

HB101_Daphnis_MoCoFSS.pdf

Uploaded by: Kristy Daphnis

Position: FAV



HB101: State Highway Projects and Utility Compliance **Montgomery County Families for Safe Streets – FAVORABLE** **February 15, 2024**

Montgomery County Families for Safe Streets (MoCo FSS) supports HB101, to ensure that utility work doesn't delay State highway projects.

Our State highways are not only conduits for cars and people – there are often utilities and infrastructure (like poles, wires, lines, and pipes) alongside of, underneath, and above our State highway corridors. When the State decides to install a new traffic control device, signal, crosswalk, or bike lane, these utilities often need to be changed or moved to complete the project. There are multiple steps and hurdles in the existing process of installing a State highway project, involving a complex requesting, permitting, approving, and designing a new traffic control device or other infrastructure changes. In addition to this lengthy process, there is an additional process requiring the State Highway Administration to request that the utility owner or provider perform utility work. However, there is NO requirement that the utility provider to provide a timeline for completion, nor is there any incentive to move quickly. Furthermore, utility delays result in significant costs to the Transportation Trust Fund, at a time that the fund is cutting projects due to budget constraints.

If you've ever requested a traffic signal or other infrastructure-based safety improvement along a State highway, you'll understand just how long these delays can drag on. I've personally requested the installation of several traffic control devices, in areas where vulnerable road users are at great risk. In my experience, in nearly every instance it has taken over 5 years for a traffic signal to be installed. And, this estimate does not even account for utility delays. In one instance, along the Georgia Avenue corridor (MD97) at the intersection of Georgia and Price, a complex web of water, electric, and WMATA utilities have complicated and delayed the installation of a signal at the heart of Wheaton's urban core. Pedestrians are forced to cross at an unprotected crosswalk to get to the Metro, the bus stop, the grocery store, and other amenities. This traffic signal was requested over 5 years ago.

In 2023 there were over 590 traffic fatalities in the State of Maryland. How long must my community and other communities wait for these basic crash-prevention and life-saving solutions? Delays in installing traffic safety infrastructure are unacceptable and untenable – and, we must hold our utility providers and our traffic agencies accountable to timely solutions. This bill would help to do this, by requiring utility providers to provide a plan and a timeline, and regulations and penalties requiring these providers to stick to that timeline. These requirements would move our state in the right direction toward realization of the State's Vision Zero goal of ending roadway fatalities and serious injuries by 2030.

Thank you for the opportunity to testify today.

Kristy Daphnis, Executive Steering Committee, Montgomery County Families for Safe Streets

Testimony.HB101_Delegate Lorig Charkoudian.docx (1

Uploaded by: Lorig Charkoudian

Position: FAV



THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

HB 101- STATE HIGHWAY PROJECTS- REMOVAL, RELOCATION, AND ADJUSTMENT OF UTILITY
FACILITIES- NOTIFICATION, WORK PLANS, AND COMPLIANCE

FEBRUARY 15, 2024

Chair Wilson, Vice Chair Crosby, Members of the Economic Matters Committee, Chair Korman, Vice Chair Boyce, and Members of the Environment and Transportation Committee,

Utility infrastructure lines our streets and runs beneath them. Oftentimes, utilities need to be moved or changed to allow for successful completion of new traffic engineering elements. The State Highway Administration (SHA) can request the utilities to perform this work, but there are currently no requirements or incentives for them to do this work adhering to any agreed upon timeline. This lack of accountability is causing significant delays for SHA, incurring unnecessary costs for the Transportation Trust Fund, and delaying safety projects which leads to crash fatalities for drivers, cyclists, and pedestrians.

For example, the Purple Line construction project has been significantly delayed due to this issue. Utility relocation challenges have added \$14.3 million in additional costs to the project.¹

This legislation revises the Transportation Article to create a timeline for utility work and includes accountability measures for inaction.

This legislation outlines the following process for notification, work plan submission, and timelines:

- When SHA finds it is necessary to adjust a utility facility for a state highway project, they will send a letter to the relevant utility company with details on the project and a date by which the utility must submit work plans for the utility alteration.
- The utility company must return to the SHA by the specified date an acknowledgement of the request, an outline of their work plan, and a time frame for completing it.
 - If the utility fails to submit a work plan by the specified date, cost of the utility alteration falls to the utility company.
- Once the utility has SHA approval of the work plan, they have 60 days to begin work on the utility alteration.
 - If the utility doesn't meet this deadline and doesn't begin work, even after SHA sends a final notice requiring work in 10 days, SHA may seek injunctive relief.
- If no work plan is completed or work does not begin within the timeframe, the utility may be liable for costs or damages.
- For utilities subject to rate regulation, any fines may not be passed on to rate-payers.

I respectfully request a favorable report on HB 101.

¹ 2024 Legislative Session Issue Paper. Reference on page 170. [link](#)

2024- HB101-PHI- OPP.pdf

Uploaded by: Anne Klase

Position: UNF



February 15 2024



112 West Street
Annapolis, MD 21401

OPPOSE – House Bill 101 State Highway Projects - Removal, Relocation, and Adjustment of Utility Facilities - Notification, Work Plans, and Compliance

Potomac Electric Power Company (Pepco) and Delmarva Power & Light Company (Delmarva Power) respectfully oppose **House Bill 101 State Highway Projects - Removal, Relocation, and Adjustment of Utility Facilities - Notification, Work Plans, and Compliance**. House Bill 101 requires the State Highway Administration (SHA) to send owners or operators of utility facilities a notice regarding project plans requiring the removal, relocation or adjustment of utility facilities. An owner or operator of utility facility would then need to confirm receipt of the letter from SHA and submit a work plan to SHA. If the owner or operator of the utility facility fails to submit a work plan by the date specified in the notice, the cost for the removal, relocation or adjustment will be borne by the owner or operator of the utility facility.

