

SENATE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 1065
AN ACT

To repeal sections 226.220 and 227.558, RSMo, and to enact in lieu thereof three new sections relating to utility facility relocation.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 226.220 and 227.558, RSMo, are
2 repealed and three new sections enacted in lieu thereof, to be
3 known as sections 226.220, 226.224, and 227.558, to read as
4 follows:

226.220. 1. There is hereby created and set up the
2 "State Road Fund" which shall receive all moneys and credits
3 from:

- 4 (1) The sale of state road bonds;
- 5 (2) The United States government and intended for
6 highway purposes;
- 7 (3) The state road bond and interest sinking fund as
8 provided in section 226.210; and
- 9 (4) Any other source if they are held for expenditure
10 by or under the department of transportation or the state
11 highways and transportation commission and if they are not
12 required by section 226.200 to be transferred to the state
13 highway department fund.

14 2. The costs and expenses withdrawn from the state
15 treasury:

- 16 (1) For locating, relocating, establishing, acquiring,
17 reimbursing for, constructing, improving and maintaining

18 state highways in the systems specified in Article IV,
19 Section 30(b), of the Constitution;

20 (2) For reimbursing relocation costs of:

21 (a) "Non-rate-regulated provider":

22 a. A telecommunications company, as defined in section
23 386.020, whose telecommunications services are not subject
24 to rate of return regulation by the public service
25 commission pursuant to subsection 1 of section 392.240;

26 b. A provider of broadband and other internet protocol-
27 enabled services as defined in subsection 2 of section
28 392.611;

29 c. A video service provider, as defined in section
30 67.2677; or

31 d. A cable operator, as defined in section 67.2677;

32 (b) "Road project", any road maintenance or road
33 construction project, or any labor costs incurred during
34 facility relocation that is required due to road maintenance
35 or construction;

36 (3) For acquiring materials, equipment and buildings;
37 and

38 [(3)] (4) For other purposes and contingencies
39 relating and appertaining to the construction and
40 maintenance of said highways shall be paid from the state
41 road fund upon warrants drawn by the state auditor, based
42 upon bills of particulars and vouchers preapproved and
43 certified for payment by the commissioner of administration
44 and by the state highways and transportation commission
45 acting through such of their employees as may be designated
46 by them.

47 3. No payments or transfers shall ever be made from
48 the state road fund except for an expenditure made:

49 (1) Under the supervision and direction of the state
50 highways and transportation commission; and

51 (2) For a purpose set out in Subparagraph (1), (2),
52 (3), (4), or (5) of Section 30(b), Article IV, of the
53 Constitution.

226.224. 1. Notwithstanding any rule, order,
2 decision, permit, agreement, or other authorization to the
3 contrary, the department shall reimburse non-rate-regulated
4 providers, as defined in subsection 2 of section 226.220,
5 for any labor costs incurred in facility relocation that is
6 required due to road maintenance, construction, or other
7 right-of-way work activity.

8 2. The department shall notify non-rate-regulated
9 providers that have permitted infrastructure within a
10 planned or existing public right-of-way within ninety days
11 after a road project is added to the department project
12 schedule that may require the provider to relocate its
13 infrastructure for the road project. The notification
14 provided under this subsection shall include an estimated
15 project schedule and timeline, including the anticipated
16 year of construction. Within ninety days after receipt of
17 the notification, the non-rate-regulated provider shall
18 respond to the department with an estimated time frame and
19 projected labor cost for the relocation of the provider's
20 infrastructure. The response shall include a draft
21 relocation schedule within or adjacent to the existing or
22 planned public right-of-way.

23 3. (1) The department shall reimburse a non-rate-
24 regulated provider for the provider's labor costs for the
25 relocation of the provider's infrastructure in an amount not
26 to exceed:

27 (a) Fifteen million dollars beginning August 28, 2026,
28 through June 30, 2027;

29 (b) Fifteen million dollars from July 1, 2027, through
30 June 30, 2028;

31 (c) Fifteen million dollars from July 1, 2028, through
32 June 30, 2029;

33 (d) Twenty-five million dollars from July 1, 2029,
34 through June 30, 2030; and

35 (e) Twenty-five million dollars from July 1, 2030,
36 through June 30, 2031.

