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House BILL NO. 320

INTRODUCED BY Anderson HARRY

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE COSTS FOR WHICH THE DEPARTMENT OF TRANSPORTATION IS RESPONSIBLE WHEN HIGHWAY CONSTRUCTION REQUIRES UTILITY RELOCATION; ELIMINATING THE REQUIREMENT THAT THE DEPARTMENT HOLD A PUBLIC HEARING TO DETERMINE THE NECESSITY OF FACILITY RELOCATION; ALLOWING THE DEPARTMENT TO ADOPT RULES REFLECTING THE CHANGES IN THE DEPARTMENT'S REIMBURSEMENT RESPONSIBILITIES; AMENDING SECTIONS 60-4-401, 60-4-402, AND 60-4-403, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because it allows the department of transportation to modify rules to reflect changes in its reimbursement responsibilities to utilities for facility relocation. The legislature intends that the department's rules address the changes in the definition of "cost of relocation", the removal of the hearing process, and the full reimbursement of costs associated with relocating small publicly owned water and sewer utilities.

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 -- definitions. For the purposes of ~~the sections relating to relocation of utilities facilities~~ this part, unless otherwise indicated, terms are defined as follows:

(1) (a) "Cost of relocation" ~~includes~~ means the ~~entire~~ 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, securing right-of-way, or any other incidental or overhead costs.

(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.

1 ~~(2)~~(3) "Federal-aid systems" includes the following, as defined in 60-2-125:

- 2 (a) national highway system;
3 (b) primary highway system;
4 (c) secondary highway system; and
5 (d) urban highway system.

6 ~~(3) "Interstate system" includes any highway now included or which may hereafter be included~~
7 ~~as a part of the national system of interstate and defense highways provided for in Title 23, U.S.C.~~

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

9 ~~(4)~~(5) "Utility" includes publicly, privately, and cooperatively owned utilities."
10

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

12 **"60-4-402. Relocation of utility facilities -- ~~hearings~~ order rules.** ~~(1) After appropriate hearings,~~
13 ~~the~~ Except as provided in 60-4-403(2), the department may adopt reasonable regulations rules for the
14 reimbursement to a utility for the costs of installation, construction, maintenance, repair, renewal, or
15 ~~relocation of tracks, pipes, mains, conduits, cables, wires, towers, poles, and other equipment and~~
16 ~~appliances (hereafter called "facilities") of a utility in, on, along, over, across, through, or under a project~~
17 ~~on any of the federal-aid systems~~ facilities.

18 ~~(2) The department shall give written notice of the place and time of a public hearing to determine~~
19 ~~the necessity of a relocation of facilities to all concerned not less than 20 days before the hearing. Hearing~~
20 ~~may be waived in writing by the utility concerned or other interested parties.~~

21 ~~(3) After the hearing, the department may determine that the facilities must be relocated. If so, the~~
22 ~~utility owning or operating the facilities shall relocate them in accordance with the order of the department.~~
23 ~~The utility and its successors and assigns may maintain and operate the relocated facilities, with the~~
24 ~~necessary appurtenances, in the new location."~~

25

26 **Section 3.** Section 60-4-403, MCA, is amended to read:

27 **"60-4-403. Relocation -- costs. Seventy five percent** (1) Except as provided in subsection (2),
28 75% of all costs of relocation, ~~including the costs of acquisition of new right of way, of~~ dismantling, and
29 ~~of~~ removal, must be paid by the department as a cost of federal-aid systems construction.

30 (2) The department shall pay for the entire cost of relocating a publicly owned water or sewer

1 facility with 500 or fewer service connectors under the following conditions:

2 (a) the facility has had 500 or fewer subscribers during the entire year before the letting of the
3 project contract; and

4 (b) the relocation is the result of state highway or federal-aid system construction."

5
6 NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.

7 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0320, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill clarifying the costs for which the Department of Transportation is responsible when highway construction requires utility relocation, and eliminating the requirement that the department hold a public hearing to determine the necessity of facility relocation.

