

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Local Government Affairs
 2 Subcommittee

3 Representative Ingram offered the following:

4
 5 **Amendment**

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 125.42, Florida Statutes, is amended to
 8 read:

9 125.42 Water, sewage, gas, power, telephone, other utility,
 10 and television lines within the right-of-way limits of along
 11 county roads and highways.-

12 (1) The board of county commissioners, with respect to
 13 property located without the corporate limits of any
 14 municipality, is authorized to grant a license to any person or
 15 private corporation to construct, maintain, repair, operate, and
 16 remove lines for the transmission of water, sewage, gas, power,
 17 telephone, other public utilities, ~~and~~ television, or other

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18 communications services within the right-of-way limits of ~~under,~~
19 ~~on, over, across and along~~ any county highway or any public road
20 or highway acquired by the county or public by purchase, gift,
21 devise, dedication, or prescription. However, the board of
22 county commissioners shall include in any instrument granting
23 such license adequate provisions:

24 (a) To prevent the creation of any obstructions or
25 conditions which are or may become dangerous to the traveling
26 public;

27 (b) To require the licensee to repair any damage or injury
28 to the road or highway by reason of the exercise of the
29 privileges granted in any instrument creating such license and
30 to repair the road or highway promptly, restoring it to a
31 condition at least equal to that which existed immediately prior
32 to the infliction of such damage or injury;

33 (c) Whereby the licensee shall hold the board of county
34 commissioners and members thereof harmless from the payment of
35 any compensation or damages resulting from the exercise of the
36 privileges granted in any instrument creating the license; and

37 (d) As may be reasonably necessary, for the protection of
38 the county and the public.

39 (2) A license may be granted in perpetuity or for a term of
40 years, subject, however, to termination by the licensor, in the
41 event the road or highway is closed, abandoned, vacated,
42 discontinued, or reconstructed.

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43 (3) The board of county commissioners is authorized to
44 grant exclusive or nonexclusive licenses for the purposes stated
45 herein for television.

46 (4) This law is intended to provide an additional method
47 for the granting of licenses and shall not be construed to
48 repeal any law now in effect relating to the same subject.

49 (5) In the event of widening, repair, or reconstruction of
50 any such road, the licensee shall move or remove such water,
51 sewage, gas, power, telephone, and other utility lines and
52 television lines at no cost to the county should they be found
53 by the county to be unreasonably interfering, except as provided
54 in s. 337.403(1)(d)-(j) ~~s. 337.403(1)(d)-(i)~~.

55 Section 2. Paragraph (a) of subsection (1), subsection (2)
56 and paragraph (b) of subsection (3) of section 337.401, Florida
57 Statutes, are amended to read:

58 337.401 Use of right-of-way for utilities subject to
59 regulation; permit; fees.—

60 (1) (a) The department and local governmental entities,
61 referred to in this section and in ss. 337.402, 337.403 and
62 337.404 ~~ss. 337.401-337.404~~ as the "authority," that have
63 jurisdiction and control of public roads or publicly owned rail
64 corridors are authorized to prescribe and enforce reasonable
65 rules or regulations with reference to the placing and
66 maintaining within the right-of-way limits of ~~along, across, or~~
67 ~~on~~ any road or publicly owned rail corridors under their
68 respective jurisdictions any electric transmission, telephone,

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69 telegraph, or other communications services lines; pole lines;
70 poles; railways; ditches; sewers; water, heat, or gas mains;
71 pipelines; fences; gasoline tanks and pumps; or other structures
72 referred to in this section and in ss. 337.402, 337.403 and
73 337.404 ~~this section~~ as the "utility." The department may enter
74 into a permit-delegation agreement with a governmental entity if
75 issuance of a permit is based on requirements that the
76 department finds will ensure the safety and integrity of
77 facilities of the Department of Transportation; however, the
78 permit-delegation agreement does not apply to facilities of
79 electric utilities as defined in s. 366.02(2).

