

SENATE, NO. 2356

[Senate, April 5, 2010 - New draft of Senate, No. 1508 reported from the committee on Telecommunications, Utilities and Energy.]



The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND TEN

AN ACT RELATIVE TO THE TEMPORARY RELOCATION OF UTILITY WIRES.

Be it enacted by the Senate and House of Representatives in General Court assembled,

And by the authority of the same, as follows:

- 1 **SECTION 1.** Section 39 of Chapter 166 of the General Laws, as appearing in the 2008
2 Official Edition, is hereby amended by striking out section 39 and inserting in place thereof the
3 following section:-
- 4 (a) Whenever, in order to move a building or for any other necessary purpose, a
5 person desires that the pipes, mains, poles, wires, conduits or fixtures of a public utility
6 be cut, disconnected, or removed, the person which desires the cutting, disconnection, or

7 removal of pipes, mains, poles, wires, conduits or fixtures of a public utility shall give
8 written notification thereof to the department of public utilities and the utility company
9 no later than thirty days prior to the proposal date of the move. The written notification
10 must contain the location of the site where the structure is presently located, the location
11 of the final destination of the structure, the path of the proposed move, described in
12 reference to the crossings of streets or highways, and the date of the required cutting,
13 disconnection or removal.

14 The public utility shall not be responsible for any more than \$5,000 in costs
15 associated with the cutting, disconnecting, or removing of the pipes, mains, poles, wires,
16 conduits, or fixtures, unless the department of public utilities, after notice and a public
17 hearing considers the following factors and so orders. The factors to be considered are:

- 18 (1) Whether the building to be moved is to be used as affordable housing for low
19 and moderate income persons;
- 20 (2) The replacement value of the building once moved and rehabilitated;
- 21 (3) The historic value of the building;
- 22 (4) The fiscal cost of the building, move and rehabilitation;
- 23 (5) The public expense involved in the move, including utility costs, state and city
24 labor costs including police and any other public funds or expense required to
25 move and rehabilitate the building;
- 26 (6) The potential damage to roads, trees or buildings; and

27 (7) The disruption of utility service and street use and the expense to others who
28 are inconvenienced by the loss of utility services and/or use of roads or
29 buildings.

30 (b) If the person which desires the cutting, disconnection, or removal of pipes, mains,
31 poles, wires, conduits, or fixtures requests a public hearing, it shall be held no later than
32 21 days prior to the proposed move. Notice of the proposal and the hearing shall be
33 placed primarily in at least 10 locations in each mile on the proposed route and shall be
34 mailed to the chief executive officer of every city or town on the route, and each city or
35 town council person whose district includes any portion of the route. In addition, the
36 department of public utilities shall provide such other notice as required by law and that
37 is usually given for public hearings of the department of public utilities. The cost of the
38 notices required by this section shall be paid by the applicant.

39 (c) If after hearing, and considering each of the factors above, the department of
40 public utilities finds that the public benefit, including the factors set out in subsections
41 (1), (2), and (3) above substantially outweighs the fiscal cost, public expense, potential
42 damage and disruption set out in subsections (4), (5), (6) and (7) above. The department
43 of public utilities may order that all or part of the utility costs shall be at the utilities'
44 expense and issue such further orders as may be necessary to facilitate the move. In no
45 event shall the department of public utilities approve any more where the combined cost
46 to the affected utilities exceeds \$25,000.