House Bill 101 places several impractical timelines on owners and operators of utility facilities and does not consider the practical implications and unique circumstances that may arise from each project request. Among other things, the size of a project, type of project request, permitting requirements, environmental compliance, and additional stakeholder involvement can all impact a project's timeline. For example, there are instances where other utilities are performing their relocation project in the same space or nearby space, and a utility owner or operator is unable to perform their work until the other work is completed. There are also circumstances where a work site is located in protected wetlands, requiring additional environmental engineering plans, permits, sediment control, replanting, prohibitions of heavy machinery, and environmental compliance, all which can delay a project. There are many scenarios in which a project may be delayed for reasons that are not caused by the owner or operator of a utility facility, yet that entity would still be responsible for meeting the timelines in the legislation and would be penalized financially by not meeting them. As written, there is no mechanism to allow for a utility to request additional time and not be penalized.

The potential for extremely high penalties is disproportionate to a minor infraction that may occur. For example, if the owner and operator of a facility is a day late submitting a work plan for a \$10 million relocation project, as written, that owner or operator of the facility would be responsible for the cost of relocation, even if the delay was not caused by them. Finally, the legislation does not have a process as to how SHA would determine liability to comport with principles of due process.

While we appreciate the bill sponsors intent for the legislation, Pepco and Delmarva Power respectfully request an unfavorable report on House Bill 101 as introduced. We look forward to continuing conversations with the bill sponsor and all stakeholders involved.

Contact:

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MML-HB 101 - UNFAV.pdf

Uploaded by: Bill Jorch

Position: UNF



Maryland Municipal League
The Association of Maryland's Cities and Towns

TESTIMONY

February 15, 2024

Committee: House Economic Matters

Bill: HB 101 - State Highway Projects - Removal, Relocation, and Adjustment of Utility Facilities - Notification, Work Plans, and Compliance

Position: Unfavorable

Reason for Position:

The Maryland Municipal League (MML) opposes House Bill 101 as it sets potentially unworkable requirements on municipal governments as owners of utility facilities in State Highway Administration (SHA) rights-of-way to remove or relocate their facilities due to an SHA project.

Many municipal governments provide utility service to their residents and own or operate a “utility facility” according to the bill’s definition. The most common utility provided by municipalities is water, sewer, and stormwater, though some also offer electric service and use cables for communication purposes. These utility facilities are most often found under roadways either owned by the municipality or owned by SHA on a state highway that runs through the municipality.

One major problem with the bill is the process for SHA to submit notice to a utility facility owner that their facilities must be removed or relocated in prior to an SHA project and the response required. The bill states that the notice from SHA to a utility owner must specify a date not to exceed 120 days by which the utility owner must submit a work plan. What the bill does not specify is the earliest date by which SHA may require the work plan to be submitted. For instance, a letter from SHA to a utility owner dated January 1 can specify the date the work plan is due as April 26 which does not exceed 120 days as stated in the bill. However, that same letter from SHA dated January 1, could also specify the date the work plan is due as January 10, because that too does not exceed 120 days, but is an unworkable turnaround time to complete a work plan that requires moving water and sewer pipes.

Municipal governments also are right-of-way owners under which other utility providers place their facilities. The bill is written to only apply to SHA projects so the benefits of workplans and deadlines only benefit SHA. Meanwhile, local governments own the vast majority of the roads in the State and are subject to the requirements of utility facility owners but receive none of the benefits of the bill from the perspective as right-of-way owners.



Maryland Municipal League
The Association of Maryland's Cities and Towns

The provisions of HB 101 place a heavy burden on municipal governments as owners of utility facilities without any of the benefits that SHA sees as right-of-way owners. For this reason, the League respectfully requests that the committee provide House Bill 101 with an unfavorable report.

FOR MORE INFORMATION CONTACT:

Theresa Kuhns
Angelica Bailey Thupari, Esq.
Bill Jorch
Justin Fiore

Chief Executive Officer
Director, Advocacy & Public Affairs
Director, Public Policy & Research
Deputy Director, Advocacy & Public Affairs

HB0101 -- State Highway Projects - Removal, Reloca

Uploaded by: Brian Levine

Position: UNF



House Bill 101 -- *State Highway Projects - Removal, Relocation, and Adjustment of Utility Facilities - Notification, Work Plans, and Compliance*

House Economic Matters Committee and House Environment and Transportation Committee

February 15, 2024

Oppose

The Montgomery County Chamber of Commerce (MCCC), the voice of business in Metro Maryland, opposes House Bill 101 -- *State Highway Projects - Removal, Relocation, and Adjustment of Utility Facilities - Notification, Work Plans, and Compliance*.

House Bill 101 requires the State Highway Administration to provide notice to the owner or operator of a utility facility for the removal, relocation, or adjustment of the utility facility for a State highway project. The bill further prohibits the utility from recovering costs and damages through rates.

