

By the Committee on Communication and Public Utilities; and
Senators Sebesta and Lynn

319-2401-04

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A bill to be entitled
An act relating to roads presumed to be public
highways; amending s. 95.361, F.S.; providing
that provisions governing the circumstances
under which a road is deemed to be dedicated to
the public do not apply to a public utility
facility located on property otherwise subject
to those provisions; providing an effective
date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 95.361, Florida Statutes, is
amended to read:

95.361 Roads presumed to be dedicated.--

(1) When a road, constructed by a county, a
municipality, or the Department of Transportation, has been
maintained or repaired continuously and uninterruptedly for 4
years by the county, municipality, or the Department of
Transportation, jointly or severally, the road shall be deemed
to be dedicated to the public to the extent in width that has
been actually maintained for the prescribed period, whether or
not the road has been formally established as a public
highway. The dedication shall vest all right, title, easement,
and appurtenances in and to the road in:

- (a) The county, if it is a county road;
- (b) The municipality, if it is a municipal street or
road; or
- (c) The state, if it is a road in the State Highway
System or State Park Road System,

1 whether or not there is a record of a conveyance, dedication,
2 or appropriation to the public use.

3 (2) In those instances where a road has been
4 constructed by a nongovernmental entity, or where the road was
5 not constructed by the entity currently maintaining or
6 repairing it, or where it cannot be determined who constructed
7 the road, and when such road has been regularly maintained or
8 repaired for the immediate past 7 years by a county, a
9 municipality, or the Department of Transportation, whether
10 jointly or severally, such road shall be deemed to be
11 dedicated to the public to the extent of the width that
12 actually has been maintained or repaired for the prescribed
13 period, whether or not the road has been formally established
14 as a public highway. The dedication shall vest all rights,
15 title, easement, and appurtenances in and to the road in:

16 (a) The county, if it is a county road;

17 (b) The municipality, if it is a municipal street or
18 road; or

19 (c) The state, if it is a road in the State Highway
20 System or State Park Road System,

21
22 whether or not there is a record of conveyance, dedication, or
23 appropriation to the public use.

24 (3) The filing of a map in the office of the clerk of
25 the circuit court of the county where the road is located
26 showing the lands and reciting on it that the road has vested
27 in the state, a county, or a municipality in accordance with
28 subsection (1) or subsection (2) or by any other means of
29 acquisition, duly certified by:

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1 (a) The secretary of the Department of Transportation,
2 or the secretary's designee, if the road is a road in the
3 State Highway System or State Park Road System;

4 (b) The chair and clerk of the board of county
5 commissioners of the county, if the road is a county road; or

6 (c) The mayor and clerk of the municipality, if the
7 road is a municipal road or street,

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9 shall be prima facie evidence of ownership of the land by the
10 state, county, or municipality, as the case may be.

11 (4) Any person, firm, corporation, or entity having or
12 claiming any interest in and to any of the property affected
13 by subsection (2) shall have and is hereby allowed a period of
14 1 year after the effective date of this subsection, or a
15 period of 7 years after the initial date of regular
16 maintenance or repair of the road, whichever period is
17 greater, to file a claim in equity or with a court of law
18 against the particular governing authority assuming
19 jurisdiction over such property to cause a cessation of the
20 maintenance and occupation of the property. Such timely filed
21 and adjudicated claim shall prevent the dedication of the road
22 to the public pursuant to subsection (2).

23 (5) This section does not apply to any facility of a
24 public utility which is located on property otherwise subject
25 to this section.

26 Section 2. This act shall take effect upon becoming a
27 law.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
SB 2576

The Committee Substitute for Senate Bill 2576 makes a technical correction to existing law.