

Addendum to the 2019 Accommodations Policy Due to Senate Bill S 401

On May 13, 2019 Senate Bill 401 was passed in to law. The new law does not provide reimbursement for any project currently under construction or within 180 days of letting to contract from the May 13, 2019 effective date. This law applies to all projects that are going to let to contract after November of 2019. The purpose of this new law is to assist in expediting state, county, and municipal infrastructure improvement projects by aiding public water and sewer utilities in relocating impacted facilities.

For a small public utility, meaning those with 10,000 or fewer connections and serving a population of 30,000 or less, the transportation improvement project shall bear all of the relocation costs, including design costs. The law requires an entity undertaking a transportation project to bear the costs related to relocating water and sewer lines, up to 4% of the original construction bid amount for a large public water utility or large public sewer utility. Should more than one large public water utility or large public sewer utility be required to relocate by a single transportation improvement project, the total cost share of up to 4% shall be divided pro rata among the large public water or large public sewer utilities. For transportation improvement projects that impacts both large and small public water and sewer utilities, the entity undertaking the transportation improvement must pay all of the small public utility's relocation costs and must also pay up to 4.5%, minus the costs of the small public utility's relocation costs, of the original construction bid amount of the transportation improvement project toward the large public water and large public sewer utility relocation costs. Water taps and sewer connections shall be counted separately and shall not be combined. Costs related to relocating water and sewer lines by definition means the amount attributable to the relocation minus any betterment made to the system. For a small public water or sewer utility to be eligible for payment of the relocation costs, the relocation must be placed under the control of the general contractor for the transportation improvement project through a Memorandum of Agreement (MOA). All documents necessary for inclusion in the transportation improvement project must be provided by the utility at least one hundred eighty (180) days prior to the receipt of bids for the project. If a transportation project is under an accelerated schedule, then the entity undertaking the project shall notify the utility of the date by which the documents must be provided. Failure to meet the bidding and construction schedule requirements shall result in the utility having to bear all relocation costs, except if the delay is due to an event beyond the control of the utility.

A large public water or sewer utility may choose not to have the relocation placed under the control of the general contractor and still be eligible for reimbursement. However a decision by a large public water utility or sewer utility to not have the relocations placed under the control of the general contractor must be in writing to the entity undertaking the transportation project at least one hundred eighty (180) days prior to the receipt of bids for the project. Failure to meet the project contract requirements and construction schedule shall result in the utility having to bear all relocation costs.

Each transportation project will be reviewed on an individual basis to determine the cost share breakdown. Small public water and sewer companies will be required to provide the number of service

connections and population serving size to help meet the compliance and accountability requirements of the law.

Nothing in the law shall prohibit or limit payment by a transportation improvement project for the relocation of public water or sewer lines necessary for the transportation improvement project that have prior rights nor will SCDOT alter its current policies and procedures concerning prior rights. In cases where prior rights exist, the relocation cost will show a pro-rata breakdown between prior rights, amounts eligible for reimbursement under the law, any portions that are the responsibility of the utility, and any other funding source.

Sunset Provision: The Requirements by this law expires July 1st of 2026, unless otherwise extended by the General Assembly.