ASSUMPTIONS:

1. This bill will eliminate reimbursement by the Montana Department of Transportation (MDT) to public utility companies or larger cities for engineering costs associated with utility relocations.
2. The estimated average annual cost to MDT for utility relocations is \$4,560,000. Approximately 12% of the total represents engineering costs. Therefore, annual cost savings of \$547,200 (12% x \$4,560,000) will be recognized.
3. This bill will switch 25% of the cost (currently paid by small towns) of relocating public water and sanitary sewer systems (with 500 or fewer connections) from the local government to the MDT, so that the MDT will pay 100%. It is estimated that the total average annual cost for these relocations is \$150,000. Thus the MDT will have additional costs of \$37,500 (\$150,000 x 25%).
4. This bill removes the public hearing requirement as a result of utility relocations. Since no hearing has ever been requested, no fiscal impact to this aspect exists.
5. Assume all costs noted above are funded 20% state special, and 80% federal special.

FISCAL IMPACT:

Department of Transportation:

	<u>FY98</u>	<u>FY99</u>
<u>Expenditures:</u>	<u>Difference</u>	<u>Difference</u>
Operating expense	(\$509,700)	(\$509,700)
<u>Funding:</u>		
Highway state special (02)	(\$101,900)	(\$101,900)
Federal special (03)	(\$407,800)	(\$407,800)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Small towns would no longer pay for 25% of the costs of relocating their water or sewer facility systems. MDT would pay for 100%, which is an estimated annual savings to small towns of \$37,500.

The estimated annual engineering cost savings received by MDT of \$547,200, will be primarily shifted to public utility companies. However, if the costs represent relocating water and/or sewer systems of larger towns, the companies will pay the additional costs (historically a small percentage of the total). In some cases, the savings enjoyed by the MDT will be earmarked for matching costs of future projects, meaning that some communities may realize both reduced costs and increased construction.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Cost savings of about \$509,700 per year from approximately 80 highway construction projects may be projected.

 1-28-97

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

SHIELL ANDERSON, PRIMARY SPONSOR DATE

Fiscal Note for HB0320, as introduced

HB 320

1 HOUSE BILL NO. 320

2 INTRODUCED BY ANDERSON, HARP

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE COSTS FOR WHICH THE DEPARTMENT OF
5 TRANSPORTATION IS RESPONSIBLE WHEN HIGHWAY CONSTRUCTION REQUIRES UTILITY RELOCATION;
6 ELIMINATING THE REQUIREMENT THAT THE DEPARTMENT HOLD A PUBLIC HEARING TO DETERMINE
7 THE NECESSITY OF FACILITY RELOCATION; ALLOWING THE DEPARTMENT TO ADOPT RULES
8 REFLECTING THE CHANGES IN THE DEPARTMENT'S REIMBURSEMENT RESPONSIBILITIES; AMENDING
9 SECTIONS 60-4-401, 60-4-402, AND 60-4-403, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
10 DATE."

11
12 STATEMENT OF INTENT

13 A statement of intent is required for this bill because it allows the department of transportation to
14 modify rules to reflect changes in its reimbursement responsibilities to utilities for facility relocation. The
15 legislature intends that the department's rules address the changes in the definition of "cost of relocation",
16 the removal of the hearing process, and the full reimbursement of costs associated with relocating small
17 publicly owned water and sewer utilities.

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:20
21 **Section 1.** Section 60-4-401, MCA, is amended to read:22 "**60-4-401. Relocation -- definitions.** For the purposes of ~~the sections relating to relocation of~~
23 ~~utilities facilities~~ this part, unless otherwise indicated, terms are defined as follows:24 (1) (a) "Cost of relocation" ~~includes means~~ means the ~~entire~~ amount paid by the utility for material, labor,
25 and equipment properly attributable to the relocation after deducting any increase in the value of the new
26 facility and any salvage value derived from the old facility.27 (b) "Cost of relocation" does not mean engineering costs for designing, locating, staking,
28 inspecting, securing right-of-way, or any other incidental or overhead costs OF ENGINEERING.29 (2) "Facility" means a utility's tracks, pipes, mains, conduits, cables, wires, towers, poles, and
30 other equipment and appliances impacted by a project on a federal-aid system or state highway.

1 ~~(2)~~(3) "Federal-aid systems" includes the following, as defined in 60-2-125:

- 2 (a) national highway system;
3 (b) primary highway system;
4 (c) secondary highway system; and
5 (d) urban highway system.

6 ~~(3) "Interstate system" includes any highway now included or which may hereafter be included~~
7 ~~as a part of the national system of interstate and defense highways provided for in Title 23, U.S.C.~~

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

9 ~~(4)~~(5) "Utility" includes publicly, privately, and cooperatively owned utilities."

