

1 A bill to be entitled
 2 An act relating to utility right-of-way relocation;
 3 amending s. 337.403, F.S.; requiring utility owners to
 4 remove or relocate at their expense utilities that
 5 interfere with public roads or rail corridors; providing
 6 an exception if a local governmental entity acquires
 7 property where the utility was legally located prior to
 8 the acquisition; adding an exception for certain permits
 9 issued in 1972; providing for notice to utilities prior to
 10 commencement of work; requiring the initiation of removal
 11 by the utility; providing an effective date.

12
 13 Be It Enacted by the Legislature of the State of Florida:

14
 15 Section 1. Subsections (1) and (2) of section 337.403,
 16 Florida Statutes, are amended to read:

17 337.403 Relocation of utility; expenses.—

18 (1) When a ~~Any~~ utility that has ~~heretofore or hereafter~~
 19 placed upon, under, over, or along any public road or publicly
 20 owned rail corridor that is found by the authority to be
 21 unreasonably interfering in any way with the convenient, safe,
 22 or continuous use, or the maintenance, improvement, extension,
 23 or expansion, of such public road or publicly owned rail
 24 corridor, the utility owner shall, upon 30 days' written notice
 25 to the utility or its agent by the authority, initiate the
 26 removal or relocation of ~~be removed or relocated by~~ such utility
 27 at its own expense except as provided in paragraphs (a)-(h) ~~(a)-~~
 28 ~~(f)~~.

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

43 (b) When a joint agreement between the department and the
44 utility is executed for utility improvement, relocation, or
45 removal work to be accomplished as part of a contract for
46 construction of a transportation facility, the department may
47 participate in those utility improvement, relocation, or removal
48 costs that exceed the department's official estimate of the cost
49 of the work by more than 10 percent. The amount of such
50 participation shall be limited to the difference between the
51 official estimate of all the work in the joint agreement plus 10
52 percent and the amount awarded for this work in the construction
53 contract for such work. The department may not participate in
54 any utility improvement, relocation, or removal costs that occur
55 as a result of changes or additions during the course of the
56 contract.

57 (c) When an agreement between the department and utility
 58 is executed for utility improvement, relocation, or removal work
 59 to be accomplished in advance of a contract for construction of
 60 a transportation facility, the department may participate in the
 61 cost of clearing and grubbing necessary to perform such work.

62 (d) If the utility facility being removed or relocated was
 63 initially installed to exclusively serve the authority
 64 ~~department~~, its tenants, or both, the authority ~~department~~ shall
 65 bear the costs of removing or relocating that utility facility.
 66 However, the authority ~~department~~ is not responsible for bearing
 67 the cost of removing or relocating any subsequent additions to
 68 that facility for the purpose of serving others.

69 (e) If, under an agreement between a utility and the
 70 authority ~~entered into after July 1, 2009~~, the utility conveys,
 71 subordinates, or relinquishes a compensable property right to
 72 the authority for the purpose of accommodating the acquisition
 73 or use of the right-of-way by the authority, without the
 74 agreement expressly addressing future responsibility for the
 75 cost of removing or relocating the utility, the authority shall
 76 bear the cost of removal or relocation. ~~This paragraph does not~~
 77 ~~impair or restrict, and may not be used to interpret, the terms~~
 78 ~~of any such agreement entered into before July 1, 2009.~~

79 (f) If the authority acquires property on which a utility
 80 is legally located, the authority shall bear the costs of
 81 removing or relocating that utility.

82 (g) For any permit issued in 1972 by the department to any
 83 utility when the utility was in possession of the permitted
 84 property and transferred its interest to the department and if

HB 1389

2011

85 master agreements between the department and the utility were
86 entered into before any permits were issued, the department
87 shall pay for any relocation expenses affecting a compensable
88 interest of the utility, notwithstanding any permit, statutory,
89 or contractual language to the contrary. This paragraph applies
90 only to utilities located on the Turnpike Homestead extension
91 and if the utility transferred its interest to the department
92 without compensation for future relocation expenses.

93 (h)~~(f)~~ If the utility is an electric facility being
94 relocated underground in order to enhance vehicular, bicycle,
95 and pedestrian safety and in which ownership of the electric
96 facility to be placed underground has been transferred from a
97 private to a public utility within the past 5 years, the
98 department shall incur all costs of the relocation.

99 (2) If such removal or relocation is incidental to work to
100 be done on such road or publicly owned rail corridor, the notice
101 shall be given at the same time the contract for the work is
102 advertised for bids, or not less than 30 days prior to the
103 commencement of such work by the authority.

104 Section 2. This act shall take effect July 1, 2011.