

1 AMENDMENT TO SENATE BILL 699

2 AMENDMENT NO. _____. Amend Senate Bill 699, AS AMENDED,
3 as follows:

4 in Section 5, Sec. 9-113, by replacing subsection (b) with
5 the following:

6 "(b) The State and county highway authorities are
7 authority--- authorized to promulgate reasonable and
8 necessary rules, regulations, and specifications for State
9 highways for the administration of this Section. In addition
10 to rules promulgated under this subsection (b), the State
11 highway authority shall and a county highway authority may
12 adopt coordination strategies and practices designed and
13 intended to establish and implement effective communication
14 respecting planned highway projects that the State or county
15 highway authority believes may require removal, relocation,
16 or modification in accordance with subsection (f) of this
17 Section. The strategies and practices adopted shall include
18 but need not be limited to the delivery of 5 year programs,
19 annual programs, and the establishment of coordination
20 councils in the locales and with the utility participation
21 that will best facilitate and accomplish the requirements of
22 the State and county highway authority acting under
23 subsection (f) of this Section. The utility participation

1 shall include assisting the appropriate highway authority in
2 establishing a schedule for the removal, relocation, or
3 modification of the owner's facilities in accordance with
4 subsection (f) of this Section. In addition, each utility
5 shall designate in writing to the Secretary of Transportation
6 or his or her designee an agent for notice and the delivery
7 of programs. The coordination councils must be established on
8 or before January 1, 2002. The 90 day deadline for removal,
9 relocation, or modification of the ditches, drains, track,
10 rails, poles, wires, pipe line, or other equipment in
11 subsection (f) of this Section shall be enforceable upon the
12 establishment of a coordination council in the district or
13 locale where the property in question is located. The
14 coordination councils organized by a county highway authority
15 shall include the county engineer, the County Board Chairman
16 or his or her designee, and with such utility participation
17 as will best facilitate and accomplish the requirements of a
18 highway authority acting under subsection (f) of this
19 Section. Should a county highway authority decide not to
20 establish coordination councils, the 90 day deadline for
21 removal, relocation, or modification of the ditches, drains,
22 track, rails, poles, wires, pipe line, or other equipment in
23 subsection (f) of this Section shall be waived for those
24 highways."; and

25 in Section 5, Sec. 9-113, by replacing subsection (f) with
26 the following:

27 "(f) Any ditches, drains, track, rails, poles, wires,
28 pipe line, or other equipment located, placed, or constructed
29 upon, under, or along a State highway with the consent of the
30 State or county highway authority under this Section shall,
31 upon written notice by the State or county, highway authority
32 be removed, relocated, or modified by the owner, the owner's
33 agents, contractors, or employees subject---to---removal,
34 relocation--or--modification at no expense to the State or

1 county highway authority when and as deemed necessary by the
2 State or county highway authority for highway or highway
3 safety purposes. The notice shall be properly given after the
4 completion of engineering plans, the receipt of the necessary
5 permits issued by the appropriate State and county highway
6 authority to begin work, and the establishment of sufficient
7 rights-of-way for a given utility authorized by the State or
8 county highway authority to remain on the highway
9 right-of-way such that the unit of local government or other
10 owner of any facilities receiving notice in accordance with
11 this subsection (f) can proceed with relocating, replacing,
12 or reconstructing the ditches, drains, track, rails, poles,
13 wires, pipe line, or other equipment. If a permit
14 application to relocate on a public right-of-way is not filed
15 within 15 days of the receipt of final engineering plans, the
16 notice precondition of a permit to begin work is waived.
17 However, under no circumstances shall this notice provision
18 be construed to require the State or any government
19 department or agency to purchase additional rights-of-way to
20 accommodate utilities. If, within 90 60 days after receipt of
21 such written notice, the ditches, drains, track, rails,
22 poles, wires, pipe line, or other equipment have not been
23 removed, relocated, or modified to the reasonable
24 satisfaction of the State or county highway authority, or if
25 arrangements are not made satisfactory to the State or county
26 highway authority for such removal, relocation, or
27 modification, the State or county highway authority may
28 remove, relocate, or modify such ditches, drains, track,
29 rails, poles, wires, pipe line, or other equipment and bill
30 the owner thereof for the total cost of such removal,
31 relocation, or modification. The scope of the project shall
32 be taken into consideration by the State or county highway
33 authority in determining satisfactory arrangements. The State
34 or county highway authority shall determine the terms of

1 payment of those costs provided that all costs billed by the
2 State or county highway authority shall not be made payable
3 over more than a 5 year period from the date of billing. The
4 State and county highway authority shall have the power to
5 extend the time of payment in cases of demonstrated financial
6 hardship by a unit of local government or other public owner
7 of any facilities removed, relocated, or modified from the
8 highway right-of-way in accordance with this subsection (f).
9 This paragraph shall not be construed to prohibit the State
10 or county highway authority from paying any part of the cost
11 of removal, relocation, or modification where such payment is
12 otherwise provided for by State or federal statute or
13 regulation. At any time within 90 days after written notice
14 was given, the owner of the drains, track, rails, poles,
15 wires, pipe line, or other equipment may request the district
16 engineer or, if appropriate, the county engineer for a waiver
17 of the 90 day deadline. The appropriate district or county
18 engineer shall make a decision concerning waiver within 10
19 days of receipt of the request and may waive the 90 day
20 deadline if he or she makes a written finding as to the
21 reasons for waiving the deadline. Reasons for waiving the
22 deadline shall be limited to acts of God, war, the scope of
23 the project, the State failing to follow the proper notice
24 procedure, and any other cause beyond reasonable control of
25 the owner of the facilities. Waiver must not be unreasonably
26 withheld. If 90 days after written notice was given, the
27 ditches, drains, track, rails, poles, wires, pipe line, or
28 other equipment have not been removed, relocated, or modified
29 to the satisfaction of the State or county highway authority,
30 no waiver of deadline has been requested or issued by the
31 appropriate district or county engineer, and no satisfactory
32 arrangement has been made with the appropriate State or
33 county highway authority, the State or county highway
34 authority or the general contractor of the building project

1 may file a complaint in the circuit court for an emergency
2 order to direct and compel the owner to remove, relocate, or
3 modify the drains, track, rails, poles, wires, pipe line, or
4 other equipment to the satisfaction of the appropriate
5 highway authority. The complaint for an order shall be
6 brought in the circuit in which the subject matter of the
7 complaint is situated or, if the subject matter of the
8 complaint is situated in more than one circuit, in any one of
9 those circuits."; and

10 in Section 5, Sec. 9-113, by replacing subsection (h) with
11 the following:

12 "(h) Upon receipt of an application therefor, consent to
13 so use a highway may be granted subject to such terms and
14 conditions not inconsistent with this Code as the highway
15 authority deems for the best interest of the public. The
16 terms and conditions required by the appropriate highway
17 authority may include but need not be limited to
18 participation by the party granted consent in the strategies
19 and practices adopted under subsection (b) of this Section.

20 The petitioner shall pay to the owners of property abutting
21 upon the affected highways established as though by common
22 law plat all damages the owners may sustain by reason of such
23 use of the highway, such damages to be ascertained and paid
24 in the manner provided by law for the exercise of the right
25 of eminent domain."; and

26 in Section 5, Sec. 9-113, below the last line of subsection
27 (l), by inserting the following:

28 "(m) The provisions of this Section apply to all permits
29 issued by the Department of Transportation and the
30 appropriate State or county highway authority.".