



254496

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
02/03/2012	.	
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The Committee on Transportation (Evers) recommended the following:

1 **Senate Substitute for Amendment (759918) (with title**
2 **amendment)**

3
4 Delete lines 1726 - 1837
5 and insert:

6 Section 35. Section 337.403, Florida Statutes, is amended
7 to read:

8 337.403 Interference caused by relocation of utility;
9 expenses.—

10 (1) When a ~~Any~~ utility ~~heretofore or hereafter~~ placed upon,
11 under, over, or along any public road or publicly owned rail
12 corridor that is found by the authority to be unreasonably



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13 interfering in any way with the convenient, safe, or continuous
14 use, or the maintenance, improvement, extension, or expansion,
15 of such public road or publicly owned rail corridor, the utility
16 owner shall, upon 30 days' written notice to the utility or its
17 agent by the authority, initiate the work necessary to alleviate
18 the interference ~~be removed or relocated by such utility~~ at its
19 own expense except as provided in paragraphs (a)-(f). The work
20 must be completed within such reasonable time as stated in the
21 notice or such time as agreed to by the authority and the
22 utility owner.

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

38 (b) When a joint agreement between the department and the
39 utility is executed for utility ~~improvement, relocation, or~~
40 ~~removal~~ work to be accomplished as part of a contract for
41 construction of a transportation facility, the department may



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

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

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

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



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71 cost of necessary utility work ~~removing or relocating the~~
72 ~~utility~~, the authority shall bear the cost of removal or
73 relocation. This paragraph does not impair or restrict, and may
74 not be used to interpret, the terms of any such agreement
75 entered into before July 1, 2009.

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

83 (g) If the authority acquires the property on which a
84 utility was located before the removal or relocation of the
85 utility facility, and such utility is not found to be located
86 illegally, the authority shall bear the costs of removing or
87 relocating that utility facility.

88 (2) If such utility work ~~removal or relocation~~ is
89 incidental to work to be done on such road or publicly owned
90 rail corridor, the notice shall be given at the same time the
91 contract for the work is advertised for bids, or no less than 30
92 days prior to the commencement of such work by the authority,
93 whichever is greater.

94 (3) Whenever the notice from an order of the authority
95 requires such utility work ~~removal or change in the location of~~
96 ~~any utility from the right-of-way of a public road or publicly~~
97 ~~owned rail corridor,~~ and the owner thereof fails to perform the
98 work ~~remove or change the same~~ at his or her own expense ~~to~~
99 ~~conform to the order~~ within the time stated in the notice or



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100 such other time as agreed to by the authority and the utility
101 owner, the authority shall proceed to cause the utility work to
102 be performed to be removed. The expense thereby incurred shall
103 be paid out of any money available therefor, and such expense
104 shall, except as provided in subsection (1), be charged against
105 the owner and levied and collected and paid into the fund from
106 which the expense of such relocation was paid.

107 Section 36. Subsection (1) of section 337.404, Florida
108 Statutes, is amended to read:

109 337.404 Removal or relocation of utility facilities; notice
110 and order; court review.-

111 (1) Whenever it becomes ~~shall become~~ necessary for the authority
112 to perform utility work ~~remove or relocate any utility~~ as
113 provided in s. 337.403 ~~the preceding section~~, the owner of the
114 utility, or the owner's chief agent, shall be given notice that
115 the authority will perform ~~of such work removal or relocation~~
116 and, after the work is complete, given an order requiring the
117 payment of the cost thereof, and a ~~shall be given~~ reasonable
118 time, which may ~~shall~~ not be less than 20 or ~~not~~ more than 30
119 days, in which to appear before the authority to contest the
120 reasonableness of the order. Should the owner or the owner's
121 representative not appear, the determination of the cost to the
122 owner shall be final. Authorities considered agencies for the
123 purposes of chapter 120 shall adjudicate removal or relocation
124 of utilities pursuant to chapter 120.

125
126 ===== T I T L E A M E N D M E N T =====

127 And the title is amended as follows:

128 Delete line 140



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129 and insert:
130 certain time period; requiring the local governmental
131 authority to bear the costs of work on a utility
132 facility that was initially installed to serve the
133 governmental entity or its tenants; providing that the
134 governmental entity is not responsible for the costs
135 of utility work related to subsequent additions to the
136 facility; requiring that the local governmental
137 authority bear the costs of removing or relocating a
138 utility facility under certain circumstances;
139 providing for notice to the