

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Committee Substitute

for

Senate Bill 691

BY SENATOR M. MAYNARD

[Reported February 23, 2026, from the Committee on
Transportation and Infrastructure]

1 A BILL to amend and reenact §17-4-17b of the Code of West Virginia, 1931, as amended, relating
2 to authorizing the Division of Highways to provide reimbursement for the timely relocation
3 of utilities.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4. STATE ROAD SYSTEM.

§17-4-17b. Relocation of public utility lines on highway construction projects.

1 (a) Whenever the division reasonably determines that any public utility line or facility
2 located upon, across, or under any portion of a state highway needs to be removed, relocated, or
3 adjusted in order to accommodate a highway project, the division shall give to the utility
4 reasonable notice in writing as mutually agreed, but not to exceed 18 months, directing it to begin
5 the physical removal, relocation, or adjustment of such utility obstruction or interference at the
6 cost of the utility, including construction inspection costs and in compliance with the rules of the
7 division and the provisions of §29A-3-1 *et seq.* of this code.

8 (b) If the notice is in conjunction with a highway improvement project, it will be provided at
9 the date of advertisement or award. Prior to the notice directing the physical removal, relocation,
10 or adjustment of a utility line or facility, the utility shall adhere to the division's utility relocation
11 procedures for public road improvements which shall include, but not be limited to, the following:

12 (1) The division will submit to the utility a letter and a set of plans for the proposed highway
13 improvement project;

14 (2) The utility must within a reasonable time submit to the division a written confirmation
15 acknowledging receipt of the plans and a declaration of whether or not its facilities are within the
16 proposed project limits and the extent to which the facilities are in conflict with the project;

17 (3) If the utility is adjusting, locating, or relocating facilities or lines from or into the division's
18 right-of-way, the utility must submit to the division plans showing existing and proposed locations
19 of utility facilities;

20 (4) The utility's submission shall include with the plans a work plan demonstrating that the
21 utility adjustment, location, or relocation will be accomplished in a manner and time frame
22 established by the division's written procedures and instructions. The work plan shall specify the
23 order and calendar days for removal, relocation, or adjustment of the utility from or within the
24 project site and any staging property acquisition or other special requirements needed to complete
25 the removal, relocation, or adjustment. The division shall approve the work plan, including any
26 requests for compensation, submitted by a utility for a highway improvement project if it is
27 submitted within the established schedule and does not adversely affect the letting date. The
28 division will review the work plan to ensure compliance with the proposed improvement plans and
29 schedule.

30 (c) If additional utility removal, relocation, or adjustment work is found necessary after the
31 letting date of the highway improvement project, the utility shall provide a revised work plan within
32 30 calendar days after receipt of the division's written notification of the additional work. The
33 utility's revised work plan shall be reviewed by the division to ensure compliance with the highway
34 project or improvement. The division shall reimburse the utility for work performed by the utility
35 that must be performed again as the result of a plan change on the part of the division.

36 (d) Should the utility fail to comply with the notice to remove, relocate, or adjust, the utility
37 is liable to the division for direct contract damages, including costs, fees, penalties, or other
38 contract charges, for which the division is proven to be liable to a contractor caused by the utility's
39 failure to timely remove, relocate, or adjust, unless a written extension is granted by the division.
40 The utility shall not be liable for any delay or other failure to comply with a notice to remove,
41 relocate, or adjust that is not solely the fault of the utility, including, but not limited to, the following:

- 42 (1) The division has not performed its obligations in accordance with the division's rules;
- 43 (2) The division has not obtained all necessary rights-of-way that affect the utility;
- 44 (3) The delay or other failure to comply by the utility is due to the division's failure to
45 manage schedules and communicate with the utility;

46 (4) The division seeks to impose liability on the utility based solely upon oral
47 communications or communications not directed to the utility's designated contact person;

48 (5) The division changes construction plans in any manner following the notice to remove
49 or relocate and the change affects the utility's facilities; or

50 (6) Other good cause, beyond the control of and not the fault of the utility, including, but
51 not limited to, labor disputes, unavailability of materials on a national level, act of God, or extreme
52 weather conditions.

