

Sixty-first
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1353

Introduced by

Representative Weiler

Senators Hogue, Triplett

1 A BILL for an Act to create and enact a new section to chapter 24-01 of the North Dakota
2 Century Code, relating to relocation of a utility facility; and to amend and reenact sections
3 24-01-41, 49-21-01.3, and 49-21-04 of the North Dakota Century Code, relating to facility
4 relocation cost recovery.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1. AMENDMENT.** Section 24-01-41 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **24-01-41. Relocation of utility facilities.**

- 9 1. Whenever the director determines and orders that any utility facility which now is,
10 or hereafter may be, located in, over, along, or under the national system of
11 interstate and defense highways, or urban extension thereof, qualifying for federal
12 aid should be changed, removed, or relocated to accommodate the construction of
13 a project on the national system of interstate and defense highways, including
14 extensions thereof within urban areas, the utility owning or operating such facility
15 shall change, relocate, or remove the same in accordance with the order of the
16 director; provided that the costs of the change, relocation, or removal, including the
17 costs of installing such facilities in a new location, must be ascertained and paid to
18 the affected utility by the state out of state highway funds as part of the cost of
19 such federally aided project, unless such payment would violate a legal contract
20 between the utility and the state.
- 21 2. ~~The As used in this section,~~ the term "utility" includes all cooperatively, municipally,
22 publicly, or privately owned utilities, for supplying water, sewer, light, gas, power,
23 telegraph, telephone, transit, pipeline, or like service to the public or any part
24 thereof. "Cost of change, relocation, or removal" includes the entire cost incurred

- 1 by such utility properly attributable to such change, relocation, or removal after
2 deducting therefrom any increase in the value of the new facility and any salvage
3 value derived from the old facility. ~~Nothing herein contained may be construed to~~
- 4 3. The department, in cooperation with utilities, shall develop or adopt procedures for
5 administration of utility facility relocation. The procedures must comply with federal
6 law. At a minimum, the procedures must address notification, coordination, billing,
7 and payment. The department shall coordinate with utilities that are affected by
8 the construction project as early as possible in the project development process.
- 9 4. The department shall coordinate utility facility relocations with the affected utility in
10 an effort to minimize cost associated with utility facility relocations.
- 11 5. When a utility facility needs to be relocated, the department shall enter an
12 agreement with the utility indicating if the utility facility relocation work is eligible for
13 reimbursement, the estimated cost for the work, the anticipated construction
14 schedule, and the location of the work.
- 15 6. This section does not affect in any way the right of any utility to receive just
16 compensation for the expense of changing, removing, or relocating its facilities
17 located in a private right of way.

18 **SECTION 2.** A new section to chapter 24-01 of the North Dakota Century Code is
19 created and enacted as follows:

20 **Relocation of utility facilities - Political subdivision roads.**

- 21 1. Whenever a political subdivision determines and orders that any utility facility that
22 is or may be located in, over, along, or under a road right of way under its
23 authority, qualifying for federal aid, should be changed, removed, or relocated to
24 accommodate the construction of a project, the utility owning or operating the
25 facility shall change, relocate, or remove the utility facility in accordance with the
26 order of the political subdivision; provided that the costs of the change, relocation,
27 or removal, including the cost of installing the facilities in a new location, must be
28 ascertained and paid to the affected utility by the political subdivision as part of the
29 cost of the federally aided project unless the payment would violate a legal
30 contract between the utility and the political subdivision or where the roadway
31 existed before the utility facility.

- 1 2. As used in this section:
- 2 a. "Cost of change, relocation, or removal" includes the entire cost incurred by
- 3 such utility properly attributable to such change, relocation, or removal after
- 4 deducting therefrom any increase in the value of the new facility and any
- 5 salvage value derived from the old facility.
- 6 b. "Political subdivision" includes a county, city and county, city, home rule city,
- 7 service authority, school district, local improvement district, law enforcement
- 8 authority, water, sanitation, fire protection, metropolitan, irrigation, drainage,
- 9 or other special district, or any other municipal, quasi-municipal, or public
- 10 organization.
- 11 c. "Utility" includes all cooperatively, municipally, publicly, or privately owned
- 12 utilities for supplying water, sewer, light, gas, power, telegraph, telephone,
- 13 transit, pipeline, or like service to the public.
- 14 3. The political subdivision, in cooperation with utilities, shall develop or adopt
- 15 procedures for administration of utility facility relocation. The procedures must
- 16 comply with federal law. At a minimum, the procedures must address notification,
- 17 coordination, billing, and payment. The political subdivision shall coordinate with
- 18 utilities that are affected by the construction project as early as possible in the
- 19 project development process.
- 20 4. The political subdivision shall coordinate utility facility relocations with the affected
- 21 utility in an effort to minimize costs associated with utility facility relocations.
- 22 5. When a utility facility needs to be relocated, the political subdivision shall enter an
- 23 agreement with the utility indicating if the utility facility relocation work is eligible for
- 24 reimbursement, the estimated cost for the work, the anticipated construction
- 25 schedule, and the location of the work.
- 26 6. This section does not affect in any way the right of any utility to receive just
- 27 compensation for the expense of changing, removing, or relocating its facilities
- 28 located in a private right of way.

29 **SECTION 3. AMENDMENT.** Section 49-21-01.3 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **49-21-01.3. Certain price increases prohibited - Essential telecommunications**

2 **services.** Changes in essential telecommunications services prices are prohibited except as
3 specifically provided for in chapter 49-21 and section 49-02-01.1.

4 1. All increases or decreases in governmentally imposed surcharges and any
5 financial impact on cost of essential telecommunications services caused by
6 governmentally imposed changes in taxes, accounting practices, or separations
7 procedures or resulting in relocation, change, or removal of facilities must be fully
8 reflected in any price for those services within thirty days of the effective date of
9 the surcharge or change, except price changes related to the costs of relocation,
10 change, or removal of facilities are not subject to a thirty-day implementation
11 requirement.

12 ~~2.~~ ~~Nothing in this~~ This section ~~prohibits~~ does not prohibit the lowering of a price of an
13 essential service based on reasonable business practices in a competitive
14 environment provided that no price change may be anticompetitive or otherwise in
15 violation of antitrust or unfair trade practice laws.

16 ~~3.~~ 2. Whenever a price change provided for in this section is less than three percent of
17 the existing price, notwithstanding any time limitations in this section, a
18 telecommunications company may accumulate such changes in price subject to
19 the following conditions:

20 a. Price increases may be accumulated up to a percentage total of five percent.

21 b. Price decreases may be accumulated only to the extent that there is an
22 offsetting accumulated price increase of an equal or greater percentage.

23 Accumulated price decreases may never exceed accumulated price
24 increases.

25 c. Price decreases may be accumulated only for two years beginning January
26 first of the year in which the change is allowed.

27 d. Accumulated price increases may be implemented at the discretion of the
28 telecommunications company.

29 e. The effective date of implementation of an accumulated price change may be
30 prospective only, and in accordance with the filing requirements of section
31 49-21-04.

