

Corrected

SENATE AMENDMENTS TO SENATE BILL 269

By COMMITTEE ON BUSINESS AND TRANSPORTATION

April 29

1 On page 1 of the printed bill, after line 3, insert:

2 “Whereas it is the policy of the Legislative Assembly that a proactive cooperative coordination
3 process between public bodies and utilities is the most effective way to minimize costs, limit dis-
4 ruption of utility services related to highway projects and reduce the potential need for relocation
5 of utility facilities; and

6 “Whereas the primary objective of the coordination process is to deliver a cost-effective product
7 to the public that meets the intent, scope and budget of a highway project; now, therefore,”.

8 Delete lines 6 through 27 and insert:

9 “**SECTION 2. (1) As used in this section:**

10 “(a) ‘**Highway**’ has the meaning given that term in ORS 801.305 (1) but does not include
11 highways located on property owned by the Port of Portland that is subject to federal relo-
12 cation regulations authorized under 49 U.S.C. 47107, as in effect on the effective date of this
13 2009 Act.

14 “(b) ‘**Public body**’ has the meaning given that term in ORS 174.109.

15 “(c) ‘**Utility**’ means a public utility, as defined in ORS 757.005, or a telecommunications
16 utility or competitive telecommunications provider, as those terms are defined in ORS
17 759.005.

18 “(2) If a public body plans a project that would require utilities to relocate their utility
19 facilities that are located in the highway right of way, the public body shall notify affected
20 utilities of the project in writing as soon as is practicable.

21 “(3) During the planning and design phase of a project, the public body shall coordinate
22 with the affected utilities to discuss the project’s scope and schedule. At a minimum, the
23 discussion must include a description of the plans, goals and objectives of the proposed
24 project and options to minimize or eliminate costs to the public body and the utilities. The
25 public body is not required to avoid or minimize costs to the utilities in a way that materially
26 affects the project’s scope, costs or schedule. Failure of the affected utilities to respond or
27 participate in the coordination or discussion does not affect the ability of the public body to
28 proceed with design and construction of the project.

29 “(4) A public body having jurisdiction over a highway may not prohibit a utility from
30 seeking reimbursement from private parties or customers for costs under this section in any
31 permit application, license application or other written agreement authorizing the utility to
32 relocate the facilities.

33 “(5)(a) Notwithstanding any other provision of ORS chapter 759, a telecommunications
34 utility that is not subject to rate-of-return regulation, including a utility regulated under

1 **ORS 759.255 may, after participating in the process described in subsection (3) of this section,**
2 **request authorization from the Public Utility Commission to recover from customers prudent**
3 **costs incurred for the relocation of facilities required by a public body that are not otherwise**
4 **paid or reimbursed from another source. Recoverable relocation costs are the nonfacility**
5 **costs incurred in the relocation plus the undepreciated value of the facilities replaced, in-**
6 **cluding the cost of placing such facilities underground if underground placement is required**
7 **by the public body or other provision of law. The commission may authorize the recovery of**
8 **relocation costs that the commission determines to be substantial and beyond the normal**
9 **course of business.**

10 **“(b) The commission shall:**

11 **“(A) Verify the relocation costs for which the utility requests recovery;**

12 **“(B) Determine the allocation of costs between interstate and intrastate services, ge-**
13 **ographic areas, customers and services; and**

14 **“(C) Prescribe the method of cost recovery.**

15 **“(c) In determining the level of cost recovery and the allocation of costs, the commission**
16 **shall consider:**

17 **“(A) The overall impact on the utility; and**

18 **“(B) Other relevant factors identified by the commission.**

19 **“(d) Relocation costs may be recovered for a reasonable period of time subject to ap-**
20 **proval by the commission and not to exceed the depreciable life of the facilities.”.**

21 **On page 2, delete lines 1 through 31.**

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