

South Carolina General Assembly
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R49, S401

STATUS INFORMATION

General Bill

Sponsors: Senators Campbell and Scott

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Introduced in the Senate on January 22, 2019

Introduced in the House on April 2, 2019

Last Amended on March 27, 2019

Passed by the General Assembly on May 1, 2019

Governor's Action: May 13, 2019, Signed

Summary: Highway system construction

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
1/22/2019	Senate	Introduced and read first time (Senate Journal-page 9)
1/22/2019	Senate	Referred to Committee on Transportation (Senate Journal-page 9)
3/21/2019	Senate	Committee report: Favorable with amendment Transportation (Senate Journal-page 10)
3/22/2019		Scrivener's error corrected
3/27/2019	Senate	Committee Amendment Adopted (Senate Journal-page 56)
3/27/2019	Senate	Read second time (Senate Journal-page 56)
3/27/2019	Senate	Roll call Ayes-38 Nays-0 (Senate Journal-page 56)
3/28/2019	Senate	Read third time and sent to House (Senate Journal-page 13)
4/2/2019	House	Introduced and read first time (House Journal-page 3)
4/2/2019	House	Referred to Committee on Education and Public Works (House Journal-page 3)
4/25/2019	House	Committee report: Favorable Education and Public Works (House Journal-page 2)
4/26/2019		Scrivener's error corrected
4/30/2019	House	Read second time (House Journal-page 29)
4/30/2019	House	Roll call Yeas-108 Nays-0 (House Journal-page 30)
5/1/2019	House	Read third time and enrolled (House Journal-page 12)
5/9/2019		Ratified R 49
5/13/2019		Signed By Governor

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VERSIONS OF THIS BILL

[1/22/2019](#)

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NOTE: THIS IS A TEMPORARY VERSION. THIS DOCUMENT WILL REMAIN IN THIS VERSION UNTIL FINAL APPROVAL BY THE LEGISLATIVE COUNCIL.

(R49, S401)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 57-5-880 SO AS TO DEFINE CERTAIN TERMS, PROVIDE AN ENTITY UNDERTAKING A TRANSPORTATION IMPROVEMENT PROJECT SHALL BEAR THE COSTS RELATED TO RELOCATING WATER AND SEWER LINES, TO PROVIDE THE REQUIREMENTS FOR UTILITIES TO BE ELIGIBLE FOR RELOCATION PAYMENTS, AND TO PROVIDE A SUNSET PROVISION.

Be it enacted by the General Assembly of the State of South Carolina:

Transportation Improvement Projects

SECTION 1. Article 5, Chapter 5, Title 57 of the 1976 Code is amended by adding:

“Section 57-5-880. (A) For the purposes of this section:

(1) ‘Betterment’ means any upgrade to a facility being relocated that is made solely for the benefit of the public water system and that is not attributable to the improvement, construction, reconstruction, or alteration of roads, streets, or highways undertaken by the department.

(2) ‘Costs related to relocating water and sewer lines’ means the amount attributable to the relocation, less the amount of any betterment made to the system. Costs related to relocating water and sewer lines include, but are not limited to, right of way acquisition to accommodate the relocated utility, if in the best interests of the transportation improvement project, design, engineering, permitting, removal, installation, inspection, materials, and labor costs.

(3) ‘Large public sewer utility’ means a public sewer utility that does not meet the definition of a small public sewer utility.

(4) ‘Large public water utility’ means a public water utility that does not meet the definition of a small public water utility.

(5) ‘Public highway system’ means:

(a) the state highway system as defined in Section 57-5-10;
(b) roads, streets, and highways under the jurisdiction of a county or municipality; and

(c) bridges, tunnels, overpasses, underpasses, interchanges, and other similar facilities located throughout the State.

(6) 'Public sewer system' means a sewer system that provides sewer services to the public and that is publicly owned or owned by a private, not-for-profit entity as defined in Chapter 31, Title 33.

(7) 'Public water system' means, for the purposes of this chapter, any publicly owned or privately owned not-for-profit, as defined in Chapter 31, Title 33, waterworks system that provides water, whether piped or delivered through some other constructed conveyance, for human consumption, including the source of supply, whether the source of supply is of surface or subsurface origin.

