

# HOUSE BILL 101

R2, C5

4lr1141

(PRE-FILED)

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By: **Delegate Charkoudian**

Requested: October 24, 2023

Introduced and read first time: January 10, 2024

Assigned to: Economic Matters and Environment and Transportation

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## A BILL ENTITLED

1 AN ACT concerning

2 **State Highway Projects – Removal, Relocation, and Adjustment of Utility**  
3 **Facilities – Notification, Work Plans, and Compliance**

4 FOR the purpose of requiring the State Highway Administration to provide certain notices  
5 to the owner or operator of a utility facility for the removal, relocation, or adjustment  
6 of the utility facility for a State highway project; requiring the owner or operator of  
7 the utility facility to provide certain information to the Administration; requiring the  
8 owner or operator of a utility facility to pay for certain costs and damages under  
9 certain circumstances; prohibiting a certain utility from recovering through rates  
10 certain costs; authorizing the owner or operator of a utility facility to request  
11 mediation under certain circumstances; and generally relating to utility facilities  
12 and State highway projects.

13 BY adding to

14 Article – Transportation

15 Section 8–657.1

16 Annotated Code of Maryland

17 (2020 Replacement Volume and 2023 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
19 That the Laws of Maryland read as follows:

20 **Article – Transportation**

21 **8–657.1.**

22 **(A) IN THIS SECTION, “UTILITY FACILITY” INCLUDES POLES, WIRES, LINES,**  
23 **PIPES, SEWERS, CONDUITS, CABLES, VALVES, MANHOLES, ATTACHMENTS, AND ANY**  
24 **OTHER INFRASTRUCTURE USED BY A UTILITY.**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           **(B) (1) IF THE ADMINISTRATION DETERMINES THAT IT IS NECESSARY TO**  
2 **REMOVE, RELOCATE, OR ADJUST A UTILITY FACILITY FOR A STATE HIGHWAY**  
3 **PROJECT, THE ADMINISTRATION SHALL SEND THE OWNER OR OPERATOR OF THE**  
4 **UTILITY FACILITY A LETTER REGARDING THE PLANS FOR THE PROJECT, INCLUDING**  
5 **THE LOCATION OF THE UTILITY FACILITY AT ISSUE.**

6           **(2) THE LETTER SHALL SPECIFY A DATE, NOT TO EXCEED 120 DAYS**  
7 **AFTER THE DATE OF THE LETTER, BY WHICH THE OWNER OR OPERATOR OF THE**  
8 **UTILITY FACILITY MUST SUBMIT WORK PLANS TO THE ADMINISTRATION IN**  
9 **ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION.**

10           **(C) (1) AN OWNER OR OPERATOR OF A UTILITY FACILITY THAT RECEIVES**  
11 **A LETTER UNDER SUBSECTION (B) OF THIS SECTION SHALL SUBMIT TO THE**  
12 **ADMINISTRATION, BY THE DATE SPECIFIED IN THE LETTER:**

13                   **(I) WRITTEN CONFIRMATION ACKNOWLEDGING RECEIPT OF**  
14 **THE ADMINISTRATION'S LETTER; AND**

15                   **(II) A WORK PLAN THAT INCLUDES:**

16                           **1. A DEPICTION OF THE EXISTING AND PROPOSED**  
17 **LOCATIONS OF THE UTILITY FACILITIES IDENTIFIED FOR REMOVAL, RELOCATION,**  
18 **OR ADJUSTMENT; AND**

19                           **2. A TIME FRAME FOR COMPLETING THE REMOVAL,**  
20 **RELOCATION, OR ADJUSTMENT.**

21           **(2) IF THE OWNER OR OPERATOR OF A UTILITY FACILITY FAILS TO**  
22 **SUBMIT A WORK PLAN BY THE DATE SPECIFIED IN THE LETTER, THE OWNER OR**  
23 **OPERATOR SHALL BE RESPONSIBLE FOR THE COST OF REMOVING, RELOCATING, OR**  
24 **ADJUSTING THE UTILITY FACILITY.**

