



116134

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/30/2011	.	
	.	
	.	
	.	

The Committee on Transportation (Latvala) recommended the following:

Senate Amendment (with title amendment)

Between lines 519 and 520
insert:

Section 9. Section 337.403, Florida Statutes, is amended to read:

337.403 Relocation of utility; expenses.—

(1) When a ~~Any utility heretofore or hereafter~~ placed upon, under, over, or along any public road or publicly owned rail corridor ~~that~~ is found by the authority to be unreasonably interfering in any way with the convenient, safe, or continuous use, or the maintenance, improvement, extension, or expansion,



116134

13 of such public road or publicly owned rail corridor, the utility
14 owner shall, upon 30 days' written notice to the utility or its
15 agent by the authority, initiate the work necessary to alleviate
16 the interference ~~be removed or relocated by such utility~~ at its
17 own expense except as provided in paragraphs (a)-(f). The work
18 shall be completed within such time as stated in the notice or
19 such time as is agreed to by the authority and the utility
20 owner.

21 (a) If the relocation of utility facilities, as referred to
22 in s. 111 of the Federal-Aid Highway Act of 1956, Pub. L. No.
23 627 of the 84th Congress, is necessitated by the construction of
24 a project on the federal-aid interstate system, including
25 extensions thereof within urban areas, and the cost of the
26 project is eligible and approved for reimbursement by the
27 Federal Government to the extent of 90 percent or more under the
28 Federal Aid Highway Act, or any amendment thereof, then in that
29 event the utility owning or operating such facilities shall
30 perform any necessary work ~~relocate the facilities~~ upon notice
31 from ~~order of~~ the department, and the state shall pay the entire
32 expense properly attributable to such work ~~relocation~~ after
33 deducting therefrom any increase in the value of any ~~the~~ new
34 facility and any salvage value derived from any ~~the~~ old
35 facility.

36 (b) When a joint agreement between the department and the
37 utility is executed for utility ~~improvement, relocation, or~~
38 ~~removal~~ work to be accomplished as part of a contract for
39 construction of a transportation facility, the department may
40 participate in those utility work ~~improvement, relocation, or~~
41 ~~removal~~ costs that exceed the department's official estimate of



116134

42 the cost of the work by more than 10 percent. The amount of such
43 participation shall be limited to the difference between the
44 official estimate of all the work in the joint agreement plus 10
45 percent and the amount awarded for this work in the construction
46 contract for such work. The department may not participate in
47 any utility work ~~improvement, relocation, or removal~~ costs that
48 occur as a result of changes or additions during the course of
49 the contract.

50 (c) When an agreement between the department and utility is
51 executed for utility ~~improvement, relocation, or removal~~ work to
52 be accomplished in advance of a contract for construction of a
53 transportation facility, the department may participate in the
54 cost of clearing and grubbing necessary to perform such work.

55 (d) If the utility facility involved ~~being removed or~~
56 ~~relocated~~ was initially installed to exclusively serve the
57 department, its tenants, or both, the department shall bear the
58 costs of the utility work ~~removing or relocating that utility~~
59 ~~facility~~. However, the department is not responsible for bearing
60 the cost of utility work related to ~~removing or relocating~~ any
61 subsequent additions to that facility for the purpose of serving
62 others.

63 (e) If, under an agreement between a utility and the
64 authority entered into after July 1, 2009, the utility conveys,
65 subordinates, or relinquishes a compensable property right to
66 the authority for the purpose of accommodating the acquisition
67 or use of the right-of-way by the authority, without the
68 agreement expressly addressing future responsibility for the
69 cost of necessary utility work ~~removing or relocating the~~
70 ~~utility~~, the authority shall bear the cost of removal or



116134

71 relocation. This paragraph does not impair or restrict, and may
72 not be used to interpret, the terms of any such agreement
73 entered into before July 1, 2009.

74 (f) If the utility is an electric facility being relocated
75 underground in order to enhance vehicular, bicycle, and
76 pedestrian safety and in which ownership of the electric
77 facility to be placed underground has been transferred from a
78 private to a public utility within the past 5 years, the
79 department shall incur all costs of the necessary utility work
80 relocation.

81 (2) If such utility work ~~removal or relocation~~ is
82 incidental to work to be done on such road or publicly owned
83 rail corridor, the notice shall be given at the same time the
84 contract for the work is advertised for bids, or no less than 30
85 days prior to the commencement of such work by the authority
86 whichever is greater.

87 (3) Whenever the notice from ~~an order of~~ the authority
88 requires such utility work ~~removal or change in the location of~~
89 ~~any utility from the right-of-way of a public road or publicly~~
90 ~~owned rail corridor~~, and the owner thereof fails to perform the
91 work ~~remove or change the same~~ at his or her own expense ~~to~~
92 ~~conform to the order~~ within the time stated in the notice or
93 such other time as agreed to by the authority and the utility
94 owner, the authority shall proceed to cause the utility work to
95 be performed ~~to be removed~~. The expense thereby incurred shall
96 be paid out of any money available therefor, and such expense
97 shall, except as provided in subsection (1), be charged against
98 the owner and levied and collected and paid into the fund from
99 which the expense of such relocation was paid.



116134

100 Section 10. Subsection (1) of section 337.404, Florida
101 Statutes, is amended to read:

102 337.404 Removal or relocation of utility facilities; notice
103 and order; court review.—

104 (1) Whenever it shall become necessary for the authority to
105 perform utility work ~~remove or relocate any utility~~ as provided
106 in the preceding section, the owner of the utility, or the
107 owner's chief agent, shall be given notice that the authority
108 will perform ~~of such work removal or relocation~~ and, after the
109 work is complete, shall be given an order requiring the payment
110 of the cost thereof, and a ~~shall be given~~ reasonable time, which
111 shall not be less than 20 nor more than 30 days, in which to
112 appear before the authority to contest the reasonableness of the
113 order. Should the owner or the owner's representative not
114 appear, the determination of the cost to the owner shall be
115 final. Authorities considered agencies for the purposes of
116 chapter 120 shall adjudicate removal or relocation of utilities
117 pursuant to chapter 120.

118
119 ===== T I T L E A M E N D M E N T =====

120 And the title is amended as follows:

121 Delete line 30

122 and insert:

123 an installation site at the highway rest areas;
124 amending s. 337.403, F.S.; specifying a utility owner
125 must initiate work necessary to alleviate unreasonable
126 interference under certain circumstances; amending s.
127 337.404, F.S.; revising notice and order requirements
128 relating to utility work; repealing