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LEGISLATIVE ACTION

Senate

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House

Floor: 2/AD/2R

04/11/2014 12:10 PM

Senator Evers moved the following:

Senate Amendment (with title amendment)

Delete lines 85 - 174

and insert:

Section 3. Subsection (1) of section 337.403, Florida Statutes, is amended to read:

337.403 Interference caused by ~~relocation of~~ utility; expenses.—

(1) If a utility that is placed upon, under, over, or along any public road or publicly owned rail corridor is found by the authority to be unreasonably interfering in any way with the



12 convenient, safe, or continuous use, or the maintenance,
13 improvement, extension, or expansion, of such public road or
14 publicly owned rail corridor, the utility owner shall, upon 30
15 days' written notice to the utility or its agent by the
16 authority, initiate the work necessary to alleviate the
17 interference at its own expense except as provided in paragraphs
18 (a)-(i) ~~(a)-(g)~~. The work must be completed within such
19 reasonable time as stated in the notice or such time as agreed
20 to by the authority and the utility 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 84-627 ~~627 of the 84th Congress~~, is necessitated by the
24 construction of a project on the federal-aid interstate system,
25 including extensions thereof within urban areas, and the cost of
26 the 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 upon notice from the department, and
31 the state shall pay the entire expense properly attributable to
32 such work after deducting therefrom any increase in the value of
33 a new facility and any salvage value derived from an old
34 facility.

35 (b) When a joint agreement between the department and the
36 utility is executed for utility work to be accomplished as part
37 of a contract for construction of a transportation facility, the
38 department may participate in those utility work costs that
39 exceed the department's official estimate of the cost of the
40 work by more than 10 percent. The amount of such participation



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41 ~~is shall be~~ limited to the difference between the official
42 estimate of all the work in the joint agreement plus 10 percent
43 and the amount awarded for this work in the construction
44 contract for such work. The department may not participate in
45 any utility work costs that occur as a result of changes or
46 additions during the course of the contract.

47 (c) When an agreement between the department and utility is
48 executed for utility work to be accomplished in advance of a
49 contract for construction of a transportation facility, the
50 department may participate in the cost of clearing and grubbing
51 necessary to perform such work.

52 (d) If the utility facility was initially installed to
53 exclusively serve the authority or its tenants, or both, the
54 authority shall bear the costs of the utility work. However, the
55 authority is not responsible for the cost of utility work
56 related to any subsequent additions to that facility for the
57 purpose of serving others. For a county or municipality, if such
58 utility facility was installed in the right-of-way as a means to
59 serve a county or municipal facility on a parcel of property
60 adjacent to the right-of-way and if the intended use of the
61 county or municipal facility is for a use other than
62 transportation purposes, the obligation of the county or
63 municipality to bear the costs of the utility work shall extend
64 only to utility work on the parcel of property on which the
65 facility of the county or municipality originally served by the
66 utility facility is located.

67 (e) If, under an agreement between a utility and the
68 authority entered into after July 1, 2009, the utility conveys,
69 subordinates, or relinquishes a compensable property right to



70 the authority for the purpose of accommodating the acquisition
71 or use of the right-of-way by the authority, without the
72 agreement expressly addressing future responsibility for the
73 cost of necessary utility work, the authority shall bear the
74 cost of removal or relocation. This paragraph does not impair or
75 restrict, and may not be used to interpret, the terms of any
76 such agreement entered into before July 1, 2009.

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

83 (g) An authority may bear the costs of utility work
84 required to eliminate an unreasonable interference when the
85 utility is not able to establish that it has a compensable
86 property right in the particular property where the utility is
87 located if:

88 1. The utility was physically located on the particular
89 property before the authority acquired rights in the property;

90 2. The utility demonstrates that it has a compensable
91 property right in ~~all~~ adjacent properties along the alignment of
92 the utility or, after due diligence, certifies that the utility
93 does not have evidence to prove or disprove that it has a
94 compensable property right in the particular property where the
95 utility is located; and

96 3. The information available to the authority does not
97 establish the relative priorities of the authority's and the
98 utility's interests in the particular property.



99 (h) If a municipally owned utility or county-owned utility
100 is located in a rural area of critical economic concern, as
101 defined in s. 288.0656(2), and the department determines that
102 the utility is unable, and will not be able within the next 10
103 years, to pay for the cost of utility work necessitated by a
104 department project on the State Highway System, the department
105 may pay, in whole or in part, the cost of such utility work
106 performed by the department or its contractor.

107 (i) If the relocation of utility facilities is necessitated
108 by the construction of a commuter rail service project or an
109 intercity passenger rail service project and the cost of the
110 project is eligible and approved for reimbursement by the
111 Federal Government, then in that event the utility owning or
112 operating such facilities located by permit on a department-
113 owned rail corridor shall perform any necessary utility
114 relocation work upon notice from the department, and the
115 department shall pay the expense properly attributable to such
116 utility relocation work in the same proportion as federal funds
117 are expended on the commuter rail service project or an
118 intercity passenger rail service project after deducting
119 therefrom any increase in the value of a new facility and any
120 salvage value derived from an old facility. In no event shall
121 the state be required to use state dollars for such utility
122 relocation work. This paragraph does not apply to any phase of
123 the Central Florida Commuter Rail project, known as SunRail.

124
125 ===== T I T L E A M E N D M E N T =====

126 And the title is amended as follows:

127 Delete line 18



128 and insert:
129 circumstances; revising certain exceptions; providing
130 an exception for certain rail service projects;
131 creating s. 339.041, F.S.; providing