MCCC is concerned that HB 101 provides insufficient time for utilities like the Washington Suburban Sanitary Commission (WSSC) to carry out the removal, relocation, or adjustment to a utility for a State highway project. There are simply too many factors involved for a utility to properly and safely meet the timeline proposed in this bill. These difficulties may raise costs for WSSC and lead to disruptions in SHA projects, which is a concern when seeking to move road projects forward.

For these reasons, the Montgomery County Chamber of Commerce opposes House Bill 101 and respectfully requests an unfavorable report.

The Montgomery County Chamber of Commerce, on behalf of our nearly 500 members, advocates for growth in business opportunities, strategic investment in infrastructure, and balanced tax reform to advance Metro Maryland as a regional, national, and global location for business success. Established in 1959, MCCC is an independent non-profit membership organization and a proud Montgomery County Green Certified Business.

*Brian Levine | Vice President of Government Affairs
Montgomery County Chamber of Commerce
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Rockville, Maryland 20850
301-738-0015 | www.mcccmd.com*

BGE-OPP-ECM-HB101-State Highway Projects - Removal

Uploaded by: Brittany Jones

Position: UNF



AN EXELON COMPANY

Position Statement

Oppose
Economic Matters
2/15/2024

House Bill 101- State Highway Projects - Removal, Relocation, and Adjustment of Utility Facilities - Notification, Work Plans, and Compliance

Baltimore Gas and Electric Company (BGE) opposes *House Bill 101- State Highway Projects - Removal, Relocation, and Adjustment of Utility Facilities - Notification, Work Plans, and Compliance*. House Bill 101 requires the State Highway Administration (SHA) to notify a utility of proposed projects that necessitate the relocation, removal, or adjustment of their facilities or equipment. Within 120 days of receiving the notice, the utility must submit a work plan to SHA for approval. Utilities are then required to commence construction within 60 days of SHA approving the work plan. House Bill 101 would penalize the utility if it does not meet the timelines by requiring the owner or operator of the utility to bear the cost of the relocation work and would prohibit utilities from seeking cost recovery for such penalties.

BGE has numerous concerns with House Bill 101. Public infrastructure relocation work is a highly complex and coordinated multi-disciplined construction process involving private and public facilities and landowners. Many of the steps necessary to successfully design and construct a project may not be within the control of the utility. Nonetheless, this legislation establishes impractical, rigid timelines that will have downstream implications on work quality, cost-effectiveness, and safety, if passed. It also imposes harsh financial penalties on utilities if the prescribed turnaround times are not met, which industry experts already know will not be possible in many cases. The Bill does not provide for any meaningful opportunity for utilities to be heard and prohibits them from seeking recovery of liabilities and penalties imposed by the Bill for missing deadlines for reasons that may not be within their control. Imposing such penalties and liabilities on utilities is punitive, confiscatory, and fundamentally unfair.

The processes to remove and replace overhead poles and/or attachments are vastly different than those used to relocate underground infrastructure. These complex jobs require extensive collaboration and coordination with impacted stakeholders throughout the process, including design and construction, to avoid extended construction impacts and undesired disruptions to the public. Placing the prescribed onerous timelines on these projects presents significant operational challenges to the utility and safety risks to the individuals performing this work.

House Bill 101 fails to align with current SHA relocation practices and does not consider the need for collaboration in situations where SHA and utility infrastructure coexist so that the most feasible and safe options for public interest may be identified. Additionally, BGE may need to acquire new easements and obtain multiple permits to accommodate SHA's relocation request. These along with other external factors outside of the control of BGE and SHA can interfere with our desire to

BGE, headquartered in Baltimore, is Maryland's largest gas and electric utility, delivering power to more than 1.2 million electric customers and more than 655,000 natural gas customers in central Maryland. The company's approximately 3,400 employees are committed to the safe and reliable delivery of gas and electricity, as well as enhanced energy management, conservation, environmental stewardship, and community assistance. BGE is a subsidiary of Exelon Corporation (NYSE: EXC), the nation's leading competitive energy provider.

Brittany Jones | Guy Andes | Dytonia Reed



AN EXELON COMPANY

Position Statement

expeditiously and safely begin and/or complete construction, which makes the prescribed financial penalties punitive and fundamentally unfair.

House Bill 101 also directs that if a utility does not submit a work plan by the required date, the utility “shall be responsible for the cost of removing, relocating, or adjusting” its facility. While not explicit, this language suggests that SHA would remove, relocate, or adjust the utility facility on its own and seek reimbursement from the utility. Much of the utility infrastructure is extremely dangerous and requires highly skilled individuals to perform the work contemplated by House Bill 101. In addition to safety concerns, allowing unqualified individuals to on utility facilities could result in customer outages if not performed correctly.

In conclusion, House Bill 101 is overly prescriptive and places unreasonable pressure on utility compliance that will result in unintended outcomes that compromise safety and efficiency of the project work. The cost shifting, penalties and liabilities that would be imposed on utilities without any meaningful opportunity to be heard are punitive, confiscatory, and fundamentally unfair. Additionally, certain aspects of House Bill 101 could put the safety and reliability of utility distribution systems at risk. BGE remains committed to partnering with SHA on its projects with a keen focus on continuous improvement and reliable communication.

BGE respectfully requests an unfavorable report on House Bill 101 as introduced and looks forward to continuing conversations with the bill sponsor.

