

1 ENGROSSED HOUSE AMENDMENT

TO

2 ENGROSSED SENATE BILL NO. 563

By: Crain of the Senate

3 and

4 Derby of the House

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6
7 [use of roads, highways and rights-of-way -
8 Department of Transportation and boards of county
9 commissioners - repair of damages - codification -
10 effective date]

11 AUTHORS: Add the following House Coauthors: Newell, Kirby,
12 Cockroft, Billy and McPeak

13 AMENDMENT NO. 1. Strike the stricken title, enacting clause and
14 entire bill and insert

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16 "An Act relating to roads and bridges; amending 69
17 O.S. 2011, Section 1401, which relates to use of
18 right-of-way by public utilities; modifying
19 definition of certain terms; and providing an
20 effective date.

21 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

22 SECTION 1. AMENDATORY 69 O.S. 2011, Section 1401, is
23 amended to read as follows:
24

1 Section 1401. A. Any public utility, or cable television
2 system, not otherwise authorized to do so, lawfully operating or
3 doing business in the State of Oklahoma shall have the right to use
4 the public roads and highways of this state, including the right-of-
5 way and all easements pertaining thereto, as provided for in this
6 section.

7 B. The use of the public roads and highways by such public
8 utility or cable television system shall be for the purpose of
9 erecting poles and posts, attaching equipment, wires and fixtures
10 thereto and laying pipes and conduits under the surface thereof.
11 All poles, wires, fixtures, pipes and conduits shall be erected,
12 placed, adjusted or laid and maintained only after obtaining the
13 consent pursuant to rules promulgated by the Department of
14 Transportation as to the state highway system, and the boards of
15 county commissioners of the various counties as to roads and
16 highways under their jurisdiction. Provided, however, in the event
17 a utility or cable television system which has facilities located on
18 private easements is included within the public right-of-way as a
19 result of construction, reconstruction, improvement or other
20 modification, it shall be granted prior rights, as defined below.
21 Such utility or cable television system, which complies with the
22 Underground Damage Prevention Act shall not be liable for damages to
23 any other utility, which locates facilities within the area
24 encompassed, to the extent practicable without interfering with or

1 endangering the public in the use of its roads and highways, by the
2 private easements of the public utility or cable television system
3 included within the public right-of-way, as a result of the
4 operation, maintenance or repair of such utility's or cable
5 television system's facilities. The term "prior rights" as used in
6 this section refers to a situation involving a utility company that
7 was located on private easements which are later encompassed by the
8 state's right-of-way. When a utility company is in private
9 easements which are acquired or encompassed by the right-of-way of
10 the Department, it is given a choice of relocating their conflicting
11 facilities into a public right-of-way or acquiring a new private
12 easement and relocating onto it. Either of said relocations shall
13 be at the expense of the Department. Whenever a utility company
14 relocates into a public right-of-way, the utility company shall have
15 prior rights. If a subsequent relocation is required by the
16 Department, the utility company shall be given a choice to relocate
17 onto public easements or to relocate into a private right-of-way,
18 and both will be at the expense of the Department. The utility
19 shall have prior rights for any subsequent relocation requested by
20 the Department. If a public utility or cable television system
21 elects to relocate its facilities to a newly acquired private right-
22 of-way, the utility shall forfeit all rights and claims in its
23 easements to the extent such easements are now contained in the
24 public right-of-way as a result of construction, reconstruction,

1 improvement, or other modification. Nothing in this section shall
2 be construed to grant the right to use the streets or other places
3 of any municipality of this state without the consent of the
4 municipality. Provided, further, that the boards of county
5 commissioners may grant to any citizen the right to lay pipes and
6 conduits under the surface of any road or highway under their
7 jurisdiction, subject to such rules, regulations and conditions as
8 shall be prescribed by the board of county commissioners. Nothing
9 in this section shall be construed to limit any rights granted by
10 other provisions of law. All poles, wires, posts, conduits and
11 equipment shall be erected, placed, adjusted, laid, constructed and
12 maintained so as not to inconvenience or endanger the public in the
13 use of its roads and highways and shall conform to all applicable
14 provisions of the National Electrical Safety Code approved by the
15 American National Standards Institute, in effect at the time of such
16 erection, placement, adjustment, or construction.

17 Public utilities or cable television systems shall completely
18 repair or replace any damage, injury or other change to public roads
19 or highways or rights-of-way of this state or any county or
20 municipality which would inconvenience or endanger the public which
21 are caused by the erection, placement, adjustment, construction or
22 maintenance of any public utility or cable television system poles,
23 wires, posts, conduits or other equipment. Nothing in this act
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1 shall be interpreted to impair the right of recovery against any
2 third party for such damage or injury.

3 C. The failure of any public utility or cable television system
4 to construct or maintain its poles, wires, conduits, pipe lines and
5 equipment upon or under such public highways in full compliance with
6 the rules promulgated by the Department of Transportation or the
7 board of county commissioners, including placement of its poles,
8 wires, conduits, pipe lines and equipment, shall forfeit the right
9 of the utility or cable television system to use the public highway
10 or highways, and the utility or cable television system may
11 thereupon be ousted from the use of the highway.

12 D. "Public utility" and "cable television systems" as used in
13 this section and in Sections 1402 and 1403 of this title shall be
14 defined as a person, corporation, association, limited liability
15 company or partnership, company, ~~or~~ any other form of entity
16 organized and existing or domesticated under the laws of this state
17 or a tribally owned or tribally operated utility, and whose users
18 lie within the State of Oklahoma. Such terms as used in this
19 section and Sections 1402 and 1403 of this title specifically shall
20 not apply to persons, corporations, associations, limited liability
21 companies or partnerships, companies, or any other form of entity
22 which obtains status through the Corporation Commission as a public
23 utility, but whose end users are not within the State of Oklahoma.

24 SECTION 2. This act shall become effective November 1, 2015."

1 Passed the House of Representatives the 30th day of March, 2015.

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4 Presiding Officer of the House of
Representatives

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6 Passed the Senate the ____ day of _____, 2015.

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9 Presiding Officer of the Senate