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LEGISLATIVE ACTION

Senate

House

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Floor: 3/AD/3R

04/27/2009 03:49 PM

Senator Baker moved the following:

Senate Amendment

Delete lines 550 - 653
and insert:

Section 15. Subsection (1) of section 337.401, Florida
Statutes, is amended to read:

337.401 Use of right-of-way for utilities subject to
regulation; permit; fees.-

(1) (a) The department and local governmental entities,
referred to in ss. 337.401-337.404 as the "authority," that have
jurisdiction and control of public roads or publicly owned rail
corridors are authorized to prescribe and enforce reasonable



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13 rules or regulations with reference to the placing and
14 maintaining along, across, or on any road or publicly owned rail
15 corridors under their respective jurisdictions any electric
16 transmission, telephone, telegraph, or other communications
17 services lines; pole lines; poles; railways; ditches; sewers;
18 water, heat, or gas mains; pipelines; fences; gasoline tanks and
19 pumps; or other structures referred to in this section as the
20 "utility." ~~For aerial and underground electric utility~~
21 ~~transmission lines designed to operate at 69 or more kilovolts~~
22 ~~that are needed to accommodate the additional electrical~~
23 ~~transfer capacity on the transmission grid resulting from new~~
24 ~~base-load generating facilities, where there is no other~~
25 ~~practicable alternative available for placement of the electric~~
26 ~~utility transmission lines on the department's rights-of-way,~~
27 ~~the department's rules shall provide for placement of and access~~
28 ~~to such transmission lines adjacent to and within the right-of-~~
29 ~~way of any department-controlled public roads, including~~
30 ~~longitudinally within limited access facilities to the greatest~~
31 ~~extent allowed by federal law, if compliance with the standards~~
32 ~~established by such rules is achieved. Such rules may include,~~
33 ~~but need not be limited to, that the use of the right-of-way is~~
34 ~~reasonable based upon a consideration of economic and~~
35 ~~environmental factors, including, without limitation, other~~
36 ~~practicable alternative alignments, utility corridors and~~
37 ~~easements, impacts on adjacent property owners, and minimum~~
38 ~~clear zones and other safety standards, and further provide that~~
39 ~~placement of the electric utility transmission lines within the~~
40 ~~department's right-of-way does not interfere with operational~~
41 ~~requirements of the transportation facility or planned or~~



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42 ~~potential future expansion of such transportation facility. If~~
43 ~~the department approves longitudinal placement of electric~~
44 ~~utility transmission lines in limited access facilities,~~
45 ~~compensation for the use of the right-of-way is required. Such~~
46 ~~consideration or compensation paid by the electric utility in~~
47 ~~connection with the department's issuance of a permit does not~~
48 ~~create any property right in the department's property~~
49 ~~regardless of the amount of consideration paid or the~~
50 ~~improvements constructed on the property by the utility. Upon~~
51 ~~notice by the department that the property is needed for~~
52 ~~expansion or improvement of the transportation facility, the~~
53 ~~electric utility transmission line will relocate from the~~
54 ~~facility at the electric utility's sole expense. The electric~~
55 ~~utility shall pay to the department reasonable damages resulting~~
56 ~~from the utility's failure or refusal to timely relocate its~~
57 ~~transmission lines. The rules to be adopted by the department~~
58 ~~may also address the compensation methodology and relocation. As~~
59 ~~used in this subsection, the term "base-load generating~~
60 ~~facilities" means electric power plants that are certified under~~
61 ~~part II of chapter 403. The department may enter into a permit-~~
62 ~~delegation agreement with a governmental entity if issuance of a~~
63 ~~permit is based on requirements that the department finds will~~
64 ~~ensure the safety and integrity of facilities of the Department~~
65 ~~of Transportation; however, the permit-delegation agreement does~~
66 ~~not apply to facilities of electric utilities as defined in s.~~
67 ~~366.02(2).~~

68 (b) For aerial and underground electric utility
69 transmission lines designed to operate at 69 or more kilovolts
70 that are needed to accommodate the additional electrical



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71 transfer capacity on the transmission grid resulting from new
72 base-load generating facilities, the department's rules shall
73 provide for placement of and access to such transmission lines
74 adjacent to and within the right-of-way of any department-
75 controlled public roads, including longitudinally within limited
76 access facilities where there is no other practicable
77 alternative available, to the greatest extent allowed by federal
78 law, if compliance with the standards established by such rules
79 is achieved. Such rules may include, but need not be limited to,
80 that the use of the limited access right-of-way for longitudinal
81 placement of electric utility transmission lines is reasonable
82 based upon a consideration of economic and environmental
83 factors, including, without limitation, other practicable
84 alternative alignments, utility corridors and easements, impacts
85 on adjacent property owners, and minimum clear zones and other
86 safety standards, and further provide that placement of the
87 electric utility transmission lines within the department's
88 right-of-way does not interfere with operational requirements of
89 the transportation facility or planned or potential future
90 expansion of such transportation facility. If the department
91 approves longitudinal placement of electric utility transmission
92 lines in limited access facilities, compensation for the use of
93 the right-of-way is required. Such consideration or compensation
94 paid by the electric utility in connection with the department's
95 issuance of a permit does not create any property right in the
96 department's property regardless of the amount of consideration
97 paid or the improvements constructed on the property by the
98 utility. Upon notice by the department that the property is
99 needed for expansion or improvement of the transportation



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100 facility, the electric utility transmission line will relocate
101 at the electric utility's sole expense. The electric utility
102 shall pay to the department reasonable damages resulting from
103 the utility's failure or refusal to timely relocate its
104 transmission lines. The rules to be adopted by the department
105 may also address the compensation methodology and relocation. As
106 used in this subsection, the term "base-load generating
107 facilities" means electric power plants that are certified under
108 part II of chapter 403.