10

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

12 "**60-4-402. Relocation of utility facilities -- ~~hearings~~ order rules.** ~~(1) After appropriate hearings,~~
13 ~~the~~ Except as provided in 60-4-403(2), the department may adopt reasonable ~~regulations~~ rules for the
14 reimbursement to a utility for the costs of installation, construction, maintenance, repair, renewal, or
15 relocation of ~~tracks, pipes, mains, conduits, cables, wires, towers, poles, and other equipment and~~
16 ~~appliances (hereafter called "facilities") of a utility in, on, along, over, across, through, or under a project~~
17 ~~on any of the federal-aid systems~~ facilities.

18 ~~(2) The department shall give written notice of the place and time of a public hearing to determine~~
19 ~~the necessity of a relocation of facilities to all concerned not less than 20 days before the hearing. Hearing~~
20 ~~may be waived in writing by the utility concerned or other interested parties.~~

21 ~~(3) After the hearing, the department may determine that the facilities must be relocated. If so, the~~
22 ~~utility owning or operating the facilities shall relocate them in accordance with the order of the department.~~
23 ~~The utility and its successors and assigns may maintain and operate the relocated facilities, with the~~
24 ~~necessary appurtenances, in the new location."~~

25

26 **Section 3.** Section 60-4-403, MCA, is amended to read:

27 "**60-4-403. Relocation -- costs. ~~Seventy five percent~~ (1) Except as provided in subsection (2),**
28 75% of all costs of relocation, ~~including the costs of acquisition of new right of way, of dismantling, and~~
29 ~~of removal,~~ must be paid by the department as a cost of federal-aid systems construction.

30 (2) The department shall pay for the entire cost of relocating a publicly owned water or sewer

1 facility with 500 or fewer service connectors under the following conditions:

2 (a) the facility has had 500 or fewer subscribers during the entire year before the letting of the
3 project contract; and

4 (b) the relocation is the result of state highway or federal-aid system construction."

5

6 **NEW SECTION. Section 4. Effective date.** [This act] is effective on passage and approval.

7

-END-

1 HOUSE BILL NO. 320

2 INTRODUCED BY ANDERSON, HARP

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE COSTS FOR WHICH THE DEPARTMENT OF
5 TRANSPORTATION IS RESPONSIBLE WHEN HIGHWAY CONSTRUCTION REQUIRES UTILITY RELOCATION;
6 ELIMINATING THE REQUIREMENT THAT THE DEPARTMENT HOLD A PUBLIC HEARING TO DETERMINE
7 THE NECESSITY OF FACILITY RELOCATION; ALLOWING THE DEPARTMENT TO ADOPT RULES
8 REFLECTING THE CHANGES IN THE DEPARTMENT'S REIMBURSEMENT RESPONSIBILITIES; AMENDING
9 SECTIONS 60-4-401, 60-4-402, AND 60-4-403, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
10 DATE."

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12 STATEMENT OF INTENT

13 A statement of intent is required for this bill because it allows the department of transportation to
14 modify rules to reflect changes in its reimbursement responsibilities to utilities for facility relocation. The
15 legislature intends that the department's rules address the changes in the definition of "cost of relocation",
16 the removal of the hearing process, and the full reimbursement of costs associated with relocating small
17 publicly owned water and sewer utilities.

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:20
21 Section 1. Section 60-4-401, MCA, is amended to read:22 "60-4-401. Relocation -- definitions. For the purposes of ~~the sections relating to relocation of~~
23 ~~utilities facilities~~ this part, unless otherwise indicated, terms are defined as follows:24 (1) (a) "Cost of relocation" ~~includes~~ means the ~~entire~~ amount paid by the utility for material, labor,
25 and equipment properly attributable to the relocation after deducting any increase in the value of the new
26 facility and any salvage value derived from the old facility.27 (b) "Cost of relocation" does not mean engineering costs for designing, locating, staking,
28 inspecting, securing right of way, or any other incidental or overhead costs OF ENGINEERING.29 (2) "Facility" means a utility's tracks, pipes, mains, conduits, cables, wires, towers, poles, and
30 other equipment and appliances impacted by a project on a federal-aid system or state highway.

1 ~~(2)~~(3) "Federal-aid systems" includes the following, as defined in 60-2-125:

- 2 (a) national highway system;
 3 (b) primary highway system;
 4 (c) secondary highway system; and
 5 (d) urban highway system.

