

Senate Bill 431

By: Senators Whitehead, Sr. of the 24th, Stephens of the 27th, Williams of the 19th, Pearson of the 51st, Heath of the 31st and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Part 1 of Article 6 of Chapter 6 of Title 32 of the Official Code of Georgia  
2 Annotated, relating to the authority of the Department of Transportation to order the removal  
3 and relocation of utility facilities occupying any part of the public road system, so as to  
4 provide that a utility that fails to remove or relocate a facility in a timely manner shall be  
5 responsible to the department and its contractors for failure to comply; to provide for related  
6 matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Part 1 of Article 6 of Chapter 6 of Title 32 of the Official Code of Georgia Annotated,  
10 relating to the authority of the Department of Transportation to order the removal and  
11 relocation of utility facilities occupying any part of the public road system, is amended by  
12 striking Code Section 32-6-171 in its entirety and inserting in its place the following:

13 "32-6-171.

14 (a) Any utility using or occupying any part of a public road which the department has  
15 undertaken to improve or intends to improve shall remove, ~~and relocate,~~ or make the  
16 necessary adjustments to its facility when, in the reasonable opinion of the department, the  
17 facility constitutes an obstruction or interference with the use or safe operation of such road  
18 by the traveling public or when, in the reasonable opinion of the department, the facility  
19 will interfere with such contemplated construction or maintenance.

20 (b) Whenever the department reasonably determines it necessary to have a utility facility  
21 removed, ~~and relocated,~~ or adjusted, the department shall give to the utility at least 60 days'  
22 written notice directing it to begin the physical removal, and relocation, or adjustment of  
23 such utility obstruction or interference. If such notice is part of a highway improvement  
24 project, it is normally provided at the date of advertisement or award. However, prior to  
25 the notice directing the physical removal, relocation, or adjustment of a utility facility, the

1 utility shall adhere to the department's utility relocation procedures for public road  
2 improvements which shall include but not be limited to the following:

3 (1) The submission by the department to the utility of a letter and set of plans for the  
4 proposed highway improvement project;

5 (2) The utility's submission to the department of written confirmation acknowledging  
6 receipt of the plans and a declaration of whether or not its facilities are within the  
7 proposed project limits and the extent to which the facilities are in conflict with the  
8 project;

9 (3) The utility's submission to the department of plans showing existing and proposed  
10 locations of facilities within a reasonable time as specified by the department in the letter  
11 required under paragraph (1) of this subsection;

12 (4) The utility's submission shall include with the plans a work plan in a manner and  
13 time frame established by the department's written procedures and instructions. Such  
14 work plan shall specify the order and calendar days for removal, relocation, or adjustment  
15 of the utility from or within the project site, and any staging, property acquisition,  
16 compensable work or other special requirements needed to complete the removal,  
17 relocation, or adjustment. The department shall consider the work plan, including any  
18 requests for compensation, submitted by a utility for a highway improvement project if  
19 it is submitted within the established schedule and does not adversely affect the letting  
20 date. The department will review the work plan to ensure compliance with the proposed  
21 improvement plans and schedule.

22 ~~If the utility does not thereafter begin removal within a reasonable time sufficient to allow~~  
23 ~~for engineering and other procedures reasonably necessary to the removal and relocation~~  
24 ~~of the utility facility~~ the time specified in the work plan, the department may give the utility  
25 a final notice directing that such removal shall commence not later than ten days from the  
26 receipt of such final notice. If such utility does not, within ten days from receipt of such  
27 final notice, begin to remove or relocate the facility or, having so begun removal or  
28 relocation, thereafter fails to complete the removal or relocation within a ~~reasonable time~~  
29 the time specified in the work plan, the department may remove or relocate the same with  
30 its own employees or by employing or contracting for the necessary engineering, labor,  
31 tools, equipment, supervision, or other necessary services or materials and whatever else  
32 is necessary to accomplish the removal or relocation; and the expenses of such removal or  
33 relocation may be paid and collected as provided in Code Section 32-6-173. If additional  
34 utility removal, relocation, or adjustment work is found necessary after the letting date of  
35 the highway improvement project, the utility shall provide a revised work plan within 30  
36 calendar days after becoming aware of such additional work or upon receipt of the

1 department's written notification advising of such additional work. The utility's revised  
2 work plan shall be reviewed by the department to ensure compliance with additional work.  
3 (c) In addition to the foregoing, the owner of the utility shall be responsible for and liable  
4 to the department or its contractors for damages resulting from its failure to comply with  
5 the submitted and approved work plan. If the utility owner fails to provide a work plan or  
6 fails to complete the removal, relocation, or adjustment of its facilities in accordance with  
7 the work plan approved by the department, then the owner shall be liable to the contractor  
8 for all delay costs and liquidated damages incurred by the contractor which are caused by  
9 or which grow out of the failure of the utility owner to carry out and complete its work in  
10 accordance with the approved work plan or in a timely and reasonable manner if a work  
11 plan or revised work plan was not submitted. The department may withhold approval of  
12 permits for failure of the utility owner to comply with the requirements of this Code  
13 section."

14 **SECTION 2.**

15 This Act shall become effective on July 1, 2006.

16 **SECTION 3.**

17 All laws and parts of laws in conflict with this Act are repealed.