

The House Committee on Transportation offers the following substitute to SB 431:

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 the  
6 department to establish written procedures for implementation; to provide for related matters;  
7 to provide an effective date; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 style="text-align:center">**SECTION 1.**

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

14 "32-6-171.

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

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

1 utility and the department shall adhere to the department's utility relocation procedures for  
 2 public road 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 preliminary  
 4 plans for the proposed highway improvement project and the utility's submission to the  
 5 department of written confirmation acknowledging receipt of the plans;

6 (2) The utility's submission to the department of plans showing existing and proposed  
 7 locations of facilities within a reasonable time as specified by the department in the letter  
 8 required under paragraph (1) of this subsection; provided, however, the time specified by  
 9 the department shall not be sooner than 30 days and shall not be greater than 120 days;  
 10 and

11 (3) The utility's submission shall include with the plans a work plan in a manner and  
 12 time frame established by the department's written procedures and instructions.

13 ~~If the utility does not thereafter begin removal within a reasonable time sufficient to allow~~  
 14 ~~for engineering and other procedures reasonably necessary to the removal and relocation~~  
 15 ~~of the utility facility~~ the time specified in the work plan, the department may give the utility  
 16 a final notice directing that such removal shall commence not later than ten days from the  
 17 receipt of such final notice. If such utility does not, within ten days from receipt of such  
 18 final notice, begin to remove or relocate the facility or, having so begun removal or  
 19 relocation, thereafter fails to complete the removal or relocation within a ~~reasonable time~~  
 20 the time specified in the work plan, the department may remove or relocate the same with  
 21 its own employees or by employing or contracting for the necessary engineering, labor,  
 22 tools, equipment, supervision, or other necessary services or materials and whatever else  
 23 is necessary to accomplish the removal or relocation except in the case of natural gas  
 24 facilities where the work must be performed in accordance with 49 C.F.R. Part 192 as  
 25 required by the federal Office of Pipeline Safety; and the expenses of such removal or  
 26 relocation may be paid and collected as provided in Code Section 32-6-173. If utility  
 27 removal, relocation, or adjustment work is found necessary after the letting date of the  
 28 highway improvement project, the utility shall provide a revised work plan within 30  
 29 calendar days after becoming aware of such additional work or upon receipt of the  
 30 department's written notification advising of such additional work. The utility's revised  
 31 work plan shall be reviewed by the department to ensure compliance with additional work.  
 32 (c) In addition to the foregoing, the owner of the utility shall be responsible for and liable  
 33 to the department or its contractors for documented damages resulting from its failure to  
 34 comply with the submitted and approved work plan. If the utility owner fails to provide  
 35 a work plan or fails to complete the removal, relocation, or adjustment of its facilities in  
 36 accordance with the work plan approved by the department, then the utility owner shall be  
 37 liable to the contractor for all delay costs incurred by the contractor and approved by the

1 department which are caused by or which grow out of the failure of the utility owner to  
2 carry out and complete its work in accordance with the approved work plan or in a timely  
3 and reasonable manner if a work plan or revised work plan was not submitted."

4 **SECTION 2.**

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

6 **SECTION 3.**

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