

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 HOUSE BILL 1051

By: Lawson

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5
6 AS INTRODUCED

7 An Act relating to roads, bridges and ferries;
8 amending 51 O.S. 2021, Section 24A.22, which relates
9 to confidential books, records and trade secrets;
10 requiring certain information be kept confidential;
11 amending 69 O.S. 2021, Section 1401, which relates to
12 the use of highways, rights-of-way and easements by
13 public utility or cable television system; requiring
14 utilities make certain information available;
15 requiring exemption from certain records requests;
16 providing certain immunity; and providing an
17 effective date.

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

19 SECTION 1. AMENDATORY 51 O.S. 2021, Section 24A.22, is
20 amended to read as follows:

21 Section 24A.22 A. The Corporation Commission shall keep
22 confidential those records of a public utility, its affiliates,
23 suppliers and customers which the Commission determines are
24 confidential books and records or trade secrets.

1 B. As used in this section, "public utility" means any entity
2 regulated by the Corporation Commission, owning or operating for
3 compensation in this state equipment or facilities for:

4 1. Producing, generating, transmitting, distributing, selling
5 or furnishing electricity;

6 2. The conveyance, transmission, or reception of communication
7 over a telephone system; or

8 3. Transmitting directly or indirectly or distributing
9 combustible hydrocarbon natural or synthetic natural gas for sale to
10 the public.

11 C. Any political subdivision of this state shall keep
12 confidential any Geographic Information System (GIS) files or paper
13 maps it receives following a request for said files or maps from a
14 utility pursuant to subsection E of Section 1401 of Title 69 of the
15 Oklahoma Statutes.

16 SECTION 2. AMENDATORY 69 O.S. 2021, Section 1401, is
17 amended to read as follows:

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

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

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

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

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

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

1 placement of its poles, wires, conduits, ~~pipe-lines~~ pipelines and
2 equipment, shall forfeit the right of the utility or cable
3 television system to use the public highway or highways, and the
4 utility or cable television system may thereupon be ousted from the
5 use of the highway.

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

18 E. Any utility placing or having existing pipes, poles, wires,
19 or other assets within the public rights-of-way shall provide within
20 ninety (90) days of request by a municipality, state agency or
21 county agency, the Geographic Information System (GIS) files or
22 paper maps showing the approximate location of said assets to the
23 governmental agency having jurisdiction over that right-of-way, or a
24 state repository created for that purpose. The asset GIS location

1 files or paper maps shall be exempt from the Oklahoma Open Records
2 Act and may not be shared with any other entity without permission
3 of the utility. The utility shall be immune from claims of
4 negligence based on inaccurate asset locations depicted upon the GIS
5 files or paper maps if the production was done in good faith.

6 SECTION 3. This act shall become effective November 1, 2023.

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