



1 reasonable rules or regulations with reference to the placing  
2 and maintaining along, across, or on any road or publicly  
3 owned rail corridors under their respective jurisdictions any  
4 electric transmission, telephone, or telegraph lines; pole  
5 lines; poles; railways; ditches; sewers; water, heat, or gas  
6 mains; pipelines; fences; gasoline tanks and pumps; or other  
7 structures hereinafter referred to as the "utility."

8           (2) The authority may grant to any person who is a  
9 resident of this state, or to any corporation which is  
10 organized under the laws of this state or licensed to do  
11 business within this state, the use of a right-of-way for the  
12 utility in accordance with such rules or regulations as the  
13 authority may adopt. No utility shall be installed, located,  
14 or relocated unless authorized by a written permit issued by  
15 the authority. The permit shall require the permitholder to  
16 be responsible for any damage resulting from the issuance of  
17 such permit. The authority may initiate injunctive  
18 proceedings as provided in s. 120.69 to enforce provisions of  
19 this subsection or any rule or order issued or entered into  
20 pursuant thereto.

21           (3) If any municipality ~~municipal authority~~ requires  
22 any telecommunications ~~telephone~~ company to pay a fee or other  
23 consideration as a condition for granting permission to occupy  
24 municipal streets and rights-of-way for poles, wires, and  
25 other fixtures, such fee or consideration may not exceed 1  
26 percent of the gross receipts on recurring local service  
27 revenues for services provided within the corporate limits of  
28 the municipality by such telecommunications ~~telephone~~ company.  
29 Included within such 1-percent maximum fee or consideration  
30 are all taxes, licenses, fees, in-kind contributions accepted  
31 pursuant to subsection (5), and other impositions except ad

1 valorem taxes and amounts for assessments for special  
2 benefits, such as sidewalks, street pavings, and similar  
3 improvements, and occupational license taxes levied or imposed  
4 by a municipality upon the telecommunications ~~telephone~~  
5 company. This subsection shall not impair any franchise in  
6 existence on July 1, 1985.

7 (4) A municipality may by ordinance enter into an  
8 agreement with any person providing telecommunication services  
9 defined in s. 203.012(7) as a condition for granting  
10 permission to occupy or use any city street, alley, viaduct,  
11 elevated roadway, bridge, or other public way. The agreement  
12 shall permit the telecommunication service provider to  
13 construct, operate, maintain, repair, rebuild, or replace a  
14 telecommunications route within a municipal right-of-way. The  
15 agreement shall provide for a fee or other consideration  
16 payable annually based on actual linear feet of any cable,  
17 fiber optic, or other pathway that makes physical use of the  
18 municipal right-of-way. In no event shall the fee or other  
19 consideration imposed pursuant to this subsection be less than  
20 \$500 per linear mile of any cable, fiber optic, or other  
21 pathway that makes physical use of the municipal right-of-way.  
22 Any fee or other consideration imposed by this subsection in  
23 excess of \$500 shall be applied in a nondiscriminatory manner  
24 and shall not exceed the sum of:

25 (a) Costs directly related to the inconvenience or  
26 impairment solely caused by the disturbance of the municipal  
27 right-of-way; and

28 (b) The reasonable cost of the regulatory activity of  
29 the municipality.

30 (c) The proportionate share of cost of land for such  
31 street, alley, or other public way attributable to utilization

1 of the right-of-way by a telecommunication service provider.  
2 Furthermore, no telecommunication service provider shall be  
3 required to pay more than one such fee or other consideration  
4 annually for the construction, maintenance, operation, repair,  
5 rebuilding, or replacement of a parallel telecommunications  
6 route owned by it, or by a subsidiary under its direct  
7 control, which makes use of the right-of-way of any  
8 municipality enacting an ordinance pursuant to this  
9 subsection. The fee or other consideration imposed pursuant  
10 to this subsection shall not apply in any manner to any  
11 telecommunication service provider who provides  
12 telecommunication services as defined in s. 203.012(3) for any  
13 services provided by such service provider. Any agreement  
14 entered into pursuant to the authority of this subsection  
15 prior to June 3, 1988, and the fees or fee schedule in effect  
16 on that date shall remain in full force and effect until such  
17 agreement expires. Any ordinance enacted pursuant to this  
18 subsection prior to June 3, 1988, and the fees or fee schedule  
19 in effect on that date shall remain in full force and effect  
20 unless the ordinance is repealed by the municipality.

21 Notwithstanding the language contained herein a municipality  
22 may reenact any ordinance which has an automatic expiration  
23 date provided the ordinance does not increase the fees in  
24 effect in said ordinance in violation of this section.

25 (5) Except as expressly allowed or authorized by  
26 general law, and except for the rights-of-way permit fees  
27 subject to subsection (3), a municipality may not levy on a  
28 telecommunications company a tax, fee, or other charge for  
29 operating as a telecommunications company within the  
30 jurisdiction of the municipality or that is in any way related  
31 to using roads or rights-of-way. A municipality may not allow

1 a telecommunications company to pay a fee or provide  
2 compensation in excess of the limits prescribed in this  
3 section. A municipality may not require or solicit in-kind  
4 compensation in lieu of any fees imposed pursuant to this  
5 section. Nothing in this subsection shall impair any  
6 ordinance or agreement in effect on the effective date of this  
7 act that provides for or allows in kind compensation by a  
8 telecommunications company.

9 (6) A local governmental entity may not use its  
10 authority over the placement of facilities in its roads and  
11 rights-of-way as a basis for asserting or exercising  
12 regulatory control over a telecommunications company regarding  
13 matters within the exclusive jurisdiction of the Florida  
14 Public Service Commission or the Federal Communications  
15 Commission, including, but not limited to, the operations,  
16 systems, qualifications, services, service quality, service  
17 territory, and prices of a telecommunications company.

18 (7) A telecommunications company, that has obtained  
19 permission to occupy the roads and rights-of-way of an  
20 incorporated city or town or that is otherwise lawfully  
21 occupying the roads or rights-of-way of a municipality on the  
22 effective date of this act, shall not be required to obtain  
23 additional consent to continue such lawful occupation of those  
24 roads or rights-of-way, however, nothing in this subsection  
25 shall be interpreted to limit the power of a municipality to  
26 impose a fee or adopt or enforce reasonable rules or  
27 regulations as provided in this section.

28 (8) Except as expressly provided in this section, this  
29 section does not modify the authority of local governmental  
30 entities to levy the tax authorized in s. 166.231 or the  
31 duties of telecommunications companies under ss.

1 337.402-337.404. This section does not apply to building  
2 permits, pole attachments, or private roads, private  
3 easements, and private rights-of-way. Except as expressly  
4 provided in this section, this section does not limit or  
5 expand whatever powers counties may have relating to roads and  
6 rights-of-way.

7 (9) As used in this section, "telecommunications  
8 company" has the same meaning as defined in s. 364.02.

9 Section 2. This act shall take effect upon becoming a  
10 law.

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15 ADDITIONAL SPONSORS

16 Bullard, Stabins, Rayson, Greene, Mackenzie, Mackey,  
17 Trovillion, Wise, Bainter, Heyman, Jacobs, Wallace, Healey,  
18 Burroughs, Ziebarth, Sublette, Murman, Kelly, Roberts-Burke  
19 and Merchant  
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