6 ~~(3) "Interstate system" includes any highway now included or which may hereafter be included~~
 7 ~~as a part of the national system of interstate and defense highways provided for in Title 23, U.S.C.~~

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

9 ~~(4)~~(5) "Utility" includes publicly, privately, and cooperatively owned utilities."
 10

10

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

12 **"60-4-402. Relocation of utility facilities -- ~~hearings~~ order rules.** ~~(1) After appropriate hearings,~~
 13 ~~the~~ Except as provided in 60-4-403(2), the department may adopt reasonable regulations rules for the
 14 reimbursement to a utility for the costs of installation, construction, maintenance, repair, renewal, or
 15 relocation of tracks, pipes, mains, conduits, cables, wires, towers, poles, and other equipment and
 16 appliances (hereafter called "facilities") of a utility in, on, along, over, across, through, or under a project
 17 on any of the federal-aid systems facilities.

18 ~~(2) The department shall give written notice of the place and time of a public hearing to determine~~
 19 ~~the necessity of a relocation of facilities to all concerned not less than 20 days before the hearing. Hearing~~
 20 ~~may be waived in writing by the utility concerned or other interested parties.~~

21 ~~(3) After the hearing, the department may determine that the facilities must be relocated. If so, the~~
 22 ~~utility owning or operating the facilities shall relocate them in accordance with the order of the department.~~
 23 ~~The utility and its successors and assigns may maintain and operate the relocated facilities, with the~~
 24 ~~necessary appurtenances, in the new location."~~

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26 **Section 3.** Section 60-4-403, MCA, is amended to read:

27 **"60-4-403. Relocation -- costs. ~~Seventy five percent~~ (1) Except as provided in subsection (2),**
 28 75% of all costs of relocation, including the costs of acquisition of new right of way, of dismantling, and
 29 of removal, must be paid by the department as a cost of federal-aid systems construction.

30 (2) The department shall pay for the entire cost of relocating a publicly owned water or sewer

1 facility with 500 or fewer service connectors under the following conditions:

2 (a) the facility has had 500 or fewer subscribers during the entire year before the letting of the
3 project contract; and

4 (b) the relocation is the result of state highway or federal-aid system construction."

5

6 NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.

7

-END-

1 HOUSE BILL NO. 320

2 INTRODUCED BY ANDERSON, HARP

3
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5 TRANSPORTATION IS RESPONSIBLE WHEN HIGHWAY CONSTRUCTION REQUIRES UTILITY RELOCATION;
6 ELIMINATING THE REQUIREMENT THAT THE DEPARTMENT HOLD A PUBLIC HEARING TO DETERMINE
7 THE NECESSITY OF FACILITY RELOCATION; ALLOWING THE DEPARTMENT TO ADOPT RULES
8 REFLECTING THE CHANGES IN THE DEPARTMENT'S REIMBURSEMENT RESPONSIBILITIES; AMENDING
9 SECTIONS 60-4-401, 60-4-402, AND 60-4-403, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
10 DATE."
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12 STATEMENT OF INTENT

13 A statement of intent is required for this bill because it allows the department of transportation to
14 modify rules to reflect changes in its reimbursement responsibilities to utilities for facility relocation. The
15 legislature intends that the department's rules address the changes in the definition of "cost of relocation",
16 the removal of the hearing process, and the full reimbursement of costs associated with relocating small
17 publicly owned water and sewer utilities.
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19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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25 and equipment properly attributable to the relocation after deducting any increase in the value of the new
26 facility and any salvage value derived from the old facility.27 (b) "Cost of relocation" does not mean engineering costs for designing, locating, staking,
28 inspecting, securing right of way, or any other incidental or overhead costs OF ENGINEERING.29 (2) "Facility" means a utility's tracks, pipes, mains, conduits, cables, wires, towers, poles, and
30 other equipment and appliances impacted by a project on a federal-aid system or state highway.

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 3 (b) primary highway system;
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6 ~~(3) "Interstate system" includes any highway now included or which may hereafter be included~~
 7 ~~as a part of the national system of interstate and defense highways provided for in Title 23, U.S.C.~~

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

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

12 **"60-4-402. Relocation of utility facilities -- ~~hearings~~ order rules.** ~~(1) After appropriate hearings,~~
 13 ~~the~~ Except as provided in 60-4-403(2), the department may adopt reasonable ~~regulations~~ rules for the
 14 reimbursement to a utility for the costs of installation, construction, maintenance, repair, renewal, or
 15 relocation of ~~tracks, pipes, mains, conduits, cables, wires, towers, poles, and other equipment and~~
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 17 on any of the federal-aid systems ~~facilities.~~

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 22 ~~utility owning or operating the facilities shall relocate them in accordance with the order of the department.~~
 23 ~~The utility and its successors and assigns may maintain and operate the relocated facilities, with the~~
 24 ~~necessary appurtenances, in the new location."~~

25

26 **Section 3.** Section 60-4-403, MCA, is amended to read:

27 **"60-4-403. Relocation -- costs. ~~Seventy five percent~~ (1) Except as provided in subsection (2),**
 28 75% of all costs of relocation, ~~including the costs of acquisition of new right of way, of dismantling, and~~
 29 ~~of removal,~~ must be paid by the department as a cost of federal-aid systems construction.

