

5632

Sponsor(s): Senators Esser, Fairley, Schmidt, Prentice, Horn and Rossi

Brief Description: Regarding utility relocation costs.

**SB 5632 - DIGEST**

(DIGEST AS PASSED LEGISLATURE)

Provides that, if utility facilities must be removed or relocated as a result of the construction, alteration, repair, or improvement of a rail fixed guideway system as defined in RCW 81.104.015, the costs of the removal or relocation must be included in the costs of the system and paid by the authority. However, any additional costs associated with the upgrade of any existing utility facility that the utility elects to undertake must be paid by the utility.

Provides that, if there is a dispute over costs, the costs will be submitted to an independent auditor agreed to by the parties. That auditor will determine if the costs were accurate and the auditor's decision will be final. The cost of the auditor must be paid by the party requesting the audit.

VETO MESSAGE ON SB 5632

April 23, 2003

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Senate Bill No. 5632 entitled:

"AN ACT Relating to utility relocation costs;"

This bill amends 81.112 RCW, enabling legislation for the Regional Transit Authority (RTA), to provide that the costs to relocate utility facilities required for construction of rail fixed guideway systems is a cost of the projects and must be paid by the RTA. It also provides that the RTA must negotiate the engineering, design, and route selection of the system with affected utilities.

Under traditional common law and under current state statute, when local governments make improvements to rights-of-way, utilities displaced by those improvements are required in most instances to pay the costs of relocation. Sound Transit and local governments properly relied on this existing law in preparing their budgets and design plans for the Tacoma and Central Link light rail projects.

Construction, including utility relocation, of the Tacoma and Central Links projects is already under way. To shift relocation costs from the utilities to Sound Transit at this late date would potentially disrupt or delay transportation projects that are vital

to the Puget Sound region. I also have concerns with the provisions of the bill that could be interpreted as requiring utilities' approval of engineering, design, and route selection of the system.

Although I am vetoing Senate Bill No. 5632, the proponents have raised some important issues. Telecommunications and energy utilities provide services that are no less critical to our state's economy than transportation. When transportation projects impose obligations on utilities that cause their costs to increase, those increased costs must be borne by businesses, homes, schools, and government institutions in the form of higher utility rates or reduced investments in needed telecommunications or energy infrastructure. I believe it is appropriate for regulatory bodies to acknowledge the added costs of utility relocation in rate-setting proceedings.

Citizens are both taxpayers and utility ratepayers. Whether the costs of transit projects are paid by taxpayers or by utility ratepayers, they are paid by citizens. I would support thoughtful, comprehensive legislation on utility relocation that addresses both public and private utilities, and encompasses projects sponsored by state government, local government, regional transit authorities, and other public or quasi-public entities. Such legislation should also address reported inequities and inconsistencies in current utility relocation policies.

Utility relocation, whether assumed by the project sponsor or utility, is clearly one of the costs of building or improving public infrastructure. The public interest is best served by a fair and uniform policy to minimize these costs whenever possible.

For these reasons I have vetoed Senate Bill No. 5632 in its entirety.

Respectfully submitted,  
Gary Locke  
Governor