BGE, headquartered in Baltimore, is Maryland’s largest gas and electric utility, delivering power to more than 1.2 million electric customers and more than 655,000 natural gas customers in central Maryland. The company’s approximately 3,400 employees are committed to the safe and reliable delivery of gas and electricity, as well as enhanced energy management, conservation, environmental stewardship, and community assistance. BGE is a subsidiary of Exelon Corporation (NYSE: EXC), the nation’s leading competitive energy provider.

Brittany Jones | Guy Andes | Dytonia Reed

MD 2024 HB 101 Columbia Gas Testimony Final.pdf

Uploaded by: Carville Collins

Position: UNF

OPPOSE – House Bill 101
State Highway Projects – Removal, Relocation, and Adjustment of Utility Facilities Act of 2024
House Economic Matters Committee

Columbia Gas of Maryland, Inc. (Columbia) respectfully opposes House Bill 101 which requires the State Highway Administration (SHA) to provide notice to utilities for the removal, relocation or adjustment of their facilities for a State highway project. The legislation also invokes narrow timelines for the submission of facility relocation plans to SHA, narrow timelines for starting proposed relocation work, legal action against utilities, as well as penalties including costs that may not be recoverable through rates.

Columbia provides natural gas services to approximately 34,000 residential, commercial and industrial customers in the Western Maryland counties of Allegany, Garrett and Washington. The local leadership team in those counties have a strong relationship with SHA officials there and work well together. Columbia is unaware of any recent requests from SHA to move our facilities that have resulted in an SHA project delay or an issue. We are unaware of any need for this proposed legislation.

The removal, relocation or adjustment of utility facilities in the state right-of-way can be complex, costly, and unpredictable. Many issues factor into the ability of a utility to move its facilities. Issues such as:

- The availability of capital to pay for the relocation
- The availability of company or contractor crews to conduct the relocation work
- The availability of space in the right-of-way to cost-effectively relocate utility facilities
- If there is not space in the right-of-way, are private easements needed to relocate facilities
- If private easements are needed, are they easily obtainable at appropriate and reasonable prices, and
- The timely acquisition of all needed local, state and federal permits, many of which require extensive time intervals so as to permit public hearing and input before the permit-issuing agencies.

Due to these issues, the timeframes outlined in the proposed legislation are unrealistic. More troubling are provisions in the bill promoting litigation, financial penalties and costs on utilities that may be related to issues totally beyond their control. Enhanced communications, greater information sharing and increased coordination between utilities and SHA can resolve any issues this legislation seeks to address.

When government requires a public utility to remove, relocate, or adjust a utility's facilities, those relocation costs are appropriately recovered in rates pursuant to long-established rate making precedents. However, HB 101 eliminates the ability of utilities to recover these legitimate costs of responding to government requests and continuing the provision of energy services to customers in instances where, through no fault of a utility, facility relocation start is delayed beyond 60 days. This provision is inappropriate.

The requirements of HB 101 are problematic and consequently Columbia Gas cannot support HB 101 as appropriately crafted policy on utility line removal, relocation or adjustment related to SHA requests or projects. We therefore urge an unfavorable report.

February 15, 2024

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HB0101-ECM_MACo_OPP.pdf

Uploaded by: Dominic Butchko

Position: UNF



House Bill 101

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

MACo Position: **OPPOSE**

To: Economic Matters and
Environment & Transportation Committees

Date: February 15, 2024

From: Dominic J. Butchko

The Maryland Association of Counties (MACo) **OPPOSES** HB 101. This bill would require a utility with a “utility facility” (broadly defined to include pipes, sewers, manholes, and “any other infrastructure used by a utility”) to remove, relocate, or adjust its infrastructure if the State Highway Administration (SHA) deems it is necessary for an SHA project.

As stewards of critical infrastructure, counties operate the lion’s share of water, stormwater, and wastewater infrastructure in Maryland. The intent of HB 101 appears to be to require certain utilities like broadband and energy providers to comply with stricter relocation requirements as determined by SHA. The bill calls for utilities (which would include counties) to develop workplans to move critical infrastructure within 120 days of notice and then begin work within 60 days. Unlike the private sector, counties do not have the luxury of unilaterally approving and funding projects required under HB101. Relocating this type of infrastructure can range immensely in scope and can take years to plan and fund.

Additionally, the Maryland Association of Municipal Wastewater Agencies (MAMWA) and the Maryland Municipal Stormwater Association (MAMSA) both cite further concerns shared by MACo. Specifically,

- **“Unilateral Control for SHA.** HB 101 gives SHA total control over a facility it does not even own. A locality would not be able to oppose or even negotiate a different approach to removing or relocating parts of its stormwater collection system that is dedicated to serving the public health and environment.
- **Unworkable Timeframes.** The 120-day plan submittal timeframe (p. 2, l. 6-9) fails to recognize the fact that a utility may need to get state and/or federal approvals as a part of developing a plan. Because SHA has unilateral control, a locality would have no way to adjust the time for submitting a plan or a work schedule, if needed. Worse yet, the bill states SHA can solely

decide (p. 3, l. 22-30) if the locality is liable to SHA's contractor or SHA for delays in completing a local work plan (p. 3, l. 11-21).

- **Localities Would Bear the Full Cost.** MAMSA & MAMWA members' work on behalf of the environment is entirely funded by our citizens and businesses. If local governments are required to pay these costs, we will be forced to recoup those dollars locally. This is not something we want to do given on-going economic pressures for our citizens."

