

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 299

6
7 S.P. 101

In Senate, January 30, 1985

8 Reference to the Committee on Transportation suggested and ordered
9 printed.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Baldacci of Penobscot.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FIVE
16

17 AN ACT to Reimburse Public Utilities for the
18 Costs of Relocating Facilities as a
19 Result of State Highway Construction.
20

21 Be it enacted by the People of the State of Maine as
22 follows:

23 23 MRSA §256 is enacted to read:

24 §256. Payment for cost of relocating utility facili-
25 ties as a result of state highway construction

26 Any utility which is required to move or relocate
27 its facilities under this section from or in any way
28 because of construction needs in building, relocat-
29 ing, widening or otherwise performing work on or with
30 respect to any state highway shall be reimbursed for
31 the cost of relocation of the facilities. The de-
32 partment may make rules for the determination of the
33 cost consistent with the determination of the cost
34 under section 255. The department shall have such
35 rights to inspect the books of account of the utility

1 as may be required in determining the reimbursable
2 costs provided in this section.

3 Whenever the department determines that any util-
4 ity facility which now is, or hereafter may be, lo-
5 cated in, over, along or under any way should be
6 moved or relocated because of construction needs in
7 relocating, widening or otherwise performing work on
8 or with respect to a state highway, the utility own-
9 ing or operating the facility shall relocate or move
10 the facility in accordance with an order of the de-
11 partment. If the failure of the utility to move the
12 facility within the time specified in the order de-
13 lays the work of the contract involved, the utility
14 shall be liable to the State for the damages that the
15 State may be required to allow the contractor under
16 the contract between the State and the contractor for
17 delay in the work caused by the presence of the fa-
18 cility. The utility shall not be liable for the
19 damages if its failure to move is for reasons beyond
20 its control. If the department and the utility do
21 not agree as to the liability of the utility for the
22 damages, either party may appeal to the Superior
23 Court for a determination of liability. The liabili-
24 ty shall not exceed such reimbursable costs as may be
25 determined by this section.

26 "Utility" as used in this section means and in-
27 cludes any public utility under the jurisdiction of
28 the Public Utilities Commission and any corporation
29 which owns and operates a telephone or telegraph sys-
30 tem or an oil pipe line system and which is subject
31 to the jurisdiction of the Federal Communications
32 Commission or Interstate Commerce Commission and any
33 municipality or any quasi-municipal body operating a
34 utility service such as a fire or police alarm line,
35 street lighting, sewerage or water pipes and any ru-
36 ral electrification cooperative which is subject to
37 Title 35, chapters 221 to 227.

38 The reimbursable costs provided in this section
39 shall be paid from the Highway Fund operating capital
40 under the direction of the department, and the High-
41 way Fund operating capital may be repaid in full for
42 any costs so paid from any reimbursements received by
43 the department from the Federal Government.

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STATEMENT OF FACT

2 Under present law, the Maine Revised Statutes,
3 Title 23, section 255, public utilities are entitled
4 to reimbursement out of the Highway Fund for up to
5 90% of the costs of relocating facilities when re-
6 quired in connection with the construction of inter-
7 state highways. No similar provision applies when
8 public utility facilities must be relocated in con-
9 nection with state highway construction. The cost to
10 the ratepayers of Maine's public utilities arising
11 from relocation of facilities due to highway con-
12 struction is substantial. This bill ensures that the
13 cost of relocating utility facilities, when required
14 for highway construction, is borne by the taxpayers
15 in the same way that the cost of the highway con-
16 struction itself is borne, and not by ratepayers.

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