

By Senator Evers

2-01134A-11

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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;  
 6           providing an exception if a local governmental entity  
 7           acquires property where the utility was legally  
 8           located prior to the acquisition; adding an exception  
 9           for certain permits issued in 1972; providing for  
 10          notice to utilities prior to commencement of work;  
 11          requiring the initiation of removal by the utility;  
 12          providing an effective date.

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

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

18           337.403 Relocation of utility; expenses.—

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

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

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

58 (c) When an agreement between the department and utility is

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59 executed for utility improvement, relocation, or removal work to  
60 be accomplished in advance of a contract for construction of a  
61 transportation facility, the department may participate in the  
62 cost of clearing and grubbing necessary to perform such work.

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

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

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

83 (g) For any permit issued in 1972 by the department to any  
84 utility when the utility was in possession of the permitted  
85 property and transferred its interest to the department and if  
86 master agreements between the department and the utility were  
87 entered into before any permits were issued, the department

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88 shall pay for any relocation expenses affecting a compensable  
89 interest of the utility, notwithstanding any permit, statutory,  
90 or contractual language to the contrary. This paragraph applies  
91 only to utilities located on the Turnpike Homestead extension  
92 and if the utility transferred its interest to the department  
93 without compensation for future relocation expenses.

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

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

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