53 (e) In order to avoid construction delays and to create an efficient and effective highway
54 program, the division may schedule program meetings with the public utility on a quarterly basis
55 to assure that schedules are maintained.

56 (f) If a utility that is required by law to bear all or a portion of its own relocation costs elects
57 to pursue a reimbursement agreement with the division pursuant to this subsection and provides
58 the division with sufficient evidence to demonstrate that the utility is not adequately staffed,
59 equipped, or capitalized to perform such relocation work with its own forces or contractors at a
60 time convenient to and in coordination with the associated highway project, the division may pay
61 for the associated relocation costs, including, but not limited to, design engineering, design
62 review, construction, and inspection costs, out of the State Road Fund: *Provided*, That the utility
63 shall reimburse the division in full for such portion of the relocation costs that it is required by law
64 to bear within two years of the completion of the highway project. The division shall deduct from
65 the utility's reimbursement amount any costs resulting from work performed as a result of plan
66 changes made by the division. Before the division may pay any relocation costs, the division and
67 the utility shall enter into a written reimbursement agreement containing terms that are mutually
68 acceptable to the division and the utility seeking the reimbursement agreement.

69 (1) Preliminary engineering design work associated with utility relocations to be paid for
70 by the division pursuant to a reimbursement agreement shall be completed by any of the following
71 methods:

72 (A) The division's or the utility's internal forces;

73 (B) A consultant selected by the division if the contract is administered by the division:

74 *Provided*, That the selected consultant shall be pre-approved by the utility; or

75 (C) Inclusion as part of the highway construction contract let by the division as agreed to
76 by the utility: *Provided*, That the subcontractor performing the preliminary engineering design work
77 associated with the relocation is pre-approved by the utility.

78 (2) Utility relocation construction work paid for by the division pursuant to a reimbursement
79 agreement shall be completed by either of the following methods:

80 (A) A contract awarded by the division to the lowest qualified bidder based on an
81 appropriate competitive solicitation: *Provided*, That the lowest qualified bidder for utility relocation
82 construction work is pre-approved by the utility; or

83 (B) Inclusion as part of the highway construction contract let by the division as agreed to
84 by the utility: *Provided*, That the subcontractor performing the utility relocation construction work
85 is pre-approved by the utility.

86 (3) All design and construction work paid for by the division pursuant to a reimbursement
87 agreement is subject to the reasonable inspection and acceptance of the utility, whose
88 acceptance shall not be unreasonably withheld, and shall be performed in accordance with the
89 specifications and standards required by the utility.

90 (4) All relocation work performed pursuant to a reimbursement agreement shall conform
91 to applicable state and federal laws or regulations.

92 (5) The provisions of this subsection are completely voluntary and shall not be interpreted
93 to require any utility to enter into a reimbursement agreement with the division or avail itself of the
94 options authorized by this subsection.

95 (6) The division may propose rules for legislative approval in accordance with the
96 provisions of §29A-3-1 *et seq.* of this code and the division may promulgate emergency rules
97 pursuant to the provisions of §29A-3-15 of this code in order to comply with this subsection.

98 (g) Notwithstanding other provisions of this section, the division may, in its discretion,
99 provide partial or full reimbursement for the relocation of a utility if the physical utility relocation is
100 successfully completed to the satisfaction of the division on or prior to the deadline established
101 by the division. A utility is not eligible to receive any reimbursement pursuant to this subsection
102 unless the division notifies the utility in writing of the following:

103 (1) That the utility is eligible for reimbursement for utility relocation at a specified location
104 or locations;

105 (2) The deadline for completion of the utility relocation;

106 (3) The percentage or monetary amount the division offers to provide for partial or full
107 reimbursement at the division's project expense if the utility completes physical relocation at the
108 location on or before the deadline set by the division; and

109 (4) Additional requirements, if any, that the division specifies the utility must meet to
110 receive reimbursement.

111 Any reimbursement shall be subject to a written agreement entered into by the division
112 and the utility that specifies reimbursement terms in advance of the relocation. This subsection
113 does not affect a utility's eligibility for reimbursement when the utility has the right of occupancy
114 in its existing location because it holds the fee, an easement, or other real property interest, the
115 damaging or taking of which is compensable in eminent domain.