

HB 907

2009

1 A bill to be entitled
2 An act relating to Broward County; providing legislative
3 findings; providing conditions under which municipalities
4 may abandon existing easements and acquire new easements
5 by operation of law in order to provide better fire
6 protection service; providing duties of the municipality,
7 the municipal water utility, and the property owner in
8 such event; providing for a cause of action for failure to
9 restore property to its previous condition; specifying
10 conditions for implementation; providing an effective
11 date.

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

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15 Section 1. The Legislature finds that in Broward County
16 there are utility lines that have surpassed their useful life
17 and require replacement because the utility lines no longer
18 provide adequate water flow to fire hydrants to facilitate the
19 fighting and suppression of fires. Fire hydrants with adequate
20 water flow are crucial for fire safety and necessary for the
21 fire department to effectively fight and suppress fires, and
22 there is a great public interest in the capability of fire
23 hydrants to provide adequate water flow to facilitate the
24 fighting of fires. Municipal fire departments rely on water
25 utility providers to supply adequate and sufficient water flow
26 to fire hydrants in order to fight and suppress fires. There is
27 a compelling public interest in ensuring that fire hydrants
28 provide adequate water flow to enable fire rescue departments to

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29 successfully fight and suppress fires and protect all of the
30 citizens of Broward County. Utility lines that supply water flow
31 eventually require replacement, and in many instances it is no
32 longer feasible to replace such utility lines in their present
33 locations due to the placement or construction of other
34 obstacles in the utility easements over time by the owners of
35 the property in which the easements lie.

36 Section 2. If a municipality in Broward County that
37 provides water utility service to any location within Broward
38 County determines that an existing easement is inaccessible or
39 obstructed in such a fashion that it is not feasible to replace
40 the utility lines in the existing easement and:

41 (1) The municipal water utility providing utility service
42 in Broward County determines that the utility lines must be
43 replaced in order to provide sufficient water flow for the
44 fighting and suppression of fires; and

45 (2) The provider of the water utility service, after
46 consultation with the fire department that has jurisdiction
47 relating to the maintenance and use of the fire hydrants in the
48 location at issue, determines that the infrastructure in the
49 existing easement is no longer sufficient for providing water
50 flow to the hydrants,

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52 the municipality may abandon the existing easement to the owners
53 of the various properties through which the easement runs. Such
54 abandonment shall, by operation of law, vest in the water
55 utility a similar easement of like size and kind in a location
56 that allows for the placement of new utility lines that will

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57 provide the necessary water flow at the subject hydrants and
58 provide better fire protection service to the owners of the
59 property through which the abandoned easement runs.

60 Section 3. In the event a municipality abandons an
61 easement as provided in section 2, the municipal water utility
62 shall also be responsible for obtaining from the municipality
63 and Broward County, where applicable, vacation of the easement
64 where the easement is recorded on county plats.

65 Section 4. If a municipality abandons an easement and the
66 municipal water utility acquires a new easement by operation of
67 law as provided in section 2, the municipality shall be
68 responsible for restoring all private and public property to its
69 previous condition after the new utility lines are in place in
70 the new easement.

71 Section 5. With the exception of a cause of action for
72 failure to restore the property to its previous condition, any
73 property owner who receives an abandoned easement and gives a
74 new easement by operation of law as provided in section 2 shall
75 not be entitled to damages or any other remedy of any nature at
76 law or at equity against the municipal water utility that
77 obtains a new easement. Under no circumstances shall obtaining a
78 new easement by operation of law as provided in this act be
79 accomplished to benefit any private party or parties.

80 Section 6. This act may only be implemented to benefit the
81 public by protecting the citizens of Broward County who are
82 relying on outmoded utility infrastructure that is no longer
83 capable of providing adequate water flow to fire hydrants.

84 Section 7. This act shall take effect upon becoming a law.