HB 101 is unworkable as it fails to recognize the constraints of counties in the management and operation of critical water, stormwater, and sewer infrastructure. Counties are unable to comply with the unrealistic timetables proposed within the bill and therefore urge the Committee to issue HB 101 an **UNFAVORABLE** report.

HB 101 - SHA Relocation of Utilities Oppose .pdf

Uploaded by: Erin Dey

Position: UNF



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February 13, 2024

Economic Matters Committee
Room 231
House Office Building
Annapolis, Maryland 21401

Dear Delegate Charkoudian and Members of the Economic Matters Committee,

The Anne Arundel County Department of Public Works writes this letter to oppose House Bill 101 - Removal, Relocation, and Adjustment of Utility Facilities for State Highway Projects.

As drafted, this legislation would have potentially significant financial impacts on Anne Arundel County if public water or sewer infrastructure were deemed an obstruction to a State Highway project. This legislation imposes requirements that could generate new design and construction/relocation projects for the County and which may not be in the best interest of Anne Arundel County's residents.

This legislation requires an unrealistic time frame, of 120 days, for responding to State work plans and only 60 days to begin relocating utilities once plans are approved. These time frames do not consider available funding, permitting, or procurement requirements associated with relocating public water and sewer utilities. The timing requirements also do not consider the design coordination that must occur between agencies.

The rate regulation portion of this legislation does not fully address existing laws and statutes related to prior rights or charges and assessments for public water and wastewater..

We appreciate your hard work in the General Assembly and believe that this legislation will create an onerous burden for our department. Unless there is an exemption for local jurisdictions who have existing public water and sewer utilities, Anne Arundel County DPW is opposed to House Bill 101.

Sincerely,

A handwritten signature in cursive script that reads "Karen Henry".

Karen Henry
Director

FirstEnergy Opposition Letter - HB0101.pdf

Uploaded by: Kim Mayhew

Position: UNF

OPPOSE – House Bill 0101
HB0101 – State Highway Projects – Removal, Relocation, and Adjustment of Utility Facilities –
Notification, Work Plans, and Compliance
Economic Matters Committee
Thursday, February 15, 2024

Potomac Edison, a subsidiary of FirstEnergy Corp., serves approximately 285,000 customers in all or parts of seven Maryland counties (Allegany, Carroll, Frederick, Garrett, Howard, Montgomery, and Washington). FirstEnergy is dedicated to safety, reliability, and operational excellence. Its ten electric distribution companies form one of the nation's largest investor-owned electric systems, serving customers in Ohio, Pennsylvania, New Jersey, New York, West Virginia, and Maryland.

Unfavorable

Potomac Edison / FirstEnergy opposes House Bill 0101 – *State Highway Projects – Removal, Relocation, and Adjustment of Utility Facilities – Notification, Work Plans, and Compliance*. Under HB-101, if the State Highway Administration determines it is necessary to remove, relocate, or adjust utility facilities for a state highway project, the utility must provide a “Work Plan” for the project within 120 days or less. The utility must also begin the work within 60 days of approval and could be liable for the entire cost of the project if these requirements are not completed on time.

Potomac Edison / FirstEnergy requests an Unfavorable report on HB-101 because the proscribed timelines are unreasonable and potentially punitive:

There are many variables involved in utility relocation projects. Issues related to regulations, the environment, property rights, customer negotiations and many others, must be considered before a detailed design can be completed for a job. Navigating through these issues often results in “Work Plans” needing to be revised multiple times, until a final design is agreed to by all parties. HB-101’s requirement that the “Work Plan” be completed within 120 days, without any restrictions on how big or complex the relocation project may be, is unreasonable. Large projects require time for discussion and collaboration with all parties involved to be successful, and this often takes more than 120 days.

Another concern with HB-101 is that once a “Work Plan” is approved, work must commence within 60 days. This time limit is too short, as it does not consider the size or complexity of the project, nor the time needed to mobilize a workforce. Often, utilities must wait on other parties to relocate their property before the utility can start relocating their own equipment. This step alone can often take more than 60 days. In addition, supply chain issues can also negatively affect the start work date.

If a “Work Plan” is not provided within 120 days, utilities could be liable to pay for the full cost of a relocation project, and not be allowed to recover any of those costs through Rates. This language creates a huge fine for the utility, while at the same time relieves the State Highway Administration of the expense associated with utility relocation projects. This risk in this section is unreasonable for utilities.

HB-101 treats all state highway relocation projects exactly the same, when in reality, each project provides a unique set of challenges that can impact the project timeline. **For these reasons, Potomac Edison / FirstEnergy respectfully requests an Unfavorable report on HB-101.**

2024-02-13 MAMSA Ltr on HB 101 Economic Matters.pd

Uploaded by: Lisa Ochsenhirt

Position: UNF



February 13, 2024

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

Re: OPPOSE – HB 101 (State Highway Projects –Removal, Relocation, and Adjustment of Utility Facilities-Notification, Work Plans, and Compliance)

Dear Chairman Wilson:

On behalf of the Maryland Municipal Stormwater Association (MAMSA), I am writing to convey MAMSA's **opposition** to HB 101, which would require a locality with a "utility facility" (broadly defined to include pipes, sewers, manholes, and "any other infrastructure used by a utility") to remove, relocate, or adjust its infrastructure if the State Highway Administration (SHA) deems it is necessary for an SHA project. Several of MAMSA's local government members own and operate stormwater facilities as a part of a local stormwater utility. MAMSA has the following concerns about HB 101:

