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LEGISLATIVE ACTION

Senate

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House

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Floor: 10/AD/2R

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04/24/2009 02:51 PM

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Senator Bullard moved the following:

**Senate Amendment (with title amendment)**

Delete line 100

and insert:

Section 3. 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



517540

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~~



517540

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



517540

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



517540

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.

109 Section 4. This act shall take effect upon becoming a law.

110

111 ===== T I T L E A M E N D M E N T =====

112 And the title is amended as follows:

113

114 Delete line 19

115 and insert:

116 amending s. 337.401, F.S.; providing for the placement  
117 of and access to transmission lines that are adjacent  
118 to and within the right-of-way of any public road  
119 controlled by the Department of Transportation;  
120 providing an effective date.