

HOUSE BILL NO. 374

INTRODUCED BY K. WHITE

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT CERTAIN UTILITY FACILITIES MAY OCCUPY A HIGHWAY RIGHT-OF-WAY; REQUIRING THAT RULES ADOPTED FOR OCCUPANCY AND RELOCATION OF UTILITIES IN A HIGHWAY RIGHT-OF-WAY INCLUDE PROVISIONS FOR PUBLICLY OWNED WATER AND SEWER FACILITIES; AND AMENDING SECTIONS 60-4-401 AND 60-4-402, MCA."

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

Section 1. Section 60-4-401, MCA, is amended to read:

"60-4-401. Relocation Occupancy and relocation -- definitions. For the purposes of this part, unless otherwise indicated, terms are defined as follows:

(1) (a) "Cost of relocation" means the amount paid by the utility for material, labor, and equipment properly attributable to the relocation after deducting any increase in the value of the new facility and any salvage value derived from the old facility.

(b) "Cost of relocation" does not mean engineering costs for designing, locating, staking, inspecting, or any other incidental costs of engineering.

(2) "Facility" means a utility's tracks, pipes, mains, conduits, cables, wires, towers, poles, and other equipment and appliances impacted by a project on a federal-aid system or state highway.

(3) "Federal-aid systems" includes the following, as defined in 60-2-125:

(a) national highway system;

(b) primary highway system;

(c) secondary highway system; and

(d) urban highway system.

(4) "State highway" means that term, as defined in 60-2-125.

(5) "Utility" includes publicly, privately, and cooperatively owned utilities, including water and sewer facilities."

Section 2. Section 60-4-402, MCA, is amended to read:

"60-4-402. Relocation Occupancy and relocation of utility facilities -- rules. Except as provided in 60-4-403(2) and (3), the The department may shall adopt reasonable rules governing right-of-way occupancy by a utility and, except as provided in 60-4-403(2) and (3), for the reimbursement to a utility for the costs of installation, construction, maintenance, repair, renewal, or relocation of facilities. The rules must provide for right-of-way occupancy and relocation of publicly owned water and sewer facilities. THE RULES MUST ENSURE THAT THE NONHIGHWAY USE OF THE RIGHT-OF-WAY DOES NOT AFFECT THE DEPARTMENT'S ABILITY TO MAINTAIN AND OPERATE THE HIGHWAY IN A SAFE MANNER."

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