

1-1 By: Ogden S.B. No. 487  
1-2 (In the Senate - Filed February 14, 2003; February 19, 2003,  
1-3 read first time and referred to Committee on Infrastructure  
1-4 Development and Security; April 28, 2003, reported adversely, with  
1-5 favorable Committee Substitute by the following vote: Yeas 8, Nays  
1-6 0; April 28, 2003, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 487 By: Ogden

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the relocation of utilities required for the  
1-11 improvement of the state highway system.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subchapter E, Chapter 203, Transportation Code,  
1-14 is amended by adding Section 203.0935 to read as follows:

1-15 Sec. 203.0935. TIMELY AGREEMENT. (a) If the department  
1-16 determines that a facility of a utility must be relocated to  
1-17 accommodate an improvement to the state highway system, the utility  
1-18 and the department shall negotiate in good faith to establish  
1-19 reasonable terms and conditions concerning the responsibilities of  
1-20 the parties with regard to sharing of information about the highway  
1-21 improvement project and the planning and implementation of any  
1-22 necessary relocation of utility facilities.

1-23 (b) The department shall use its best efforts to provide an  
1-24 affected utility with plans and drawings of the highway improvement  
1-25 project that are sufficient to enable the utility to develop plans  
1-26 for, and determine the cost of, the necessary relocation of the  
1-27 facility of the utility. If the department and the affected utility  
1-28 enter into an agreement after negotiations under Subsection (a),  
1-29 the terms and conditions of the agreement shall govern the  
1-30 relocation of the utility's facility covered by the agreement.

1-31 (c) If the department and an affected utility do not enter  
1-32 into an agreement under Subsection (a), the department shall  
1-33 provide to the affected utility:

1-34 (1) written notice of the department's determination  
1-35 that the utility facility must be removed;

1-36 (2) a final plan for relocation of the facility; and

1-37 (3) reasonable terms and conditions for an agreement  
1-38 with the utility for the relocation of the facility.

1-39 (d) Not later than the 90th day after the date that a utility  
1-40 receives the notice from the department, including the plan and  
1-41 agreement terms and conditions under Subsection (c), the utility  
1-42 shall enter into an agreement with the department that provides for  
1-43 the relocation.

1-44 (e) If the utility fails to enter into an agreement within  
1-45 the 90-day period under Subsection (d), the department may relocate  
1-46 the facility at the sole cost and expense of the utility less any  
1-47 reimbursement of costs that would have been payable to the utility  
1-48 under Section 203.092. A relocation by the department under this  
1-49 subsection shall be conducted in full compliance with applicable  
1-50 law, using standard equipment and construction practices  
1-51 compatible with the utility's existing facilities, and in a manner  
1-52 that minimizes disruption of utility service.

1-53 (f) The 90-day period under Subsection (d) may be extended:

1-54 (1) by mutual agreement between the department and the  
1-55 utility; or

1-56 (2) for any period of time during which the utility is  
1-57 negotiating in good faith with the department to relocate its  
1-58 facility.

1-59 SECTION 2. This Act takes effect immediately if it receives  
1-60 a vote of two-thirds of all the members elected to each house, as  
1-61 provided by Section 39, Article III, Texas Constitution. If this  
1-62 Act does not receive the vote necessary for immediate effect, this  
1-63 Act takes effect September 1, 2003.

1-64 \* \* \* \* \*