**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 57‑5‑880 SO AS TO DEFINE NECESSARY TERMS, TO PROVIDE THAT THE DEPARTMENT OF TRANSPORTATION SHALL BEAR COSTS, NOT TO EXCEED SEVEN AND ONE‑HALF PERCENT OF THE TOTAL PROJECT COSTS, FOR CONSTRUCTION PROJECTS OR IMPROVEMENTS, TO PROVIDE THAT THIS SECTION DOES NOT GRANT THE DEPARTMENT THE AUTHORITY TO PREVENT OR MATERIALLY LIMIT A PUBLIC WATER SYSTEM’S UTILIZATION OF PROPERTY LOCATED WITHIN A STATE TRANSPORTATION IMPROVEMENT PROJECT’S RIGHT OF WAY, AND TO PROVIDE THAT THE DEPARTMENT MAY ACQUIRE ADDITIONAL RIGHTS OF WAY TO FACILITATE THE LOCATION OF UTILITIES OUTSIDE OF RIGHTS OF WAY CURRENTLY CONTAINED IN THE PUBLIC HIGHWAY SYSTEM.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 5, Chapter 5, Title 57 of the 1976 Code is amended by adding:

“Section 57‑5‑880. (A) For the purposes of this section:

(1) ‘Betterment’ means any upgrade to the facility being relocated that is made solely for the benefit of the public water system and is not attributable to improvement, construction, reconstruction, or alteration of roads, streets, or highways undertaken by the department.

(2) ‘Costs related to relocating water and sewer lines’ means the amount attributable to the relocation, less the amount of any betterment made to the system. Costs related to relocating water and sewer lines include, but are not limited to, right of way acquisition to accommodate the relocated utility, design, engineering, permitting, removal, installation, inspection, materials, and labor costs.

(3) ‘Public highway system’ means:

(a) the state highway system as defined in Section 57‑5‑10;

(b) roads, streets, and highways under the jurisdiction of a county or municipality; and

(c) bridges, tunnels, overpasses, underpasses, interchanges, and other similar facilities located throughout the State.

(4) ‘Public water system’ has the same meaning as contained in Section 44‑55‑20(13).

(5) ‘Public sewer system’ means a sewer system that provides sewer services to the public that is publicly owned or owned by a private, not for profit entity.

(6) ‘Relocating’ or ‘relocated’ means the adjustment of a public water system facility by removing and reinstalling the facility, including necessary temporary facilities; a move, rearrangement, or change of the type of existing facilities; necessary safety and protective measures; and the construction of a replacement facility that is both functionally equivalent to, but not a betterment of, the existing facility and necessary for continuous operation of the system’s service.

(7) ‘Transportation improvement project’ or ‘project’ means a permanent improvement, construction, reconstruction, or alteration to the public highway system, undertaken by the Department of Transportation, a county, or a municipality.

(B) An entity undertaking a transportation improvement project must bear the costs, not to exceed seven and one‑half percent of the total cost of the transportation improvement project, related to relocating water and sewer lines:

(1) that are maintained and operated by a public water system or a public sewer system and are located within the rights of way for a transportation improvement project; and

(2) that must be relocated to undertake the project or that are otherwise required by the department to relocate.

(C) Nothing contained in this section grants the department the authority to prevent or materially limit a public water system’s utilization of property located within a state transportation improvement project’s right of way for water and sewer construction, installation, maintenance, and operations.

(D) In conjunction with new road construction or the maintenance or reconstruction of existing roadways in the public highway system, the department may acquire additional rights of way to facilitate the location of utilities outside of rights of way currently contained in the public highway system. Additional rights of way acquired pursuant to this subsection shall be funded pursuant to an agreement entered into between the department and the utility desiring to utilize the newly acquired right of way.”

SECTION 2. This act takes effect upon approval by the Governor.

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