of interstate and defense highways"  
14 mean the national system of interstate and defense highways or  
15 interstate system described in subsection (d) of Section 103  
16 of Title 23, United States Code."

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