- **Unilateral Control for SHA.** HB 101 gives SHA total control over a facility it does not even own. A locality would not be able to oppose or even negotiate a different approach to removing or relocating parts of its stormwater collection system that is dedicated to serving the public health and environment.
- **Unworkable Timeframes.** The 120-day plan submittal timeframe (p. 2, l. 6-9) fails to recognize the fact that a utility may need to get state and/or federal approvals as part of developing a plan. Because SHA has unilateral control, a locality would have no way to adjust the time for submitting a plan or a work schedule, if needed. Worse yet, the bill states SHA can solely decide (p. 3, l. 22-30) if the locality is liable to SHA's contractor or SHA for delays in completing a local work plan (p. 3, l. 11-21).
- **Localities Would Bear the Full Cost.** MAMSA members' work on behalf of the environment is entirely funded by our citizens and businesses. If local governments are required to pay these costs, we will be forced to recoup those dollars locally. This is not something we want to do given on-going economic pressures for our citizens.

For these reasons, MAMSA **urges the Committee to vote NO on HB 101.**

Please feel free to contact me with any questions at Lisa@AquaLaw.com or 804-716-9021.

Sincerely,

Lisa M. Ochsenhirt, MAMSA Deputy General Counsel

cc: Economic Matters Committee Members, HB 101 Sponsor

2024-02-13 MAMWA Ltr on HB 101 Economic Matters.pd

Uploaded by: Lisa Ochsenhirt

Position: UNF



Maryland Association of Municipal Wastewater Agencies, Inc.

Washington Suburban Sanitary Commission

14501 Sweitzer Lane, 7th Floor

Laurel, MD 20707

Tel: 301-206-7008

February 13, 2024

MEMBER AGENCIES

Allegany County
Anne Arundel County
City of Baltimore
Baltimore County
Town of Berlin
Cecil County
Charles County
City of Cumberland
D.C. Water
Frederick County
City of Hagerstown
Harford County
City of Havre de Grace
Howard County
Ocean City
Pocomoke City
Queen Anne's County
City of Salisbury
Somerset County Sanitary District
St. Mary's Metro. Comm.
Washington County
WSSC Water

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

Re: OPPOSE HB 101 (State Highway Projects –Removal, Relocation, and Adjustment of Utility Facilities-Notification, Work Plans, and Compliance)

Dear Chairman Wilson:

On behalf of the Maryland Association of Municipal Wastewater Agencies (MAMWA), I am writing to convey MAMWA's **opposition** to HB 101, which would require a utility with a "utility facility" (broadly defined to include pipes, sewers, manholes, and "any other infrastructure used by a utility") to remove, relocate, or adjust its infrastructure if the State Highway Administration (SHA) deems it is necessary for an SHA project. MAMWA's members own and operate wastewater and drinking water utilities and have the following concerns:

- **Unilateral Control for SHA.** HB 101 gives SHA total control over a utility facility it does not even own. A local utility would not be able to oppose or even negotiate a different approach to removing or relocating parts of a wastewater or drinking water system dedicated to serving the public health and environment.
- **Unworkable Timeframes.** The 120-day plan submittal timeframe (p. 2, l. 6-9) fails to recognize the fact that a utility may need to get state and/or federal approvals as part of developing a plan. Because SHA has unilateral control, a utility would have no way to adjust the time for submitting a plan or a work schedule, if needed. Worse yet, the bill states SHA can solely decide (p. 3, l. 22-30) if the local utility is liable to SHA's contractor or SHA for delays in completing a local work plan (p. 3, l. 11-21).
- **Localities Would Bear the Full Cost.** MAMWA members' work on behalf of the environment is entirely funded by our citizens and businesses. If members are required to pay these costs, we will be forced to recoup those dollars locally. This is not something we want to do given on-going economic pressures for our citizens.

For these reasons, MAMWA **urges the Committee to vote NO on HB 101**. Please feel free to contact me with any questions at Lisa@AquaLaw.com or 804-716-9021.

Sincerely,

Lisa M. Ochsenhirt, MAMWA Deputy General Counsel

cc: Economic Matters Committee Members, HB 101 Sponsor

CONSULTANT MEMBERS

Black & Veatch
GHD Inc.
Greeley and Hansen Engineers
Hazen & Sawyer
HDR Engineering, Inc.
Jacobs
Ramboll Americas
Whitman, Requardt & Assoc.
Xylem, Inc.

GENERAL COUNSEL

AquaLaw PLC

Washington Gas Written Testimony - HOUSE BILL 101

Uploaded by: Manuel Geraldo

Position: UNF



1000 Maine Avenue, SW | Suite 700 | Washington, DC 20024 | www.washingtongas.com

COMMITTEE: ECONOMIC MATTERS
TESTIMONY ON: HB 101 STATE HIGHWAY PROJECTS - REMOVAL, RELOCATION, AND ADJUSTMENT OF UTILITY FACILITIES - NOTIFICATION, WORK PLANS, AND COMPLIANCE
POSITION: OPPOSE
HEARING DATE: FEBRUARY 15, 2024

Washington Gas respectfully submits this statement in **OPPOSITION** to **House Bill 101**.

