

IN THE SENATE

SENATE BILL NO. 1097

BY TRANSPORTATION COMMITTEE

AN ACT

1 RELATING TO PUBLIC HIGHWAYS AND UTILITIES; AMENDING CHAPTER 2, TITLE
 2 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-210, IDAHO
 3 CODE, TO PROVIDE LEGISLATIVE INTENT, TO PROVIDE THAT CERTAIN
 4 PUBLIC HIGHWAY AGENCIES OR ANY PRIVATE PARTY WORKING WITH SUCH
 5 AGENCY ON A PROJECT THAT MAY REQUIRE RELOCATION OF UTILITY
 6 FACILITIES SHALL PERMIT THE AFFECTED UTILITY TO PARTICIPATE IN
 7 PROJECT DEVELOPMENT MEETINGS, TO PROVIDE FOR WRITTEN NOTICE TO
 8 THE AFFECTED UTILITY AND TO PROVIDE FOR A MEETING, TO PROVIDE
 9 THAT CERTAIN PUBLIC HIGHWAY AGENCIES AND AFFECTED UTILITIES
 10 SHALL USE BEST EFFORTS TO ELIMINATE OR MINIMIZE CERTAIN COSTS,
 11 TO PROVIDE THAT FAILURE BY THE AFFECTED UTILITY TO RESPOND TO
 12 WRITTEN NOTICE NOT AFFECT THE PUBLIC HIGHWAY AGENCY'S ABILITY
 13 TO PROCEED WITH THE PROJECT, TO PROVIDE DEFINITIONS AND TO
 14 PROVIDE LIMITS TO APPLICATION.
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16 Be It Enacted by the Legislature of the State of Idaho:

17 SECTION 1. That Chapter 2, Title 40, Idaho Code, be, and the same is hereby amended
 18 by the addition thereto of a NEW SECTION, to be known and designated as Section 40-210,
 19 Idaho Code, and to read as follows:

20 40-210. LEGISLATIVE INTENT – UTILITY FACILITIES – COORDINATED
 21 RELOCATION POLICIES – DEFINITIONS. (1) Public highways are intended principally
 22 for public travel and transportation; however, the public highways and the public right-of-way
 23 used in connection with the public highways are also lawfully used in connection with uses
 24 associated with utility purposes necessary to provide utility services to the public. Without
 25 making use of public highways and their associated rights-of-way, the utility facilities and
 26 services could not reach or economically serve the residents of the state of Idaho.

27 Therefore, it is the intent of the legislature that the public highway agencies and utilities
 28 engage in proactive, cooperative coordination of highway projects through a process that will
 29 attempt to effectively minimize costs, limit the disruption of utility services, and limit or reduce
 30 the need for present or future relocation of such utility facilities.

31 (2) In furtherance of the legislative intent expressed in subsection (1) of this section,
 32 public highway agencies engaged in a public highway project that may require the relocation
 33 of utility facilities, or any private party working with a public highway agency on a project
 34 that may require the relocation of utility facilities in connection therewith, shall permit the
 35 affected utility to participate in project development meetings. In addition, at the beginning
 36 of the preliminary design phase of the project, the public highway agency shall, upon giving
 37 written notice of not less than thirty (30) days to the affected utility, meet with the utility for
 38 the purpose of allowing the utility to review plans, understand the goals, objectives and funding

1 sources for the proposed project, provide and discuss recommendations to the public highway
2 agency that would reasonably eliminate or minimize utility relocation costs, limit the disruption
3 of utility services, eliminate or reduce the need for present or future utility facility relocation,
4 and provide reasonable schedules to enable coordination of the highway project construction
5 and such utility facility relocation as may be necessary. While recognizing the essential goals
6 and objectives of the public highway agency in proceeding with and completing a project,
7 the parties shall use their best efforts to find ways to (a) eliminate the cost to the utility of
8 relocation of the utility facilities, or (b) if elimination of such costs is not feasible, minimize the
9 relocation costs to the maximum extent reasonably possible.

10 (3) If a utility has received notice of the preliminary design meeting as set forth in
11 subsection (2) of this section and has failed to respond or participate in meetings described
12 therein, such failure to respond or participate in such meetings shall not in any way affect the
13 ability of the public highway agencies to proceed with the project design or construction.

14 (4) As used in this section:

15 (a) "Utility" means an entity comprised of any person, private company, public agency or
16 cooperative owning and/or operating utility facilities.

17 (b) "Utility facility" means all privately, publicly or cooperatively owned lines, facilities
18 and systems for producing, transmitting or distributing communications, cable television,
19 electricity, light, heat, gas, oil, crude products, ore, water, steam, waste or storm water not
20 connected with highway drainage and other similar commodities.

21 (5) No provision of this chapter shall diminish or otherwise limit the authority of
22 this state, highway district or other political subdivision having jurisdiction over the public
23 right-of-way. Nothing in this chapter shall be construed to limit, abrogate or supersede the
24 provisions of the applicable local ordinance or regulations governing the use of the public
25 right-of-way.