25           **(D) (1) THE ADMINISTRATION SHALL REVIEW A WORK PLAN SUBMITTED**  
26 **UNDER SUBSECTION (C) OF THIS SECTION TO ENSURE IT MEETS THE NEEDS OF THE**  
27 **STATE HIGHWAY PROJECT.**

28                   **(2) (I) ON APPROVAL OF A WORK PLAN SUBMITTED UNDER**  
29 **SUBSECTION (C) OF THIS SECTION, THE ADMINISTRATION SHALL NOTIFY THE**  
30 **OWNER OR OPERATOR OF THE UTILITY FACILITY TO BEGIN THE PHYSICAL REMOVAL,**  
31 **RELOCATION, OR ADJUSTMENT OF THE UTILITY FACILITY WITHIN 60 DAYS AFTER**  
32 **RECEIPT OF THE NOTICE.**

1           **(II) IF THE OWNER OR OPERATOR OF A UTILITY FACILITY DOES**  
2 **NOT BEGIN WORK WITHIN 60 DAYS AFTER RECEIPT OF THE NOTICE SENT UNDER**  
3 **SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE ADMINISTRATION MAY PROVIDE A**  
4 **FINAL NOTICE TO THE OWNER OR OPERATOR DIRECTING THAT THE WORK MUST**  
5 **BEGIN WITHIN 10 DAYS AFTER THE RECEIPT OF THE FINAL NOTICE.**

6           **(III) IF THE OWNER OR OPERATOR OF A UTILITY FACILITY FAILS**  
7 **TO BEGIN WORK WITHIN 10 DAYS AFTER THE FINAL NOTICE SENT UNDER**  
8 **SUBPARAGRAPH (II) OF THIS PARAGRAPH OR FAILS TO COMPLETE THE WORK**  
9 **WITHIN THE TIME FRAME SPECIFIED IN THE WORK PLAN, THE ADMINISTRATION**  
10 **MAY SEEK INJUNCTIVE RELIEF.**

11           **(E) (1) IF THE OWNER OR OPERATOR OF A UTILITY FACILITY FAILS TO**  
12 **PROVIDE A WORK PLAN IN ACCORDANCE WITH SUBSECTION (C)(1) OF THIS SECTION**  
13 **OR FAILS TO COMPLETE THE WORK IN ACCORDANCE WITH THE WORK PLAN, THE**  
14 **OWNER OR OPERATOR MAY BE LIABLE TO:**

15           **(I) THE CONTRACTOR OF THE STATE HIGHWAY PROJECT FOR**  
16 **COSTS INCURRED BY THE CONTRACTOR DUE TO THE OWNER OR OPERATOR'S**  
17 **FAILURE TO PROVIDE THE WORK PLAN OR COMPLETE THE WORK IN ACCORDANCE**  
18 **WITH THE WORK PLAN; AND**

19           **(II) THE ADMINISTRATION FOR DAMAGES RESULTING SOLELY**  
20 **FROM THE OWNER OR OPERATOR'S FAILURE TO PROVIDE THE WORK PLAN OR**  
21 **COMPLETE WORK IN ACCORDANCE WITH THE WORK PLAN.**

22           **(2) (I) IF THE ADMINISTRATION DETERMINES THAT AN OWNER OR**  
23 **OPERATOR OF A UTILITY FACILITY IS LIABLE UNDER PARAGRAPH (1) OF THIS**  
24 **SUBSECTION, THE ADMINISTRATION SHALL PROVIDE NOTICE OF LIABILITY TO THE**  
25 **OWNER OR OPERATOR.**

26           **(II) AN OWNER OR OPERATOR OF A UTILITY FACILITY SHALL,**  
27 **WITHIN 45 DAYS AFTER RECEIPT OF THE NOTICE:**