Washington Gas has been providing energy to residential, commercial, government, and industrial customers for more than 175 years. We proudly provide safe, reliable natural gas service to more than 1.2 million customers across the Washington metropolitan region, including more than 500,000 customers in Maryland. Washington Gas strives to be one of the safest and most innovative energy companies in the region, and the United States. At Washington Gas, we work daily on fulfilling our longstanding commitment to ensure we deliver energy safely, reliably and affordably to our customers.

Washington Gas recognizes that utility coordination is essential in the success of most State Highway Administration (“SHA”) projects. However, the proposed legislation creates challenges and untenable timelines for a utility company. Coupled with shortages in skilled labor and increased labor costs, utility relocation is very challenging. Utility relocation isn’t as simple as moving pipes and cables. It’s a multifaceted process involving meticulous planning, coordination with various stakeholders, and compliance with numerous regulations.

The legislation does not recognize a utility’s failure to begin work due to good cause, beyond the control of and not the fault of the utility, including, but not limited to, labor disputes, unavailability of materials on a national level, act of God, or extreme weather conditions.

The legislation relegates rate recovery to SHA. A utility’s rate recovery should be decided by the Public Service Commission (“PSC”), not SHA. The legislation also levies penalties including costs that may not be recoverable through rates.

The legislation fails to identify best practices and tools to streamline and expedite utility relocations when they are required as part of a State highway project, sets untenable timelines, imposes unspecified fines, and empowers rate recovery to SHA instead of the PSC. Rather than unnecessary legislation, enhanced communication and increased coordination between utilities and SHA can resolve any issues HB 101 seeks to remedy.

Washington Gas strongly requests an unfavorable vote on HB 101.

Contact:

Manny Geraldo, State Government Relations and Public Policy Manager
M 202.924.4511 | manuel.geraldo@washgas.com

HB0101_State Highway Projects_Cotton_UNF.pdf

Uploaded by: Natalie Cotton

Position: UNF



1-888-440-3311

P.O. Box 1937, Hughesville, MD 20637

www.smeco.coop

People. Power. Progress.

February 15, 2024

HB 101: State Highway Projects - Removal, Relocation, and Adjustment of Utility Facilities - Notification, Work Plans, and Compliance

Committee: House Economic Matters and Environment and Transportation

Position: Opposed

Southern Maryland Electric Cooperative (SMECO), a member-owned electric cooperative based in Hughesville that provides electricity to more than 173,000 member accounts in Charles, St. Mary's, Calvert and southern Prince George's County, opposes House Bill 101 which would impose unreasonable and costly requirements on utilities when the State Highway Administration (SHA) determines that it is necessary to remove, relocate, or adjust a utility facility for a State highway project.

SMECO recognizes the importance of coordinating with SHA to ensure the timely and efficient completion of State highway projects. However, we believe that the existing process, which is governed by the Public Service Commission (PSC) regulations and the Utility Relocation Manual, is working well and does not need to be replaced by new statutes that would create more problems than it would solve.

House Bill 101 would create several burdens and risks for utilities, such as:

- Requiring utilities to submit work plans within 120 days of receiving a letter from SHA, regardless of the complexity or scope of the project, or face the responsibility for the cost of removing, relocating, or adjusting the utility facility.
- Requiring utilities to begin work within 60 days of receiving approval from SHA, or face the possibility of injunctive relief, regardless of the availability of resources, materials, permits, or easements.
- Making utilities liable for the costs incurred by the contractor and the damages to SHA due to the utility's failure to provide a work plan or complete the work in accordance with the work plan, regardless of the cause or extent of the delay or the utility's good faith efforts to comply.
- Prohibiting rate-regulated utilities from recovering through rates any costs or damages incurred under the bill, regardless of the prudence or necessity of such costs or damages.

For more information, contact: Natalie Cotton, SMECO
Government Affairs and Community Relations Director
240-393-3919 • Natalie.cotton@smeco.coop



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- Authorizing SHA to adopt regulations to implement the bill, without specifying any criteria or standards for such regulations, or providing any opportunity for input or review by the utilities or the PSC.

These provisions would create an unfair and unbalanced process that would favor SHA over the utilities, and would undermine the role and authority of the PSC, which is the appropriate regulatory body to oversee utility matters. The bill would also increase the costs and risks for utilities, which would ultimately be borne by ratepayers.

For these reasons, SMECO respectfully requests an unfavorable report on House Bill 101.

HB 101_Chesapeake Utilities_Unfav (02-13-24) (Fina

Uploaded by: Steve Baccino

Position: UNF



February 13, 2024

HOUSE ECONOMIC MATTERS COMMITTEE
HB 101 – State Highway Projects – Removal, Relocation, and Adjustment of Utility Facilities –
Notification, Work Plans, and Compliance

Statement in Opposition

Chesapeake Utilities Corporation (“Chesapeake Utilities”) respectfully **OPPOSES** certain provisions contained in HB 101. Among other things, HB 101 seeks to require the State Highway Administration (“SHA”) to provide certain notice to the owner or operator of a utility facility for the removal, relocation, or adjustment of the utility facility for a State highway project and the owner or operator of the utility facility must begin to relocate the facility within 60 days after receipt of the notice.

Chesapeake Utilities operates natural gas local distribution companies that serve approximately 32,000 customers on Maryland’s Eastern Shore in Caroline, Cecil, Dorchester, Somerset, Wicomico, and Worcester Counties. These public utilities are regulated by the Maryland Public Service Commission and have provided in the coldest months of the year safe, reliable, resilient, and affordable service in the State for decades. As a company, Chesapeake Utilities serves as a positive and informed resource in the State's ongoing energy discussions.

