

SENATE BILL REPORT

ESB 6084

As Passed Senate, June 5, 2003

Title: An act relating to utility relocation costs.

Brief Description: Concerning utility relocation costs.

Sponsors: Senators Esser, Reardon, Rossi, Prentice, Horn, Fairley and Finkbeiner.

Brief History:

First Special Session: Passed Senate: 6/5/03, 29-18.

Staff: William Bridges (786-7424)

Background: In 1993, the King, Pierce, and Snohomish county councils formed a regional transit authority, now known as Sound Transit. The authority is charged with implementing a high capacity transportation system and developing revenues to support the system.

In 1996, voters within the boundaries of Sound Transit approved a regional transit plan that included construction of a light rail system. Sound Transit is currently working on two segments of the light rail system: (1) Tacoma Link, a 1.6-mile route servicing downtown Tacoma, and (2) Central Link, a 14-mile route connecting downtown Seattle and SeaTac. Tacoma Link is scheduled to operate in fall 2003. The 14-mile segment of Central Link route is scheduled to operate by 2009, after which the route may be extended to Northgate.

The light rail system will use public rights of way and will require the relocation of various utility facilities. Under the common law, when improvements to a public right of way require the displacement of a utility's facilities, the utility must pay for the relocation. This general rule, however, may be modified by contract or by state or local law.

During the 2003 Regular Session, the Legislature passed SB 5632, which required a regional transit authority to pay for the costs of relocating utility facilities caused by the construction of a rail fixed guideway system. The bill also required the regional transit authority and each affected utility to negotiate the engineering, design, and route selection of the system in order to minimize the cost and disruption of services related to the relocation. Finally, the bill required disputes over the cost of the relocation to be submitted to an independent auditor chosen by the disputing parties, with the auditor's fee to be paid by the party requesting the audit.

The Governor vetoed SB 5632 in its entirety. The Governor's veto message explained that Sound Transit and local governments relied on existing law when preparing their budgets and design plans for the Tacoma and Central Link light rail projects. "To shift relocation costs from the utilities to Sound Transit at this late date," the Governor continued, "would potentially disrupt or delay transportation projects that are vital to the Puget Sound region."

The Governor also stated that the bill "could be interpreted as requiring utilities' approval of engineering, design, and route selection of the system."

Summary of Bill: If a regional transit authority agrees to reimburse a private utility provider for the costs of relocating utility facilities due to the construction, alteration, repair, or improvement of a regional transportation system, the authority must make available substantially similar terms and conditions to other similarly affected utilities.

Beginning December 31, 2009, if utility facilities must be relocated for the construction, alteration, repair, or improvement of a rail fixed guideway system, the relocation costs must be included in the cost of the system and must be paid by the authority; however, a utility may agree to assume the relocation costs. If a utility takes advantage of a relocation to upgrade its own facilities, it must pay the additional costs of the upgrade.

A transit authority must consult with affected utilities on the engineering, design, and route selection of the system to minimize the cost and disruption of services related to the relocation.

Disputes over the cost of the relocation must be submitted to an independent auditor chosen by the disputing parties. The auditor's fee must be paid by the party requesting the audit. The auditor's decision is final.

"Utility facilities" is defined to include cable television, gas, electric, and telecommunications facilities. "Relocation" is defined to include removal, adjustment, protection, restoration, and replacement.

Appropriation: None.

Fiscal Note: Not requested.

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