80 (2) The authority may grant to any person who is a resident
81 of this state, or to any corporation which is organized under
82 the laws of this state or licensed to do business within this
83 state, the use of a right-of-way for the utility in accordance
84 with such rules or regulations as the authority may adopt. No
85 utility shall be installed, located, or relocated unless
86 authorized by a written permit issued by the authority. However,
87 for public roads or publicly owned rail corridors under the
88 jurisdiction of the department, a utility relocation schedule
89 and relocation agreement may be executed in lieu of a written
90 permit. The permit shall require the permitholder to be
91 responsible for any damage resulting from the issuance of such
92 permit. In exercising its authority over a utility, a
93 municipality, county, or authority may not require a utility to
94 resubmit information already in the possession of the

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195 municipality, county, or authority. The authority may initiate
196 injunctive proceedings as provided in s. 120.69 to enforce
197 provisions of this subsection or any rule or order issued or
198 entered into pursuant thereto.

199 (3)

200 (b) Registration described in paragraph (a) does not
201 establish a right to place or maintain, or priority for the
202 placement or maintenance of, a communications facility in roads
203 or rights-of-way of a municipality or county. Each municipality
204 and county retains the authority to regulate and manage
205 municipal and county roads or rights-of-way in exercising its
206 police power. Any rules or regulations adopted by a municipality
207 or county which govern the occupation of its roads or rights-of-
208 way by providers of communications services must be related to
209 the placement or maintenance of facilities in such roads or
210 rights-of-way, must be reasonable and nondiscriminatory, and may
211 include only those matters necessary to manage the roads or
212 rights-of-way of the municipality or county. In exercising its
213 authority over providers of communications services under this
214 section, a municipality or county may not require a provider of
215 communications services to resubmit information already in the
216 possession of the municipality or county or previously provided
217 to the municipality or county.

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

220 337.403 Interference caused by utility; expenses.—

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121 (1) If a utility that is within the right-of-way limits of
122 ~~placed upon, under, over, or along~~ any public road or publicly
123 owned rail corridor is found by the authority to be unreasonably
124 interfering in any way with the convenient, safe, or continuous
125 use, or the maintenance, improvement, extension, or expansion,
126 of such public road or publicly owned rail corridor, the utility
127 owner shall, upon 30 days' written notice to the utility or its
128 agent by the authority, initiate the work necessary to alleviate
129 the interference at its own expense except as provided in
130 paragraphs (a)-(j) ~~(a)-(i)~~. The work must be completed within
131 such reasonable time as stated in the notice or such time as
132 agreed to by the authority and the utility owner. If an
133 authority requires the relocation of a utility for purposes not
134 described in this subsection, the authority shall bear the cost
135 of relocating the utility. If the relocation is required as a
136 condition or result of a project by an entity other than an
137 authority, then the entity other than the authority shall bear
138 the costs of relocating the utility.

139 (a) If the relocation of utility facilities, as referred to
140 in s. 111 of the Federal-Aid Highway Act of 1956, Pub. L. No.
141 84-627, is necessitated by the construction of a project on the
142 federal-aid interstate system, including extensions thereof
143 within urban areas, and the cost of the project is eligible and
144 approved for reimbursement by the Federal Government to the
145 extent of 90 percent or more under the Federal Aid Highway Act,
146 or any amendment thereof, ~~then in that event~~ the utility owning

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147 or operating such facilities shall perform any necessary work
148 upon notice from the department, and the state shall pay the
149 entire expense properly attributable to such work after
150 deducting therefrom any increase in the value of a new facility
151 and any salvage value derived from an old facility.

152 (b) When a joint agreement between the department and the
153 utility is executed for utility work to be accomplished as part
154 of a contract for construction of a transportation facility, the
155 department may participate in those utility work costs that
156 exceed the department's official estimate of the cost of the
157 work by more than 10 percent. The amount of such participation
158 is limited to the difference between the official estimate of
159 all the work in the joint agreement plus 10 percent and the
160 amount awarded for this work in the construction contract for
161 such work. The department may not participate in any utility
162 work costs that occur as a result of changes or additions during
163 the course of the contract.