37 The provisions of this subdivision shall expire on July 1,
38 2031.

39 (2) A non-rate-regulated provider shall provide
40 invoices to the department for the provider's labor costs
41 under this subsection for the fiscal year in which such work
42 occurs. The department shall pay such invoices within sixty
43 days of June thirtieth if such labor costs do not exceed the
44 amounts provided under subdivision (1) of this subsection.
45 If the non-rate-regulated provider's total labor costs
46 exceed the amounts under subdivision (1) of this subsection,
47 such payments shall be prorated.

48 4. The department shall be required to publicly
49 disclose on an annual basis no later than July thirty-first
50 a list of facility reimbursement invoices received with
51 respect to the preceding fiscal year, including, at a
52 minimum, the name of the entity submitting the invoice and
53 the amount, the total amount of all invoices received, and
54 proration applied, if any.

55 5. Nothing in this section shall require the
56 department to reimburse a non-rate-regulated provider for
57 the removal or relocation of facilities placed in the public
58 right-of-way in violation of state law or local permitting
59 requirements.

227.558. 1. If the owner of a utility facility fails
2 to provide the responses or corrections to project plans
3 required by sections 227.553 to 227.556, the commission may

4 recover from the owner damages in the amount of up to one
5 hundred dollars per day for each day the required act is not
6 completed.

7 2. If the owner fails to provide a relocation plan or
8 fails to timely relocate utility facilities in accordance
9 with the relocation plan as required by section 227.555, the
10 commission may recover from the owner damages in the amount
11 of up to one thousand dollars per day for each day the
12 required act is not completed.

13 3. The damages authorized by subsections 1 and 2 of
14 this section may be recovered through actions brought by the
15 chief counsel to the commission, or may be referred to the
16 attorney general for appropriate action. An action to
17 collect the damages authorized by this section shall be
18 brought in a court of appropriate jurisdiction. All damages
19 collected under this section shall be deposited in the state
20 road fund.

21 4. No damages or fines of any kind shall be assessed
22 for delays that result, in whole or in part, directly or
23 indirectly, from any of the following:

- 24 (1) Customer delays;
- 25 (2) Labor strikes or shortages;
- 26 (3) Terrorist attacks, riots, civil unrest, or
27 criminal sabotage;
- 28 (4) Acts of God, or extreme weather events;
- 29 (5) Delays caused by staffing shortages in the
30 geographic area near the commission's construction project
31 due to the owner's need to reassign an unusual number of
32 workers to any other area to respond to an act of God or
33 extreme weather event;
- 34 (6) The failure of another owner to sufficiently
35 complete its required relocation of utility facilities that
36 interfere with an owner's relocation plan;

37 (7) The failure of another owner or delay by another
38 owner in submitting relocation plans that interfere with an
39 owner's relocation plan;

40 (8) Delays by the commission in acquiring necessary
41 right-of-way or necessary easements;

42 (9) Delays caused by facility damages or cable cuts
43 caused by the commission's contractor, other owners, or
44 third parties;

45 (10) Unusual material shortages; and

46 (11) Any other event or action beyond the reasonable
47 control of the owner.

48 The occurrence of any of the unusual events listed in this
49 section shall constitute an affirmative defense to the
50 assessment of damages under the provisions of this section.

51 5. Except as provided in section 226.224, the removal
52 and relocation of utility facilities as a result of
53 construction projects required by the commission shall be
54 made at the expense of the owners unless otherwise provided
55 by the commission. If the owner fails to relocate the
56 utility facilities in accordance with the relocation plan as
57 required by section 227.555, the utility facilities may be
58 removed and relocated by the state highways and
59 transportation commission, or under its direction, and the
60 cost of relocating the utility facilities shall be
61 [collected from such owner] the responsibility of the
62 commission, as required by section 226.224, or the owner.

63 If the state highways and transportation commission or its
64 designee removes and relocates the utility facilities, the
65 utility owner shall not be liable to any party for any
66 damages caused by the commission's or the commission's
67 designee's removal and relocation of such facilities.