30 (2) The department shall pay for the entire cost of relocating a publicly owned water or sewer

1 facility with 500 or fewer service connectors under the following conditions:

2 (a) the facility has had 500 or fewer subscribers during the entire year before the letting of the
3 project contract; and

4 (b) the relocation is the result of state highway or federal-aid system construction."

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6 NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.

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19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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23 ~~utilities facilities~~ this part, unless otherwise indicated, terms are defined as follows:

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

27 (b) "Cost of relocation" does not mean engineering costs for designing, locating, staking,
28 inspecting, securing right-of-way, or any other incidental or overhead costs OF ENGINEERING.

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

1 ~~(2)~~(3) "Federal-aid systems" includes the following, as defined in 60-2-125:

- 2 (a) national highway system;
3 (b) primary highway system;
4 (c) secondary highway system; and
5 (d) urban highway system.

6 ~~(3) "Interstate system" includes any highway now included or which may hereafter be included~~
7 ~~as a part of the national system of interstate and defense highways provided for in Title 23, U.S.C.~~

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

9 ~~(4)~~(5) "Utility" includes publicly, privately, and cooperatively owned utilities."

10

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

12 "**60-4-402. Relocation of utility facilities -- ~~hearings~~ order rules.** ~~(1) After appropriate hearings,~~
13 ~~the~~ Except as provided in 60-4-403(2) AND (3), the department may adopt reasonable regulations rules for
14 the reimbursement to a utility for the costs of installation, construction, maintenance, repair, renewal, or
15 relocation of tracks, pipes, mains, conduits, cables, wires, towers, poles, and other equipment and
16 appliances (hereafter called "facilities") of a utility in, on, along, over, across, through, or under a project
17 on any of the federal-aid systems facilities.

18 ~~(2) The department shall give written notice of the place and time of a public hearing to determine~~
19 ~~the necessity of a relocation of facilities to all concerned not less than 20 days before the hearing. Hearing~~
20 ~~may be waived in writing by the utility concerned or other interested parties.~~

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22 ~~utility owning or operating the facilities shall relocate them in accordance with the order of the department.~~
23 ~~The utility and its successors and assigns may maintain and operate the relocated facilities, with the~~
24 ~~necessary appurtenances, in the new location."~~

25

26 **Section 3.** Section 60-4-403, MCA, is amended to read:

27 "**60-4-403. Relocation -- costs. ~~Seventy-five percent~~ (1) Except as provided in subsection**
28 **SUBSECTIONS (2) AND (3), 75%** of all costs of relocation, ~~including the costs of acquisition of new~~
29 ~~right-of-way, of dismantling, and of removal,~~ must be paid by the department as a cost of federal-aid
30 systems construction.

1 (2) The department shall pay for the entire cost of relocating a publicly owned water or sewer
2 facility with 500 or fewer service connectors under the following conditions:

3 (a) the facility has had 500 or fewer subscribers during the entire year before the letting of the
4 project contract; and

5 (b) the relocation is the result of state highway or federal-aid system construction.

6 (3) THE DEPARTMENT SHALL PAY FOR 85% OF ALL COSTS OF RELOCATING A PUBLICLY
7 OWNED WATER OR SEWER FACILITY WITH MORE THAN 500 BUT FEWER THAN 1,000 SERVICE
8 CONNECTORS, SUBJECT TO THE FOLLOWING CONDITIONS:

9 (A) THE FACILITY HAD MORE THAN 500 BUT FEWER THAN 1,000 SUBSCRIBERS DURING THE
10 ENTIRE YEAR BEFORE THE LETTING OF THE PROJECT CONTRACT; AND

11 (B) THE RELOCATION IS THE RESULT OF STATE HIGHWAY OR FEDERAL-AID HIGHWAY SYSTEM
12 CONSTRUCTION."

13

14 NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.

15

-END-