

AMENDED IN SENATE JUNE 24, 2002

AMENDED IN SENATE JUNE 6, 2002

AMENDED IN SENATE MAY 29, 2002

AMENDED IN ASSEMBLY APRIL 29, 2002

AMENDED IN ASSEMBLY APRIL 18, 2002

AMENDED IN ASSEMBLY APRIL 11, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 2511**

**Introduced by Assembly Member Dutra**

February 21, 2002

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An act to add Division 3.5 (commencing with Section 7000) to the Public Utilities Code, relating to public utilities.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2511, as amended, Dutra. Public utilities: Santa Clara Valley Transportation Authority: relocation.

Under existing law, certain transit districts may exercise the right of eminent domain to take any property necessary or convenient to the exercise of their powers. Under existing law, the transit district when exercising this power is, in addition to the damage for the taking, injury, or destruction of property, also required to pay the cost of removal, reconstruction, or relocation of any structure, railways, mains, pipes, conduits, wires, cables, or poles of any public utility which is required to be moved to a new location.

This bill would authorize a relocation agreement between certain utilities, cable television corporations, or cable operators and the Santa Clara Valley Transportation Authority, entered into in connection with a transit or transportation capital improvement project, to contain certain elements, and would provide that, if a utility, cable television corporation, or cable operator abandons utility relocation work under a relocation agreement, the authority may, pursuant to the terms of the relocation agreement, assume from the utility, cable television corporation, or cable operator the work of relocating related utilities. The bill would provide that the rights and remedies available to the authority under the bill are nonexclusive and are cumulative of remedies available under other laws or pursuant to contract. The bill would require that for the provisions of this act to apply, certain conditions must have occurred related to a formal, written utility relocation agreement.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) For many transportation capital improvement projects, it is  
4 necessary for utilities to be moved and relocated in advance of  
5 construction.

6 (b) If utility relocation work cannot be performed  
7 expeditiously, or cannot be completed at all by the appropriate  
8 utility, cable television corporation, or cable operator, the result is  
9 significant costs to the public because construction work for these  
10 projects is delayed.

11 (c) ~~For~~ *The Santa Clara Valley Transportation Authority has*  
12 *found that for* public transit capital improvement projects *in its*  
13 *jurisdiction*, delays resulting from utility relocation work not  
14 being done in a timely manner can cost between five hundred  
15 thousand dollars (\$500,000) and one million dollars (\$1,000,000)  
16 per month.

17 (d) It is in the best interest of the state that utility relocation  
18 work on transportation capital improvement projects be  
19 completed expeditiously, whether by a utility, cable television  
20 corporation, or cable operator or a public entity, as set forth in an



1 executed utility relocation agreement, to avoid unnecessary costs  
2 and delays in completing these vital projects.

3 (e) If a utility, cable television corporation, or cable operator  
4 decides, for financial or other reasons, not to perform utility  
5 relocation work for a transit or transportation capital improvement  
6 project pursuant to the terms of an executed utility relocation  
7 agreement, in many cases, the only recourse for a public entity is  
8 to initiate a potentially lengthy court process to force the utility,  
9 cable television corporation, or cable operator to perform the  
10 work. This situation could result in significant delays and cost  
11 increases to a transit or transportation capital improvement  
12 project.

13 (f) It is the intent of the Legislature in enacting the act adding  
14 this section to authorize the Santa Clara Valley Transportation  
15 Authority, when implementing a transit or transportation capital  
16 improvement project, to assume utility relocation work from a  
17 utility, cable television company, or cable operator, but only when  
18 the following occurs:

19 (1) The Santa Clara Valley Transportation Authority has  
20 executed a formal, written utility relocation agreement with the  
21 utility, cable television corporation, or cable operator.

22 (2) The utility, cable television corporation, or cable operator  
23 refuses to move its utilities or abandons the relocation work in  
24 violation of the relocation agreement, because of financial  
25 hardship or other reasons.

26 (3) The utility relocation agreement executed by the Santa  
27 Clara Valley Transportation Authority and the utility, cable  
28 television corporation, or cable operator allows for the authority  
29 to assume the utility relocation work as recourse for the work being  
30 abandoned by the utility, cable television corporation, or cable  
31 operator.

