

February 15, 2024

The Honorable C.T. Wilson  
Chair, House Economic Matters Committee  
231 House Office Building  
Annapolis MD 21401

***RE: Letter of Information – House Bill 101 – State Highway Projects – Removal, Relocation, and Adjustment of Utility Facilities – Notification, Work Plans, and Compliance***

Dear Chair Wilson and Committee members:

The Maryland Department of Transportation (MDOT) offers the following information for the Committee’s consideration on House Bill 101.

House Bill 101 generally requires certain notices and sets certain responsibilities for the State and utility owners or operators in situations where the State Highway Administration (SHA) determines that it is necessary to remove, relocate, or adjust a utility facility in order to perform a State highway project. The bill establishes the liability of parties for failing to comply with certain responsibilities. Additionally, House Bill 101 prohibits utilities that are subject to rate regulation under Title 4 of the Public Utilities Article from recovering through rates certain costs, damages, and fines that may be assessed on the utility under the provisions of the bill.

While many State highway projects requiring utility removal, relocation, or adjustment proceed in an orderly fashion, SHA has been responsible for significant cost overruns due to delays on several recent projects. Currently, SHA is negotiating over \$15.6 million in ongoing requests for equitable adjustment and delay claims directly associated with utility relocations on major projects from multiple utility companies.

Cost overruns for utility delays are typically not reimbursable using federal funds, as the Federal Highway Administration sees the delay as a state issue. With the current status of the Transportation Trust Fund, the importance of effective utility coordination is paramount to ensure the State receives the maximum benefit of its limited transportation dollars. While SHA maintains agreements with several utilities that govern certain interactions between the State and the utility, these typically do not contain provisions that provide for the scheduling of projects and outline the rights of the parties in the event of a delay. Several states including North Carolina, Georgia, Florida, and others have enacted legislation similar to House Bill 101.

Delays to MDOT’s capital projects due to utility issues not only increases overall costs, but also increases the amount of time it takes to deliver projects. Increased project timelines have direct impacts on Marylanders who walk, bike, ride, and drive and rely on our roadways and facilities to connect to employment opportunities, medical appointments, education, and leisure activities.

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While House Bill 101 is limited to the impact of utility delays on State highway projects, these delays affect project delivery across all of MDOT's modes.

The Maryland Department of Transportation values its partnership with utility owners and operators serving the State and welcomes the opportunity for further collaboration to address and avoid delays and improve outcomes. MDOT respectfully requests the committee consider this information during its deliberations of House Bill 101.

Sincerely,

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