28                   **1. PAY THE COSTS OR DAMAGES SPECIFIED IN THE**  
29 **NOTICE; OR**

30                   **2. REQUEST MEDIATION.**

31           **(F) (1) IF ADDITIONAL UTILITY FACILITY REMOVAL, RELOCATION, OR**  
32 **ADJUSTMENT WORK IS FOUND TO BE NECESSARY AFTER THE ADMINISTRATION HAS**  
33 **SECURED A CONTRACTOR FOR THE STATE HIGHWAY PROJECT, THE**  
34 **ADMINISTRATION SHALL PROVIDE WRITTEN NOTICE TO THE OWNER OR OPERATOR**

1 OF THE UTILITY FACILITY DESCRIBING THE ADDITIONAL WORK NECESSARY AND  
2 REQUESTING A REVISED WORK PLAN.

3 (2) AN OWNER OR OPERATOR OF A UTILITY FACILITY SUBJECT TO  
4 ADDITIONAL WORK UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL SUBMIT A  
5 REVISED WORK PLAN TO THE ADMINISTRATION:

6 (I) WITHIN 30 DAYS AFTER BECOMING AWARE OF THE  
7 ADDITIONAL WORK; OR

8 (II) ON RECEIPT OF THE ADMINISTRATION'S NOTICE UNDER  
9 PARAGRAPH (1) OF THIS SUBSECTION.

10 (3) THE ADMINISTRATION SHALL REVIEW A REVISED WORK PLAN  
11 SUBMITTED UNDER PARAGRAPH (2) OF THIS SUBSECTION TO ENSURE IT MEETS THE  
12 NEEDS OF THE ADDITIONAL WORK DESCRIBED IN THE NOTICE PROVIDED UNDER  
13 PARAGRAPH (1) OF THIS SUBSECTION.

14 (G) (1) THIS SUBSECTION APPLIES TO A UTILITY THAT:

15 (I) OWNS, OPERATES, MANAGES, OR IS OTHERWISE  
16 RESPONSIBLE FOR A UTILITY FACILITY THAT NEEDS TO BE REMOVED, RELOCATED,  
17 OR ADJUSTED UNDER THIS SECTION; AND

18 (II) IS SUBJECT TO RATE REGULATION UNDER TITLE 4 OF THE  
19 PUBLIC UTILITIES ARTICLE.

20 (2) A UTILITY MAY NOT RECOVER THROUGH RATES:

21 (I) THE COSTS INCURRED FOR THE REMOVAL, RELOCATION,  
22 OR ADJUSTMENT OF A UTILITY FACILITY UNDER SUBSECTION (C)(2) OF THIS  
23 SECTION;

24 (II) THE COSTS INCURRED BY A CONTRACTOR FOR WHICH THE  
25 OWNER OR OPERATOR OF A UTILITY FACILITY IS LIABLE UNDER SUBSECTION  
26 (E)(1)(I) OF THIS SECTION;

27 (III) DAMAGES OWED TO THE ADMINISTRATION UNDER  
28 SUBSECTION (E)(1)(II) OF THIS SECTION; OR

29 (IV) ANY FINES ASSESSED AGAINST THE UTILITY FOR THE WORK  
30 PERFORMED UNDER THIS SECTION.

1           **(H) THE ADMINISTRATION SHALL ADOPT REGULATIONS TO CARRY OUT**  
2 **THIS SECTION, INCLUDING REGULATIONS ESTABLISHING:**

3                   **(1) A PROCESS FOR THE ADMINISTRATION TO REVIEW WORK PLANS**  
4 **SUBMITTED UNDER THIS SECTION; AND**

5                   **(2) A MEDIATION PROCESS TO HANDLE REQUESTS MADE UNDER**  
6 **SUBSECTION (E)(2)(II) OF THIS SECTION.**

7           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
8 October 1, 2024.