32 SEC. 2. Division 3.5 (commencing with Section 7000) is  
33 added to the Public Utilities Code, to read:

34



1 DIVISION 3.5. UTILITY RELOCATION AGREEMENTS

2  
3 CHAPTER 1. RELOCATION FOR TRANSIT OR TRANSPORTATION  
4 CAPITAL IMPROVEMENT PROJECTS  
5

6 7000. (a) For purposes of this chapter, a utility shall mean all  
7 of the following:

8 (1) An electric corporation, as defined in Section 218.

9 (2) A water corporation, as defined in Section 241.

10 (3) A telephone corporation, as defined in Section 234.

11 (4) A telecommunications carrier, as defined in Section 153 of  
12 Title 47 of the United States Code.

13 (5) A gas corporation, as defined in Section 222.

14 (6) A local publicly owned electric utility, as defined in Section  
15 9604, and a publicly owned gas utility.

16 (7) a special district that owns or operates utilities.

17 (b) This chapter shall also apply to the following entities:

18 (1) A cable television corporation, as defined in Section 215.5.

19 (2) A cable operator, as defined in Section 522 of Title 47 of the  
20 United States Code.

21 7001. For purposes of this chapter, “authority” means the  
22 Santa Clara Valley Transportation Authority, as defined in Section  
23 100011.

24 7002. When a utility enters into a relocation agreement with  
25 the authority in connection with a transit or transportation capital  
26 improvement project, the agreement may include, but not be  
27 limited to, the following elements, as agreed to by the parties:

28 (a) Location of the work to be completed.

29 (b) Cost arrangements between the parties for the work to be  
30 conducted.

31 (c) Schedule for the work to be completed.

32 (d) Remedies for contract impairment.

33 (e) Definition of default on the part of either party.

34 (f) Remedies for default by either party.

35 (g) What constitutes abandonment of utility relocation work,  
36 and remedies for addressing any abandonment.

37 7003. (a) If a utility, cable television corporation, or cable  
38 operator abandons utility relocation work under a relocation  
39 agreement with the authority in connection with a transit or  
40 transportation capital improvement project, the authority may,

pursuant to the terms of the relocation agreement made pursuant to subdivision (g) of Section 7002, assume from the utility, cable television corporation, or cable operator the work of relocating utilities that relates to the project within the jurisdiction of the authority.

(b) (1) The authority may issue contracts with another qualified entity to conduct the utility relocation work.

(2) If a collective bargaining agreement specifically does not prohibit a crew or other subgroup of employees of a utility, cable television corporation, or cable operator from performing utility relocation work under a contract with the authority in the case where work has been abandoned by the utility, cable television corporation, or cable operator, then the utility, cable television corporation, or cable operator shall offer a first right of refusal to a crew or other subgroup of its own employees that are qualified to conduct utility relocation work to contract with the authority for the utility relocation work.

(3) If the crew or subgroup identified in paragraph (2) elects not to contract with the authority to conduct the utility relocation work, the authority shall choose a qualified entity from a *single* list provided by the utility, cable television corporation, or cable operator—*if and, if applicable, the collective bargaining representative of the utility employees that would otherwise perform the work, provided that the utility, cable television corporation, or cable operator chooses, and, if applicable, the collective bargaining representative, choose to provide a list.*

(c) Any utility relocation work performed or caused to be performed by the authority shall be done according to industry standards, under the oversight of the utility, cable television corporation, or cable operator, and upon acceptance by the utility, cable television corporation, or cable operator.

7004. The rights and remedies available to the authority under this article are nonexclusive and are cumulative to each other and to the remedies or penalties available to the authority under all other laws or pursuant to contract.

7005. This chapter applies only if all of the following occurs:

(a) The authority has executed a formal, written utility relocation agreement with the utility, cable television corporation, or cable operator.

1 (b) The utility, cable television corporation, or cable operator  
2 abandons the relocation work because of financial hardship or  
3 other reasons.

4 (c) The utility relocation agreement executed by the authority  
5 and the utility, cable television corporation, or cable operator  
6 allows for the authority to assume the utility relocation work as  
7 recourse for the work being abandoned by the utility, cable  
8 television corporation, or cable operator.

9 SEC. 3. The Legislature finds and declares that, because of the  
10 unique circumstances applicable only to the Santa Clara Valley  
11 Transportation Authority, a statute of general applicability cannot  
12 be enacted within the meaning of subdivision (b) of Section 16 of  
13 Article IV of the California Constitution. Therefore, this special  
14 statute is necessary.