HB 101 places undue burdens on public utilities. While a public utility may be able to commence removal, relocation or adjustment of a facility within the 60-day time period required by the legislation, approval for the public utility to begin this type of work is determined by the state, county or municipality issuing the permits to proceed. As such, the public utility is not authorized to move forward without approval from the applicable governmental agency for this type of work and not always able to commence construction on its own timeframe or within the 60-day time period. As such, an undue burden is placed on the public utility for conditions precedent that are outside of its control.

HB 101 prevents cost recovery for facility locations. It is a settled principle of utility ratemaking that when government action requires a public utility to remove, relocate, or adjust a utility’s facilities, those relocation costs are appropriately recovered in rates. Yet, HB 101 simply eliminates the ability of utilities to recover these legitimate costs of providing service in instances where, through no fault of its own, a utility is unable to begin work to relocate its facilities within 60 days. The public utility must retain a mechanism to recover the costs incurred for moving facilities.

HB 101 is a solution in search of a problem. As a result of this legislation, Chesapeake Utilities met with the SHA on February 1, 2024 to discuss any concerns they may have with facility relocation projects in Chesapeake Utilities’ service territory. The SHA could not identify any



projects in Chesapeake Utilities' service territory on the Eastern Shore where they had a concern. For Chesapeake Utilities, this is a legislative solution in search of a problem.

HB 101 is vague, one-sided and leaves the determination of any due process up to SHA. The bill requires a utility to "begin the physical removal, relocation, or adjustment" of its facilities within 60 days, without any guidance as to what the term "begin" means. A utility could have a legitimate argument that it in fact began work on a project, but SHA could simply disagree and impose significant fines and costs on the utility due within 45 days (and prohibit rate recovery). Also, there is no duty imposed on SHA to mitigate any costs incurred when it decides to move a utility's facilities on its own. Instead, HB 101 simply authorizes SHA to promulgate regulations imposing "mediation" without any specific guidance from the General Assembly regarding the extent of due process procedures or any requirement on SHA to mitigate damages.

HB 101 could instead create a working group with the SHA and public utilities. Rather than impose undue burdens on public utilities for a problem that does not exist for every public utility in the state, if the Committee deems necessary as an alternative to HB 101, it could create a "Utilities Coordination Working Group", tasked with working with SHA and providing recommendations for improving coordination of utility facility removal, relocation, or adjustment. This solution was implemented in Delaware with great success (see attached Delaware legislation).

On behalf of Chesapeake Utilities Corporation, and our thousands of employees and their families who deliver energy safely and contribute every day in the communities where they live, work and serve, we respectfully request an unfavorable vote on HB 101.

Sincerely,

Chesapeake Utilities Corporation
Steve Baccino, Governmental Affairs Director
Contact: sbaccino@chpk.com

BaltimoreCounty_FAV_HB0101.pdf

Uploaded by: Will Thorne

Position: UNF



JOHN A. OLSZEWSKI, JR.
County Executive

JENNIFER AIOSA
Director of Government Affairs

AMANDA KONTZ CARR
Legislative Officer

WILLIAM J. THORNE
Legislative Associate

BILL NO.: **HB 101**

TITLE: State Highway Projects – Removal, Relocation, and Adjustment
of Utility Facilities – Notification, Work Plans, and Compliance

SPONSOR: Delegate Charkoudian

COMMITTEE: Economic Matters

POSITION: **OPPOSE**

DATE: February 15, 2024

Baltimore County **OPPOSES** House Bill 101 – State Highway Projects – Removal, Relocation, and Adjustment of Utility Facilities – Notification, Work Plans, and Compliance. This legislation would require the State Highway Administration (SHA) to provide notices to the owner or operator of a utility facility for the removal, relocation, or adjustment of the utility facility for a state highway project. This bill would apply to public-owned utilities such as the water and sewer system.

Baltimore County’s Department of Public Works and Transportation raised several concerns while reviewing this legislation. If passed, HB 101 legislates that the State Highway Administration would decide, without input from the relevant local government, that a utility facility owned by the local government (i.e. a water or sewer system) must be relocated. Under this legislation, the local government would then be responsible for the planning and execution of the facility move within 120 days and beginning work on moving the utility facility in 60 days. Additionally, local governments would be required to bear the totality of the relocation cost regardless of the timeline. HB 101 provides no allowance for weather delays, conflicts, and other circumstances that may impact work schedules. Furthermore, the required timeframes do not allow proper time for contractor procurement, material procurements, and permitting processes. Overall, HB 101 places challenging and unreasonable time and cost requirements on local governments in relocating public utilities.

Accordingly, Baltimore County urges a **UNFAVORABLE** report on HB 101 from the House Economic Matters committee. For more information, please contact Jenn Aiosa, Director of Government Affairs at jaiosa@baltimorecountymd.gov.

HB0101 - SHA - Removal, Relocation, and Adjustment

Uploaded by: Pilar Helm

Position: INFO

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.

The Honorable C.T. Wilson
Page Two

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,

Matthew Mickler
Deputy Director (Acting)
Office of Policy and Research
Maryland State Highway Administration
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Pilar Helm
Director
Office of Government Affairs
Maryland Department of Transportation
410-865-1090