

COMMITTEE AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB563 _____
 _____ Of the printed Bill
 Page _____ Section _____ Lines _____
 _____ Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

(INSERT ATTACHMENT)

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: David Derby _____

Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 PROPOSED COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 563

By: Crain of the Senate

and

6 Derby of the House

7
8 PROPOSED COMMITTEE SUBSTITUTE

9
10 An Act relating to roads and bridges; authorizing
11 certain uses of public roads, highways, rights-of-way
12 and easements; requiring adherence to rules and
13 jurisdictions of the Department of Transportation and
14 county commissioners; requiring certain consent be
15 obtained; stating application of statute; requiring
16 adherence to certain standards; authorizing and
17 defining temporary uses; allowing temporary uses
18 without abutting landowner consent or compensation;
19 requiring repair and replacement of property under
20 certain conditions; providing for forfeiture of right
21 to use under certain conditions; amending 69 O.S.
22 2011, Section 1208, which relates to prohibited
23 structures in public right-of-way; requiring certain
24 consent be obtained; expanding exception; amending 69
O.S. 2011, Section 1401, which relates to use of
right-of-way by public utilities; modifying
definition of certain terms; providing for
codification; and providing an effective date.

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

22 SECTION 1. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 1450 of Title 69, unless there
24 is created a duplication in numbering, reads as follows:

1 A. Any person or entity lawfully operating and in the course of
2 doing business in this state may use the public roads and highways,
3 including the rights-of-way and all easements pertaining thereto, as
4 authorized in this section.

5 B. The use of the public roads and highways by any person or
6 entity may be for the purpose of erecting poles and posts, attaching
7 equipment, wires and fixtures thereto and laying pipes and conduits
8 over or on the surface thereof. All poles, posts, fixtures,
9 equipment, wires, pipes and conduits shall be erected, placed,
10 adjusted or laid and maintained only after obtaining the consent
11 pursuant to rules promulgated by the Department of Transportation as
12 to the state highway system, and the boards of county commissioners
13 of the various counties as to roads and highways under their
14 jurisdiction. Provided further, that the boards of county
15 commissioners may grant to any person or entity the right to lay
16 pipes and conduits under the surface of any road or highway under
17 their jurisdiction, subject to such rules, regulations and
18 conditions as shall be prescribed by the board of county
19 commissioners. Nothing in this section shall be construed to limit
20 any rights otherwise granted by law. All poles, posts, fixtures,
21 equipment, wires, pipes and conduits shall be erected, placed,
22 adjusted, laid, constructed and maintained so as not to
23 inconvenience or endanger the public in the use of its roads and
24 highways and shall conform to all applicable provisions of the

1 National Electrical Safety Code approved by the American National
2 Standards Institute, in effect at the time of such erection,
3 placement, adjustment or construction.

4 C. When the use of the public roads and highways by any person
5 or entity as authorized by this section is deemed to be temporary, a
6 grant of permission by the Department of Transportation or a board
7 of county commissioners shall not require consent of or compensation
8 to the abutting landowner, provided that such use serves the safety
9 and interest of the public by reducing or eliminating another burden
10 on the public road or highway. The use of the public roads and
11 highways by any person or company pursuant to the provisions of this
12 section shall be deemed to be temporary when such use is not
13 anticipated to exist and does not exist for longer than one (1) year
14 from the date permission for such use is granted.

15 D. Any person or entity utilizing the public roads and highways
16 pursuant to this section shall completely repair or replace any
17 damage, injury or other change to public roads or highways or
18 rights-of-way of this state or any county or municipality which
19 would inconvenience or endanger the public which is caused by the
20 erection, placement, adjustment, construction or maintenance of
21 poles, posts, fixtures, equipment, wires, pipes and conduits
22 pursuant to this section.

23 E. The failure of such person or entity to construct or
24 maintain its poles, wires, conduits, pipelines and equipment upon or

1 under such public highways in full compliance with the rules
2 promulgated by the Department of Transportation or the board of
3 county commissioners, including placement of its poles, wires,
4 conduits, pipelines and equipment, shall forfeit the right of the
5 public citizen to use the public road or highways for such use, and
6 the private citizen may thereupon be ousted from the use of the
7 public road or highway.

