HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 563 By: Crain of the Senate

and

Derby, Newell and Kirby of the House

COMMITTEE SUBSTITUTE

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

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

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

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

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

B. The use of the public roads and highways by such public utility or cable television system shall be for the purpose of erecting poles and posts, attaching equipment, wires and fixtures thereto and laying pipes and conduits under the surface thereof. All poles, wires, fixtures, pipes and conduits shall be erected, placed, adjusted or laid and maintained only after obtaining the consent pursuant to rules promulgated by the Department of Transportation as to the state highway system, and the boards of county commissioners of the various counties as to roads and highways under their jurisdiction. Provided, however, in the event a utility or cable television system which has facilities located on private easements is included within the public right-of-way as a result of construction, reconstruction, improvement or other modification, it shall be granted prior rights, as defined below. Such utility or cable television system, which complies with the Underground Damage Prevention Act shall not be liable for damages to any other utility, which locates facilities within the area encompassed, to the extent practicable without interfering with or endangering the public in the use of its roads and highways, by the private easements of the public utility or cable television system included within the public right-of-way, as a result of the operation, maintenance or repair of such utility's or cable television system's facilities. The term "prior rights" as used in this section refers to a situation involving a utility company that

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was located on private easements which are later encompassed by the state's right-of-way. When a utility company is in private easements which are acquired or encompassed by the right-of-way of the Department, it is given a choice of relocating their conflicting facilities into a public right-of-way or acquiring a new private easement and relocating onto it. Either of said relocations shall be at the expense of the Department. Whenever a utility company relocates into a public right-of-way, the utility company shall have prior rights. If a subsequent relocation is required by the Department, the utility company shall be given a choice to relocate onto public easements or to relocate into a private right-of-way, and both will be at the expense of the Department. The utility shall have prior rights for any subsequent relocation requested by the Department. If a public utility or cable television system elects to relocate its facilities to a newly acquired private right-of-way, the utility shall forfeit all rights and claims in its easements to the extent such easements are now contained in the public right-of-way as a result of construction, reconstruction, improvement, or other modification. Nothing in this section shall be construed to grant the right to use the streets or other places of any municipality of this state without the consent of the municipality. Provided, further, that the boards of county commissioners may grant to any citizen the right to lay pipes and conduits under the surface of any road or highway under their

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jurisdiction, subject to such rules, regulations and conditions as shall be prescribed by the board of county commissioners. Nothing in this section shall be construed to limit any rights granted by other provisions of law. All poles, wires, posts, conduits and equipment shall be erected, placed, adjusted, laid, constructed and maintained so as not to inconvenience or endanger the public in the use of its roads and highways and shall conform to all applicable provisions of the National Electrical Safety Code approved by the American National Standards Institute, in effect at the time of such erection, placement, adjustment, or construction.

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

C. The failure of any public utility or cable television system to construct or maintain its poles, wires, conduits, pipe lines and equipment upon or under such public highways in full compliance with the rules promulgated by the Department of Transportation or the board of county commissioners, including placement of its poles,

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wires, conduits, pipe lines and equipment, shall forfeit the right of the utility or cable television system to use the public highway or highways, and the utility or cable television system may thereupon be ousted from the use of the highway.

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

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

COMMITTEE REPORT BY: COMMITTEE ON TRANSPORTATION, dated 03/24/2015 - DO PASS, As Amended and Coauthored.

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