COMMITTEE REPORT

April 26, 2012

**H. 4487**

Introduced by Reps. Pitts, Cobb‑Hunter, Munnerlyn, Vick, Sabb, J.M. Neal, Clyburn, Hayes, Long, Willis, Jefferson, Allison and Johnson

S. Printed 4/26/12--H.

Read the first time January 10, 2012.

**THE COMMITTEE ON EDUCATION AND PUBLIC WORKS**

To whom was referred a Bill (H. 4487) to amend the Code of Laws of South Carolina, 1976, by adding Section 57‑5‑880 so as to provide that the Department of Transportation shall bear all costs, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. (A) There is established the Utilities Relocation Study Committee to review, study, and make recommendations concerning the need for improved coordination and funding of the relocation of water and sewer facilities located within the public rights‑of‑way when such relocation is required due to the construction or improvement of roads and bridges in the state.

(B) The Utilities Relocation Study Committee is to:

(1) identify and categorize a statewide estimate of the historical, current and anticipated costs associated with the relocation of utilities inside and outside the rights‑of‑way owned by state agencies, counties, municipalities, or local water or sewer districts resulting from highway projects;

(2) determine as accurately as possible the percentage of the statewide cost estimate attributable to South Carolina Department of Transportation projects, State Transportation Infrastructure Bank projects, local‑option sales tax projects involving state roads, local road projects, and County Transportation Committee projects;

(3) identify potential sources of sustainable funds that may be used by state agencies, counties, municipalities, or local water or sewer districts for utility relocation costs including, but not limited to, existing state and federal loan and grant programs, appropriations from the state general fund, contributions from public utilities, and other sustainable sources;

(4) identify any legal obstacles that impact the ability of state agencies, counties, municipalities, or local water or sewer districts to fund the relocation of utilities;

(5) investigate the creation of a utilities relocation trust fund to assist in relocation costs either through loans, grants, matching funds, or other means, and recommend the appropriate entity to house and administer the trust fund, the terms and conditions under which funding might be provided, and the general criteria used for evaluating funding applications;

(6) identify ways to improve coordination and reduce impacts through the use of communication, technology and improved management techniques; and

(7) recommend changes to public policy, regulations, or statutes that would improve funding or reduce costs associated with utility relocations resulting from road and bridge projects.

(C) The Utilities Relocation Study Committee must be composed of thirteen members. Notwithstanding the provisions of Section 8‑13‑770, the committee is composed of:

(1) one member appointed by the President Pro Tempore of the Senate;

(2) one member appointed by the Speaker of the House of Representatives;

(3) one member appointed by the Minority Leader of the Senate;

(4) one member appointed by the Minority Leader of the House of Representatives;

(5) one member appointed by the Governor;

(6) the Secretary of Transportation, or his designee;

(7) the Chairman of the South Carolina Department of Transportation Commission, or his designee;

(8) one member representing the South Carolina Rural Water Association;

(9) one member representing the Water Utility Council of South Carolina;

(10) one member representing the South Carolina Water Quality Association;

(11) one member representing the Municipal Association of South Carolina;

(12) one member representing the South Carolina Association of Counties; and

(13) one member representing the South Carolina Association of Special Purpose Districts.

(D) The members of the study committee shall serve without compensation and may not receive mileage or per diem.

(E) The Utilities Relocation Study Committee shall make a report of its findings and recommendations to the General Assembly no later than January 15, 2013, at which time the study committee terminates.”

SECTION 2. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

PHILLIP D. OWENS for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 57‑5‑880 SO AS TO PROVIDE THAT THE DEPARTMENT OF TRANSPORTATION SHALL BEAR ALL COSTS RELATED TO RELOCATING WATER AND SEWER LINES THAT ARE MAINTAINED AND OPERATED BY A PUBLIC WATER SYSTEM OR A PUBLIC SEWER SYSTEM THAT ARE LOCATED WITHIN THE RIGHT‑OF‑WAY FOR A STATE TRANSPORTATION IMPROVEMENT PROJECT AND THAT MUST BE RELOCATED TO UNDERTAKE THE PROJECT OR THAT ARE OTHERWISE REQUIRED BY THE DEPARTMENT TO RELOCATE, TO PROVIDE THAT NOTHING CONTAINED IN THIS SECTION GRANTS THE DEPARTMENT THE AUTHORITY TO PREVENT OR MATERIALLY LIMIT A PUBLIC WATER SYSTEM’S UTILIZATION OF PROPERTY LOCATED WITHIN A STATE TRANSPORTATION IMPROVEMENT PROJECT’S RIGHT‑OF‑WAY FOR WATER AND SEWER CONSTRUCTION, INSTALLATION, MAINTENANCE, AND OPERATIONS, AND TO PROVIDE THAT IN CONJUNCTION WITH NEW ROAD CONSTRUCTION, OR THE MAINTENANCE OR RECONSTRUCTION OF EXISTING ROADWAYS IN THE PUBLIC HIGHWAY SYSTEM, THE DEPARTMENT MAY ACQUIRE ADDITIONAL RIGHTS‑OF‑WAY TO FACILITATE THE LOCATION OF UTILITIES OUTSIDE OF RIGHTS‑OF‑WAY CURRENTLY CONTAINED IN THE PUBLIC HIGHWAY SYSTEM AND TO PROVIDE FOR THE MANNER OF FUNDING FOR ACQUISITIONS.

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

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 upgrading of the facility being relocated that is made solely for the benefit of the public water system and is not attributable to 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 entire 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, design, engineering, permitting, removal, installation, inspection, materials, and labor costs.

(3) ‘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.

(4) ‘Public water system’ has the same meaning as in Section 44‑55‑20(13);

(5) ‘Public sewer system’ means any publicly or privately owned sewer system that provides sewer services to the public;

(6) ‘Relocating’ or ‘relocated’ means the adjustment of a public water system facility by removing and reinstalling the facility, including necessary temporary facilities; moving, rearranging, or changing the type of existing facilities; taking necessary safety and protective measures; the construction of a replacement facility that is both functionally equivalent to, but not a betterment of, the existing facility and necessary for continuous operation of the system’s service.

(7) ‘State transportation improvement project’ or ‘project’ means a permanent improvement, construction, reconstruction, or alteration to the public highway system undertaken by the Department of Transportation, a county, or a municipality.

(B) The department shall bear all costs related to relocating water and sewer lines:

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

(2) that must be relocated to undertake the project or that are otherwise required by the department to relocate.

(C) Nothing contained in this section grants the department the authority to prevent or materially limit a public water system’s utilization of property located within a state transportation improvement project’s right‑of‑way for water and sewer construction, installation, maintenance, and operations.

(D) In conjunction with new road construction, or the maintenance or reconstruction of existing roadways in the public highway system, the department may acquire additional rights‑of‑way to facilitate the location of utilities outside of rights‑of‑way currently contained in the public highway system. Additional rights‑of‑way acquired pursuant to this subsection shall be funded pursuant to an agreement entered into between the department and the utility desiring to utilize the newly acquired right‑of‑way.”

SECTION 2. This act takes effect upon approval by the Governor.

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