8 SECTION 2. AMENDATORY 69 O.S. 2011, Section 1208, is
9 amended to read as follows:

10 Section 1208. ~~(a)~~ A. The rights-of-way acquired by the
11 Department shall be held inviolate for state highway and
12 departmental purposes, and no physical or functional encroachments
13 or uses shall be permitted within such rights-of-way.

14 ~~(b)~~ B. It shall be unlawful for any person to construct,
15 maintain or operate any gasoline pump, driveway canopy, building,
16 sign, fence, post, or any thing or structure on or overhanging any
17 right-of-way, or upon or overhanging any street occupied by a
18 designated state or federal highway, and the construction or
19 maintaining of any such thing or structure on or overhanging any
20 federal or state highway shall constitute a public nuisance, which
21 may be summarily abated by the Commission or its officers, agents,
22 servants and employees in the manner provided in this article.

23 ~~(c)~~ C. This section shall not apply to the lawful use of such
24 rights-of-way for the erection and operation of facilities of a

1 public utility, or any person or entity authorized to use such
2 rights-of-way pursuant to Section 1 of this act.

3 SECTION 3. AMENDATORY 69 O.S. 2011, Section 1401, is
4 amended to read as follows:

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

11 B. The use of the public roads and highways by such public
12 utility or cable television system shall be for the purpose of
13 erecting poles and posts, attaching equipment, wires and fixtures
14 thereto and laying pipes and conduits under the surface thereof.
15 All poles, wires, fixtures, pipes and conduits shall be erected,
16 placed, adjusted or laid and maintained only after obtaining the
17 consent pursuant to rules promulgated by the Department of
18 Transportation as to the state highway system, and the boards of
19 county commissioners of the various counties as to roads and
20 highways under their jurisdiction. Provided, however, in the event
21 a utility or cable television system which has facilities located on
22 private easements is included within the public right-of-way as a
23 result of construction, reconstruction, improvement or other
24 modification, it shall be granted prior rights, as defined below.

1 Such utility or cable television system, which complies with the
2 Underground Damage Prevention Act shall not be liable for damages to
3 any other utility, which locates facilities within the area
4 encompassed, to the extent practicable without interfering with or
5 endangering the public in the use of its roads and highways, by the
6 private easements of the public utility or cable television system
7 included within the public right-of-way, as a result of the
8 operation, maintenance or repair of such utility's or cable
9 television system's facilities. The term "prior rights" as used in
10 this section refers to a situation involving a utility company that
11 was located on private easements which are later encompassed by the
12 state's right-of-way. When a utility company is in private
13 easements which are acquired or encompassed by the right-of-way of
14 the Department, it is given a choice of relocating their conflicting
15 facilities into a public right-of-way or acquiring a new private
16 easement and relocating onto it. Either of said relocations shall
17 be at the expense of the Department. Whenever a utility company
18 relocates into a public right-of-way, the utility company shall have
19 prior rights. If a subsequent relocation is required by the
20 Department, the utility company shall be given a choice to relocate
21 onto public easements or to relocate into a private right-of-way,
22 and both will be at the expense of the Department. The utility
23 shall have prior rights for any subsequent relocation requested by
24 the Department. If a public utility or cable television system

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

21 Public utilities or cable television systems shall completely
22 repair or replace any damage, injury or other change to public roads
23 or highways or rights-of-way of this state or any county or
24 municipality which would inconvenience or endanger the public which

1 are caused by the erection, placement, adjustment, construction or
2 maintenance of any public utility or cable television system poles,
3 wires, posts, conduits or other equipment. Nothing in this act
4 shall be interpreted to impair the right of recovery against any
5 third party for such damage or injury.

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

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

1 which obtains status through the Corporation Commission as a public
2 utility, but whose end users are not within the State of Oklahoma.

3 SECTION 4. This act shall become effective November 1, 2015.

4
5 55-1-7168 JM 03/19/15
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24