

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Morrissey, Michael (SEN)

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to the temporary relocation of utility wires.

PETITION OF:

NAME:

Morrissey, Michael (SEN)

DISTRICT/ADDRESS:

Norfolk and Plymouth

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S01965 OF 2007-2008.]

The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine
—————

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 2004 Official
2 Edition, is hereby amended by striking out Section 39 and inserting in place thereof the following
3 section:-

4 §39 Temporary removal of wires and supporting fixtures.

5 (a) Whenever, in order to move a building or for any other necessary purpose, a person desires that the
6 pipes, mains, poles, wires, conduits or fixtures of a public utility be cut, disconnected, or removed, the
7 person which desires the cutting, disconnection, or removal of pipes, mains, poles, wires, conduits or
8 fixtures of a public utility shall give written notification thereof to the department of telecommunications
9 and energy and the utility company no later than thirty days prior to the proposal date of the move. The
10 written notification must contain the location of the site where the structure is presently located, the
11 location of the final destination of the structure, the path of the proposed move, described in reference to
12 the crossings of streets or highways, and the date of the required cutting, disconnection or removal.

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

17 (1) Whether the building to be moved is to be used as affordable housing for low and moderate income
18 persons;

19 (2) The replacement value of the building once moved and rehabilitated;

20 (3) The historic value of the building;

21 (4) The fiscal cost of the building, move and rehabilitation;

22 (5) The public expense involved in the move, including utility costs, state and city labor costs including
23 police and any other public funds or expense required to move and rehabilitate the building;

24 (6) The potential damage to roads, trees or buildings; and

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

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

35 (c) If after hearing, and considering each of the factors above, the department of telecommunications and
36 energy finds that the public benefit, including the factors set out in subsections (1), (2), and (3) above
37 substantially outweighs the fiscal cost, public expense, potential damage and disruption set out in

38 subsections (4), (5), (6) and (7) above. The department of telecommunications and energy may order that
39 all or part of the utility costs shall be at the utilities' expense and issue such further orders as may be
40 necessary to facilitate the move. In no event shall the department of telecommunications and energy
41 approve any more where the combined cost to the affected utilities exceeds twenty-five thousand dollars.