

HOUSE BILL REPORT

HB 2660

As Reported by House Committee On:
Technology, Telecommunications & Energy

Title: An act relating to utility relocation costs.

Brief Description: Regarding utility relocation costs.

Sponsors: Representatives Morris, Crouse, Kessler, Ruderman, Hatfield, DeBolt, Linville, Anderson, Simpson, Grant, Jarrett, Murray, Hunt, Gombosky, Esser, Bush, Pflug, Berkey, Delvin and Kenney.

Brief History:

Committee Activity:

Technology, Telecommunications & Energy: 1/30/02, 2/1/02 [DP].

Brief Summary of Bill

- Requires that costs to relocate a utility's facilities incurred as a result of construction of a transit authority rail system be paid by the transit authority.

HOUSE COMMITTEE ON TECHNOLOGY, TELECOMMUNICATIONS & ENERGY

Majority Report: Do pass. Signed by 18 members: Representatives Morris, Chair; Ruderman, Vice Chair; Crouse, Ranking Minority Member; Anderson, Berkey, Bush, Casada, Delvin, Esser, Hunt, Linville, Lysen, Nixon, Pflug, Reardon, Romero, Sullivan and Wood.

Staff: Pam Madson (786-7166).

Background:

In 1992 the Legislature authorized the creation of a regional transit authority for contiguous counties with a population of over 400,000. In 1993 the county councils of King, Pierce and Snohomish counties voted to form a regional transit authority. The authority is charged with implementing a high capacity transportation system and developing revenues to support the system. This central Puget Sound regional transit authority is known as Sound Transit.

In 1996 voters within the boundaries of Sound Transit approved a plan and local option taxes to support the plan. Implementation of the plan includes construction of a light rail system. This construction will require the removal and relocation of various utility facilities located along the rail line. Sound Transit is currently in negotiations with various utilities on the issue of relocation of facilities.

Historically, when improvements to a public right-of-way required the displacement of telecommunications equipment, telecommunications companies paid the expense of relocation. A county, in granting a franchise for use by a utility of a county road right-of-way, may require that any relocation reasonably necessary for construction, alteration or improvement must be paid by the utility. In 2000 the Legislature allowed utilities under certain circumstances to seek reimbursement from a city when the utility's facilities are required to be relocated. Utilities may seek reimbursement when aerial facilities are being relocated underground, when the utility has paid for relocation of the same facilities within the last five years, or when the city was seeking relocation for aesthetic reasons. The Department of Transportation may also reimburse a utility for relocation costs under certain circumstances.

Summary of Bill:

In the case of a regional transit authority, the costs of removing or relocating utility facilities that result from construction, alteration, repair or improvement of the transit authority's rail system must be included in the cost of the system and must be paid by the authority. The cost of any upgrades to a utility's existing facilities undertaken by the utility are paid by the utility. In order to minimize costs and disruption to service, the transit authority and the utility must negotiate over design, engineering and route selection of the system. "Utility facilities" subject to these relocation provisions include cable television, gas, electric and telecommunications facilities.

Disputes over costs may be submitted to an independent auditor agreed to by the parties. The auditor will determine if costs are accurate and his or her decision is final. The party requesting the audit is responsible for paying the cost of the auditor.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This bill is limited in scope and purpose. The issue is in making room for sound transit's rail system, who pays the costs for utility facility relocations. The issue is one of equity and fairness. Sound Transit is a project with voter approved

revenue from taxes to pay for the project. Costs associated with relocating utility facilities because of the project should be paid for by project funds. Federal funds for the project included potential relocation costs. Different utilities will have different costs based on the facilities being transferred. Two agreements already negotiated with Sound Transit and other utilities (public and private) have different utilities paying a different percentage of the relocation costs and in one case paying no costs. Some utilities must move their facilities and others have been allowed to remain in their location with some upgrades in facilities. Tax payers have been asked to pay through taxation for the Sound Transit project, they pay if a utility's or local government's costs increase because of relocation expenses, and they pay if costs increase because of on-going disputes. As costs increase for utilities, jobs may be threatened. Legislation is needed to provide consistent and fair treatment.

Testimony Against: The law currently states that for the privilege of being in a public right-of-way without charge, utilities have to pay the costs of relocation. Sound Transit does not have authority to order utilities out of rights-of-way. A city has the authority to move a utility out of its right-of-way. Tacoma has asked Sound Transit to locate in a certain place and Tacoma is ordering Qwest to move its facilities. This is an issue of importance to cities and counties. This would change public policy in this state to have a utility not pay for relocation costs when using a public right-of-way. Qwest, as a national corporation, has budgeted for relocation costs as a cost of doing business to serve its customers. One agreement with Sound Transit has recently been amended to require the utility to pay all relocation costs in that it competes with other utilities. This bill will affect all transit authorities. Requiring that the parties negotiate over design and engineering issues may result in negotiating over safety issues to cut costs and that is a concern.

Testified: (In support) Tom Walker and Greg Peden, Qwest; Barb Young, Sprint; Mike Woodin, AT&T; and Jerri Wood, Communication Workers of America Local 7800 and Washington State Council of CWA.

(With concerns) John Landenburg and Desmond Brown, Sound Transit; Sherry Appleton, League of Women Voters; Jim Fitzgerald, ATULC; and Richard Frank, Puget Sound Technology.