

IN THE SENATE

SENATE BILL NO. 1017

BY TRANSPORTATION COMMITTEE

AN ACT

1 RELATING TO PROVIDERS OF TELECOMMUNICATIONS SERVICE; AMENDING SECTION
2 40-210, IDAHO CODE, TO PROVIDE THAT THE IDAHO TRANSPORTATION DEPARTMENT
3 AND URBAN RENEWAL AGENCIES SHALL PARTIALLY REIMBURSE TELECOMMUNICA-
4 TIONS SERVICE PROVIDERS FOR THE COST OF RELOCATION OF FACILITIES TO
5 ACCOMMODATE CERTAIN PROJECTS, TO PROVIDE FOR APPLICABILITY AND TO DE-
6 FINE TERMS.
7

8 Be It Enacted by the Legislature of the State of Idaho:

9 SECTION 1. That Section 40-210, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 40-210. LEGISLATIVE INTENT -- UTILITY FACILITIES -- COORDINATED RELO-
12 CATION POLICIES -- PROVIDERS OF TELECOMMUNICATIONS SERVICE -- PARTIAL RE-
13 IMBURSEMENT REQUIRED FOR IDAHO TRANSPORTATION DEPARTMENT AND URBAN RENEWAL
14 AGENCY PROJECTS -- DEFINITIONS. (1) Public highways are intended princi-
15 pally for public travel and transportation; however, the public highways and
16 the public right-of-way used in connection with the public highways are also
17 lawfully used in connection with uses associated with utility purposes nec-
18 cessary to provide utility services to the public. Without making use of pub-
19 lic highways and their associated rights-of-way, the utility facilities and
20 services could not reach or economically serve the residents of the state of
21 Idaho.

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

27 (2) In furtherance of the legislative intent expressed in subsection
28 (1) of this section, public highway agencies engaged in a public highway
29 project that may require the relocation of utility facilities, or any pri-
30 vate party working with a public highway agency on a project that may require
31 the relocation of utility facilities in connection therewith, shall permit
32 the affected utility to participate in project development meetings. In
33 addition, at the beginning of the preliminary design phase of the project,
34 the public highway agency shall, upon giving written notice of not less
35 than thirty (30) days to the affected utility, meet with the utility for the
36 purpose of allowing the utility to review plans, understand the goals, ob-
37 jectives and funding sources for the proposed project, provide and discuss
38 recommendations to the public highway agency that would reasonably elimi-
39 nate or minimize utility relocation costs, limit the disruption of utility
40 services, eliminate or reduce the need for present or future utility facil-
41 ity relocation, and provide reasonable schedules to enable coordination of
42 the highway project construction and such utility facility relocation as

1 may be necessary. While recognizing the essential goals and objectives of
 2 the public highway agency in proceeding with and completing a project, the
 3 parties shall use their best efforts to find ways to (a) eliminate the cost to
 4 the utility of relocation of the utility facilities, or (b) if elimination
 5 of such costs is not feasible, minimize the relocation costs to the maximum
 6 extent reasonably possible.

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

12 (4) In the event a telecommunications service provider is required to
 13 relocate its facilities:

14 (a) To accommodate an Idaho transportation department project to
 15 construct or improve a state highway system as defined in section
 16 40-120(5), Idaho Code, the Idaho transportation department shall di-
 17 rectly reimburse the telecommunications service provider seventy-five
 18 percent (75%) of the cost of relocation of its facilities.

19 (b) To accommodate an urban renewal agency project, the urban re-
 20 newal agency shall directly reimburse the telecommunications service
 21 provider seventy-five percent (75%) of the cost of relocation of its
 22 facilities.

23 The provisions of this subsection shall also apply to any such facility relo-
 24 cation in the process of being conducted on the effective date of this act.

25 (5) As used in this section:

26 (a) "Cost of relocation" includes the entire amount paid by the
 27 telecommunications service provider attributable to the relocation of
 28 the utility facility after deducting any salvage value derived from the
 29 old utility facility.

30 (b) "Telecommunications service provider" means facilities-based
 31 providers of local exchange services as described in section
 32 62-603(13), Idaho Code.

33 (c) "Utility" means an entity comprised of any person, private company,
 34 public agency or cooperative owning and/or operating utility facili-
 35 ties.

36 (d) "Utility facility" means all privately, publicly or cooperatively
 37 owned lines, facilities and systems for producing, transmitting or dis-
 38 tributing communications, cable television, electricity, light, heat,
 39 gas, oil, crude products, ore, water, steam, waste or storm water not
 40 connected with highway drainage and other similar commodities.

41 (56) No provision of this chapter shall diminish or otherwise limit the
 42 authority of this state, highway district or other political subdivision
 43 having jurisdiction over the public right-of-way. Nothing in this chapter
 44 shall be construed to limit, abrogate or supersede the provisions of the
 45 applicable local ordinance or regulations governing the use of the public
 46 right-of-way.