WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2000

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ENROLLED

COMMITTEE SUBSTITUTE FOR
House Bill No. 4049

(By Delegate Warner)

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Passed March 11, 2000

In Effect Ninety Days from Passage
AN ACT to amend and reenact section seventeen-b, article four, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend said article by adding thereto a new section, designated section seventeen-d, all relating to the payment of utilities on highway construction projects.

Be it enacted by the Legislature of West Virginia:

That section seventeen-b, article four, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto a new section, designated section seventeen-d, all to read as follows:

ARTICLE 4. STATE ROAD SYSTEM.
§17-4-17b. Relocation of public utility lines to accommodate federal-aid highway projects.

(a) Whenever the commissioner of highways determines that any public utility line or facility located upon, across or under any portion of a state highway needs to be relocated in order to accommodate a federal-aid interstate or Appalachian highway project, he or she shall notify the public utility owning or operating the facility which shall relocate the same in accordance with the order of the commissioner. The cost of the relocation shall be paid out of the state road fund in all cases involving the interstate or the Appalachian system where proportionate reimbursement of the cost shall be obtained by the commissioner of highways from the United States pursuant to the “Federal Aid Highway Act of 1956” or the “Appalachian Regional Development Act of 1965,” as amended, and all acts amendatory or supplementary thereto. Provided, That the cost of any relocation of municipally owned utility facilities and water or sanitary districts or authorities shall be paid out of state road funds in any case involving any federal-aid system where proportionate reimbursement of such cost shall be obtained by the commissioner of highways from the United States.

(b) For the purposes of this section, the term, “cost of relocation,” includes the entire amount paid by the utility, exclusive of any right-of-way costs incurred by the utility, properly attributable to the relocation after deducting therefrom any increase in the value of the new facility and salvage value derived from the old facility.

The cost of relocating utility facilities, as defined in this section, in connection with any federal-aid interstate or Appalachian highway project is hereby declared to be a cost of highway construction.

(c) The commissioner of highways is hereby authorized to include within the cost of highway construction the cost of
relocation necessarily incurred by any public utility, and any pipeline company subject to the jurisdiction of the federal energy regulatory commission, in relocating any public utility line, pipeline or facility as a result of the construction of any fully or partially controlled access highway as a part of the national highway system as authorized by the “Federal Intermodal Surface Transportation Efficiency Act of 1991”, and all acts amendatory and supplementary thereto as of the twentieth day of March, one thousand nine hundred ninety-three. The provisions of article five-a, chapter twenty-one of this code apply to all work performed pursuant to the provisions of this subsection.

(d) Any notice required by this section is sufficient if given by registered or certified mail, return receipt requested, addressed to any officer of the utility or to an individual if the person to whom the notice is required is an individual.

§17-4-17d. Relocation of public utility lines on state highway construction projects.

(a) Whenever the commissioner of highways determines that any public utility line owned by a county or municipal governmental body located upon, across or under any portion of a state highway needs to be relocated in order to accommodate a highway project for which proportionate reimbursement of the cost is not available from any federal program, the commissioner shall notify the public utility owning or operating the facility which shall relocate the same in accordance with the order of the commissioner, and the cost of the relocation shall be paid out of the state road fund.

(b) The commissioner may propose legislative rules in accordance with the provisions of article three, chapter twenty-nine-a of this code to provide for reimbursement of privately held public utilities for the cost of relocation, due to the
division of highways construction or improvement projects, of
their public utility lines located upon, across or under any
portion of a state highway in order to accommodate a highway
project for which proportionate reimbursement of the cost is not
available from any federal program, with the cost of the
relocation to be paid out of the state road fund.

(c) For the purpose of this section, the term “cost of
relocation” includes the entire amount paid by the utility,
exclusive of any right-of-way costs incurred by the utility,
properly attributable to the relocation after deducting therefrom
any increase in the value of the new facility and salvage value
derived from the old facility.

(d) Any notice required by this section is sufficient if given
by registered mail or certified mail, return receipt requested,
addressed to any officer of the utility or to an individual if the
person to whom notice is required is an individual.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within ___ approved this the ____ day of March, 2000.

Governor