164 (c) When an agreement between the department and utility is
165 executed for utility work to be accomplished in advance of a
166 contract for construction of a transportation facility, the
167 department may participate in the cost of clearing and grubbing
168 necessary to perform such work.

169 (d) If the utility facility was initially installed to
170 exclusively serve the authority or its tenants, or both, the
171 authority shall bear the costs of the utility work. However, the
172 authority is not responsible for the cost of utility work

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173 related to any subsequent additions to that facility for the
174 purpose of serving others. For a county or municipality, if such
175 utility facility was installed in the right-of-way as a means to
176 serve a county or municipal facility on a parcel of property
177 adjacent to the right-of-way and if the intended use of the
178 county or municipal facility is for a use other than
179 transportation purposes, the obligation of the county or
180 municipality to bear the costs of the utility work shall extend
181 only to utility work on the parcel of property on which the
182 facility of the county or municipality originally served by the
183 utility facility is located.

184 (e) If, under an agreement between a utility and the
185 authority entered into after July 1, 2009, the utility conveys,
186 subordinates, or relinquishes a compensable property right to
187 the authority for the purpose of accommodating the acquisition
188 or use of the right-of-way by the authority, without the
189 agreement expressly addressing future responsibility for the
190 cost of necessary utility work, the authority shall bear the
191 cost of removal or relocation. This paragraph does not impair or
192 restrict, and may not be used to interpret, the terms of any
193 such agreement entered into before July 1, 2009.

194 (f) If the utility is an electric facility being relocated
195 underground in order to enhance vehicular, bicycle, and
196 pedestrian safety and in which ownership of the electric
197 facility to be placed underground has been transferred from a

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198 private to a public utility within the past 5 years, the
199 department shall incur all costs of the necessary utility work.

200 (g) An authority may bear the costs of utility work
201 required to eliminate an unreasonable interference when the
202 utility is not able to establish that it has a compensable
203 property right in the particular property where the utility is
204 located if:

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

207 2. The utility demonstrates that it has a compensable
208 property right in adjacent properties along the alignment of the
209 utility or, after due diligence, certifies that the utility does
210 not have evidence to prove or disprove that it has a compensable
211 property right in the particular property where the utility is
212 located; and

213 3. The information available to the authority does not
214 establish the relative priorities of the authority's and the
215 utility's interests in the particular property.

216 (h) If a municipally owned utility or county-owned utility
217 is located in a rural area of critical economic concern, as
218 defined in s. 288.0656(2), and the department determines that
219 the utility is unable, and will not be able within the next 10
220 years, to pay for the cost of utility work necessitated by a
221 department project on the State Highway System, the department
222 may pay, in whole or in part, the cost of such utility work
223 performed by the department or its contractor.

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224 (i) If the relocation of utility facilities is necessitated
225 by the construction of a commuter rail service project or an
226 intercity passenger rail service project and the cost of the
227 project is eligible and approved for reimbursement by the
228 Federal Government, then in that event the utility owning or
229 operating such facilities located by permit on a department-
230 owned rail corridor shall perform any necessary utility
231 relocation work upon notice from the department, and the
232 department shall pay the expense properly attributable to such
233 utility relocation work in the same proportion as federal funds
234 are expended on the commuter rail service project or an
235 intercity passenger rail service project after deducting
236 therefrom any increase in the value of a new facility and any
237 salvage value derived from an old facility. In no event shall
238 the state be required to use state dollars for such utility
239 relocation work. This paragraph does not apply to any phase of
240 the Central Florida Commuter Rail project, known as SunRail.

241 (j) If a utility is located within an existing and valid
242 utility easement granted by recorded plat, regardless of whether
243 such land was subsequently acquired by the authority by
244 dedication, transfer of fee, or otherwise, the authority shall
245 bear the cost of the utility work required to eliminate an
246 unreasonable interference.

247 Section 4. This act shall take effect upon becoming a law.