(8) 'Relocating' or 'relocated' means an adjustment necessitated by a transportation improvement project of a public water system or public sewer system facility by removing and reinstalling the facility; a move, rearrangement, or change of the type of existing facilities; necessary safety and protective measures; or the construction of a replacement facility that is both functionally equivalent to, but not including any betterment of, the existing facility that is necessary for the continuous operation of the system's service.

(9) 'Small public sewer utility' means a public sewer utility that has ten thousand or fewer sewer connections and that serves a population of thirty thousand or less. In determining whether a public utility offering water or sewer services qualifies as a small utility, the number of water taps and sewer connections shall be counted separately and shall not be combined.

(10) 'Small public water utility' means a public water utility that has ten thousand or fewer water taps and that serves a population of thirty thousand or less. In determining whether a public utility offering water or sewer services qualifies as a small utility, the number of water taps and sewer connections shall be counted separately and shall not be combined.

(11) 'Transportation improvement project' or 'project' means a permanent improvement, construction, reconstruction, or alteration to the public highway system undertaken by a state or local governmental entity, or a political subdivision.

(B)(1) Notwithstanding any encroachment permit conditions to the contrary, an entity undertaking a transportation improvement project must bear the costs, according to the schedule prescribed in subsections (C) and (D), related to relocating water and sewer lines:

(a) that are maintained and operated by a public water system or a public sewer system and are located within the rights of way for a transportation improvement project; and

(b) that must be relocated to undertake the project.

(2) To be eligible for payment of the relocation costs, the relocation must be placed under the control of the general contractor for the transportation improvement project, unless the public water or public sewer system opts out of placing the relocation under the control of the general contractor according to subsection (F).

(3) To be eligible for payment of the relocation, the public water or public sewer utility must meet the bidding and construction schedule established by the entity undertaking the transportation improvement project, such as design conferences and submittal of all relocation drawings and bid documents. All documents necessary for inclusion in the transportation improvement project must be provided by the utility at least one hundred eighty days prior to the receipt of bids for the project. However, if the transportation improvement project is under an accelerated schedule, then the entity undertaking the project shall notify the utility of the date by which the documents must be provided. Failure to meet the bidding and construction schedule requirements shall result in the utility having to bear all relocation costs, except if the delay is due to an event beyond the control of the utility.

(C) For a small public water utility or a small public sewer utility, the transportation improvement project shall bear all of the relocation costs, including design costs.

(D) Subject to subsection (E), for a large public water utility or a large public sewer utility, the transportation improvement project shall bear all of the relocation costs, including design costs, up to four percent of the original construction bid amount of the transportation improvement project. Should more than one large public water utility or large public sewer utility be required to relocate by a single transportation improvement project, the total cost share of up to four percent under this section shall be divided pro rata among the large public water or public sewer utilities required to relocate under the project.

(E) For a transportation improvement project that impacts both a large public utility and a small public utility, the entity undertaking the transportation improvement must pay all of the small public utility's relocation costs, without limitation. The entity must also pay up to four and one-half percent, minus the costs of the small public utility's relocation costs, of the original construction bid amount of the transportation improvement project toward the large public utility's relocation costs.

(F) A large public water utility or a large public sewer utility may choose not to have the relocation placed under the control of the general contractor. A decision by a large public water utility or large public sewer utility to not have the relocations placed under the control of the general contractor must be communicated in writing to the entity

undertaking the transportation improvement project one hundred eighty days prior to the receipt of bids for the project. Failure to meet the project contract requirements and construction schedule shall result in the utility having to bear all relocation costs.

(G) Nothing herein shall prohibit or limit payment by a transportation improvement project for the relocation of public water or public sewer lines necessary for the transportation improvement project if a public utility has a prior right to situate the water or sewer lines in their present location.

(H) The department shall include metrics on utility relocation under this section in its annual accountability report.”

Sunset provision

SECTION 2. The requirements of Section 57-5-880, as added by this act, expire on July 1, 2026, unless otherwise extended by the General Assembly.

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 9th day of May, 2019.

President of the Senate

Speaker of the House of Representatives

Approved the _____ day of _____ 2019.

Governor

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