

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 993

By: Jett

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5  
6 AS INTRODUCED

7 An Act relating to roads, bridges and ferries;  
8 amending 69 O.S. 2011, Section 1401, which relates to  
9 use of highways, rights-of-way and easements;  
10 authorizing certain entities to use public roads and  
11 highways; adding definition of district; amending 69  
12 O.S. 2011, Section 1402, which relates to  
13 interference with public use; adding certain entities  
14 to prohibition; updating statutory reference; and  
15 providing an effective dates.

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

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

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

25 B. The use of the public roads and highways by such public  
26 utility, district or cable television system shall be for the  
27 purpose of erecting poles and posts, attaching equipment, wires and

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

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

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

10 Public utilities, district or cable television systems shall  
11 completely repair or replace any damage, injury or other change to  
12 public roads or highways or rights-of-way of this state or any  
13 county or municipality which would inconvenience or endanger the  
14 public which are caused by the erection, placement, adjustment,  
15 construction or maintenance of any public utility, district or cable  
16 television system poles, wires, posts, conduits, pipes or other  
17 equipment. Nothing in ~~this act~~ Section 1401 et seq. of this title  
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, district or cable  
21 television system to construct or maintain its poles, wires,  
22 conduits, pipe lines and equipment upon or under such public  
23 highways in full compliance with the rules promulgated by the  
24 Department of Transportation or the board of county commissioners,

1 including placement of its poles, wires, conduits, pipe lines and  
2 equipment, shall forfeit the right of the utility, district or cable  
3 television system to use the public highway or highways, and the  
4 utility, district or cable television system may thereupon be ousted  
5 from the 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. "District" as used in this section and in Section 1402 of  
19 this title means a public nonprofit water district, a nonprofit  
20 sewer district, a public nonprofit natural gas distribution district  
21 or a nonprofit solid waste management district or a district for the  
22 operation of all or a combination of waterworks, sewage facilities,  
23 natural gas distribution facilities and solid waste management  
24

1 systems, created pursuant to the provisions of Section 1324.1 et  
2 seq. of Title 82 of the Oklahoma Statutes.

3 SECTION 2. AMENDATORY 69 O.S. 2011, Section 1402, is  
4 amended to read as follows:

5 Section 1402. The rights granted pursuant to ~~this act~~ Section  
6 1401 et seq. of this title shall not be exercised as to interfere  
7 with the free and ordinary use of public highways or the exercise of  
8 the rights of other public utilities or districts as defined in  
9 Section 1401 of this title lawfully located on or under the  
10 highways. The Corporation Commission shall have authority to hear  
11 and determine all complaints and controversies involving any  
12 interference with public rights, or the right of other public  
13 service concerns in connection with the exercise of the rights and  
14 authority granted to public utilities or districts, pursuant to ~~this~~  
15 ~~act~~ Section 1401 et seq. of this title and fix reasonable terms and  
16 conditions to be complied with by the respective parties.

17 Proceedings on complaints pursuant to ~~this act~~ Section 1401 et seq.  
18 of this title shall be upon notice and subject to the right of  
19 appeal as in other cases where notice and right of appeal is granted  
20 under the laws of this state and the Department of Transportation  
21 shall be given notice of any complaint filed or hearing set, and  
22 shall have the right to appear on all related issues.

1 SECTION 3. This act shall become effective November 1, 2021.

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