**South Carolina General Assembly**

125th Session, 2023-2024

**H. 5315**

**STATUS INFORMATION**

General Bill

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Currently residing in the House Committee on **Labor, Commerce and Industry**

Summary: Broadband service line relocation costs

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 3/21/2024 House Introduced and read first time (House Journal‑page 56)

 3/21/2024 House Referred to Committee on **Labor, Commerce and Industry** (House Journal‑page 56)

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**VERSIONS OF THIS BILL**

[03/21/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/5315_20240321.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 57‑5‑880, RELATING TO TRANSPORTATION IMPROVEMENT PROJECTS, SO AS TO PROVIDE AN ENTITY UNDERTAKING A FEDERAL HIGHWAY PROJECT SHALL BEAR THE COSTS RELATED TO RELOCATING BROADBAND SERVICE LINES AND TO PROVIDE THE REQUIREMENTS FOR BROADBAND SERVICE PROVIDERS TO BE ELIGIBLE FOR RELOCATION PAYMENTS; AND REPEAL SECTION 2 OF ACT 36 OF 2019, RELATED TO A SUNSET PROVISION.

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

SECTION 1. Section 57‑5‑880 of the S.C. Code is amended to read:

 Section 57‑5‑880. Section effective until July 1, 2026.

 (A) For the purposes of this section:

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

 (2) “Broadband service” means a service that meets the definition of “broadband service” as defined in Section 58‑9‑10 and that has transmission speeds that are equal to or greater than the requirements defined by the Federal Communications Commission for broadband data gathering and reporting. This definition does not modify or otherwise affect the definition of “broadband services” for the purposes of Section 58‑9‑280.

 (3) “Broadband service provider” means a person or entity that offers broadband service to the public.

 (2)(4) “Costs related to relocating water, and sewer, and broadband lines” means the amount attributable to the relocation, less the amount of any betterment made to the system, and, as to broadband service lines, less any salvage value derived from the old facility. Costs related to relocating water, and sewer, and broadband lines include, but are not limited to, right‑of‑way acquisition to accommodate the relocated utility or broadband service provider, if in the best interests of the transportation improvement project, design, engineering, permitting, removal, installation, inspection, materials, and labor costs.

 (5) “Federal highway project” means any project in connection with the federal‑aid highway system that is funded in whole or in part with federal funds.

 (3)(6) “Large public sewer utility” means a public sewer utility that does not meet the definition of a small public sewer utility.

 (4)(7) “Large public water utility” means a public water utility that does not meet the definition of a small public water utility.

 (5)(8) “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.

 (6)(9) “Public sewer system” means a sewer system that provides sewer services to the public and that is publicly owned or owned by a private, not‑for‑profit entity as defined in Chapter 31, Title 33.

 (7)(10) “Public water system” means, for the purposes of this chapter, any publicly owned or privately owned not‑for‑profit, as defined in Chapter 31, Title 33, waterworks system that provides water, whether piped or delivered through some other constructed conveyance, for human consumption, including the source of supply, whether the source of supply is of surface or subsurface origin.

 (8)(11) “Relocating” or “relocated” means an adjustment necessitated by a transportation improvement project of a public water system, or public sewer system facility, or broadband facility by removing and reinstalling the facility; a move, rearrangement, or change of the type of existing facilities; necessary safety and protective measures; or the construction of a replacement facility that is both functionally equivalent to, but not including any betterment of, the existing facility that is necessary for the continuous operation of the system's service.

 (9)(12) “Small public sewer utility” means a public sewer utility that has ten thousand or fewer sewer connections and that serves a population of thirty thousand or less. In determining whether a public utility offering water or sewer services qualifies as a small utility, the number of water taps and sewer connections shall be counted separately and shall not be combined.

 (10)(13) “Small public water utility” means a public water utility that has ten thousand or fewer water taps and that serves a population of thirty thousand or less. In determining whether a public utility offering water or sewer services qualifies as a small utility, the number of water taps and sewer connections shall be counted separately and shall not be combined.

 (11)(14) “Transportation improvement project” or “project” means a permanent improvement, construction, reconstruction, or alteration to the public highway system undertaken by a state or local governmental entity, or a political subdivision.

 (B)(1) Notwithstanding any encroachment permit conditions to the contrary, an entity undertaking a transportation improvement project or federal highway project must bear the costs, according to the schedule prescribed in subsections (C) and (D), related to relocating water, and sewer, and broadband lines:

 (a) 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

 (b) that are maintained and operated by a broadband service provider and are located within the rights‑of‑way for a federal highway project; and

 (b)(c) that must be relocated to undertake the project.

 (2) To be eligible for payment of the relocation costs, the relocation must be placed under the control of the general contractor for the transportation improvement project or federal highway project, unless the public water system, or public sewer system, or broadband service provider opts out of placing the relocation under the control of the general contractor according to subsection (F).

 (3) To be eligible for payment of the relocation, the public water utility, or public sewer utility, or broadband service provider must meet the bidding and construction schedule established by the entity undertaking the transportation improvement project or federal highway project, such as design conferences and submittal of all relocation drawings and bid documents. All documents necessary for inclusion in the transportation improvement project or federal highway project must be provided by the utility or broadband service provider at least one hundred eighty days prior to the receipt of bids for the project. However, if the transportation improvement project or federal highway project is under an accelerated schedule, then the entity undertaking the project shall notify the utility or broadband service provider of the date by which the documents must be provided. Failure to meet the bidding and construction schedule requirements shall result in the utility or broadband service provider having to bear all relocation costs, except if the delay is due to an event beyond the control of the utility or broadband service provider.

 (C) For a small public water utility or a small public sewer utility, the transportation improvement project shall bear all of the relocation costs, including design costs.

 (D) Subject to subsection (E)(F), for a large public water utility or a large public sewer utility, the transportation improvement project shall bear all of the relocation costs, including design costs, up to four percent of the original construction bid amount of the transportation improvement project. Should more than one large public water utility or large public sewer utility be required to relocate by a single transportation improvement project, the total cost share of up to four percent under this section shall be divided pro rata among the large public water or public sewer utilities required to relocate under the project.

 (E) For a broadband service provider, the federal highway project shall bear all of the relocation costs, including design costs.

 (E)(F) For a transportation improvement project that impacts both a large public utility and a small public utility, the entity undertaking the transportation improvement must pay all of the small public utility's relocation costs, without limitation. The entity must also pay up to four and one‑half percent, minus the costs of the small public utility's relocation costs, of the original construction bid amount of the transportation improvement project toward the large public utility's relocation costs.

 (F)(G) A large public water utility, or a large public sewer utility, or a broadband service provider may choose not to have the relocation placed under the control of the general contractor. A decision by a large public water utility, or a large public sewer utility, or a broadband service provider to not have the relocations placed under the control of the general contractor must be communicated in writing to the entity undertaking the transportation improvement project or federal highway project one hundred eighty days prior to the receipt of bids for the project. Failure to meet the project contract requirements and construction schedule shall result in the utility or broadband service provider having to bear all relocation costs.

 (G)(H) Nothing herein shall prohibit or limit payment by a transportation improvement project or federal highway project for the relocation of public water, or public sewer, or broadband service lines necessary for the transportation improvement project or federal highway project if a public utility or a broadband service provider has a prior right to situate the water, or sewer, or broadband service lines in their present location.

 (H)(I) The department shall include metrics on utility and broadband service provider relocation under this section in its annual accountability report.

SECTION 2. SECTION 2 of Act 36 of 2019 is repealed.

SECTION 3. This act takes effect upon approval by the Governor.

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