

68-415. Removal of poles, piers, abutments, pipelines or other fixtures along highway; procedure; advancement of moneys to utilities for removal or relocation of utilities, structures or facilities; rural water districts' water lines. (a) Whenever any person, firm or any corporation created for the purpose of constructing and maintaining magnetic telegraph or telephone lines or other telecommunication facilities or for the purpose of constructing and maintaining lines for the transmission of electric current or for the purpose of transporting oil or gas or water by pipelines, or municipal corporations, shall construct or maintain poles, piers, abutments, pipelines or other fixtures along, upon or across any state highway, such poles, wires, piers, abutments, pipelines and other fixtures shall be located upon that part of the right-of-way of the state highway designated by the secretary of transportation. The secretary of transportation may require the removal of such poles, piers, abutments, wires and pipelines and other fixtures upon state highways from any location on the state highways to such part of the right-of-way of the state highways as the secretary of transportation shall designate, and if such person, firm or corporation, upon receiving notice of the requirement of the secretary of transportation that such poles, piers, abutments, wires, pipelines or other fixtures be moved, fails to comply with any such requirement, the secretary of transportation may remove such poles, piers, abutments, wires, pipelines and other fixtures to such place on the right-of-way of the state highways as may be designated by the secretary of transportation, and the cost of such removal shall be paid to the secretary of transportation by such person, firm or corporation upon a statement of cost being furnished to such person, firm or corporation.

If such person, firm or corporation refuses to pay the charges, the secretary of transportation shall notify the attorney general, who shall bring suit against such person, firm or corporation in the name of the state to recover the amount. Any amounts received from such persons, firms or corporations shall be deposited in the state treasury and credited to the fund from which the cost of such removal was paid.

(b) In addition to the powers provided in subsection (a), the secretary may advance moneys to a public utility or entity when the utilities, structures or facilities of such public utility or entity are being moved, modified or relocated and in the secretary's opinion the expeditious movement, modification or relocation of such utilities, structures or facilities, from current or proposed highway right-of-way, is necessitated by a current or proposed highway project. The secretary shall not advance moneys to a public utility or entity, unless such public utility or entity can demonstrate a financial need for the advancement of such moneys.

The secretary shall not advance moneys in excess of \$20,000, per project, to any one public utility or entity. Such public utility or entity advanced money by the secretary shall pay interest upon such money at the rate of interest equal to the average yield before taxes received on 91-day United States treasury bills as determined by the federal reserve banks as fiscal agents of the United States at its most recent public offering of such bills prior to the date of the advancement of such money. The term for the repayment of such money by such public utility or entity shall not exceed 60 months.

Nothing in this subsection shall give any public utility or entity any standing on rights of compensation not currently available under law, and all such payments are deemed a matter of legislative policy to rest solely within the discretion of the secretary of transportation for the purpose of expediting the construction, reconstruction or maintenance of the state highway system.

The secretary of transportation shall adopt rules and regulations establishing the procedure and criteria for the advancement of moneys under the provisions of this subsection.

(c) Notwithstanding the provisions of subsection (a), any rural water district created under the provisions of K.S.A. 82a-612 *et seq.*, and amendments thereto, which, after excluding such water lines that cross a highway, has 90% or more of its remaining water lines on private right-of-way and is required to relocate such district's water lines in accordance with subsection (a): (1) Shall be reimbursed for such district's costs for relocating such water lines; or (2) if the secretary of transportation relocates the district's water lines, such district shall not be required to reimburse the secretary of transportation the costs for relocating such water lines. The provisions of this subsection shall apply to all state highway funded projects, including any highway projects currently in progress.

History: L. 1929, ch. 225, § 16; L. 1975, ch. 426, §56; L. 1990, ch. 247, § 1; L. 1992, ch. 146, § 4; L. 1995, ch. 68, § 1; Apr. 6.