

Assembly Bill No. 2511

CHAPTER 655

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

[Approved by Governor September 17, 2002. Filed
with Secretary of State September 18, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2511, 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.

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

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

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

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

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

(d) It is in the best interest of the state that utility relocation work on transportation capital improvement projects be completed expeditiously, whether by a utility, cable television corporation, or cable operator or a public entity, as set forth in an executed utility relocation agreement, to avoid unnecessary costs and delays in completing these vital projects.

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

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

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

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

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

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



DIVISION 3.5. UTILITY RELOCATION AGREEMENTS

CHAPTER 1. RELOCATION FOR TRANSIT OR TRANSPORTATION CAPITAL IMPROVEMENT PROJECTS

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

- (1) An electric corporation, as defined in Section 218.
 - (2) A water corporation, as defined in Section 241.
 - (3) A telephone corporation, as defined in Section 234.
 - (4) A telecommunications carrier, as defined in Section 153 of Title 47 of the United States Code.
 - (5) A gas corporation, as defined in Section 222.
 - (6) A local publicly owned electric utility, as defined in Section 9604, and a publicly owned gas utility.
 - (7) a special district that owns or operates utilities.
- (b) This chapter shall also apply to the following entities:
- (1) A cable television corporation, as defined in Section 215.5.
 - (2) A cable operator, as defined in Section 522 of Title 47 of the United States Code.

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

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

- (a) Location of the work to be completed.
- (b) Cost arrangements between the parties for the work to be conducted.
- (c) Schedule for the work to be completed.
- (d) Remedies for contract impairment.
- (e) Definition of default on the part of either party.
- (f) Remedies for default by either party.
- (g) What constitutes abandonment of utility relocation work, and remedies for addressing any abandonment.

7003. (a) If a utility, cable television corporation, or cable operator abandons utility relocation work under a relocation agreement with the authority in connection with a transit or 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 authority shall offer a first right of refusal to a crew or other subgroup of employees of the utility, cable television corporation, or cable operator, 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 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, 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.

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

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

SEC. 3. The Legislature finds and declares that, because of the unique circumstances applicable only to the Santa Clara Valley Transportation Authority, a statute of general applicability cannot be



enacted within the meaning of subdivision (b) of Section 16 of Article IV of the California Constitution. Therefore, this special statute is necessary.

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