

Amendment No. a1

COMMITTEE/SUBCOMMITTEE ACTION

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WITHDRAWN (Y/N)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

1 Committee/Subcommittee hearing bill: Economic Infrastructure
2 Subcommittee

3 Representative McFarland offered the following:

4
5 **Amendment to Amendment (649825) by Representative McFarland**
6 **(with title amendment)**

7 Between lines 776 and 777 of the amendment, insert:

8 **Section 16. Present subsections (3) through (9) of section**
9 **337.401, Florida Statutes, are redesignated as subsections (4)**
10 **through (10), respectively, paragraph (c) is added to subsection**
11 **(1) and a new subsection (3) is added to that section, and**
12 **paragraph (b) of subsection (1), subsection (2), paragraphs (a),**
13 **(c), and (g) of present subsection (3), present subsection (5),**
14 **paragraph (e) of present subsection (6), and paragraphs (d) and**
15 **(n) of present subsection (7) of that section are amended, to**
16 **read:**

Amendment No. a1

17 337.401 Use of right-of-way for utilities subject to
18 regulation; permit; fees.—

19 (1)

20 (b) For aerial and underground electric utility
21 transmission lines designed to operate at 69 or more kilovolts
22 which ~~that~~ are needed to accommodate the additional electrical
23 transfer capacity on the transmission grid resulting from new
24 base-load generating facilities, the department's rules shall
25 provide for placement of and access to such transmission lines
26 adjacent to and within the right-of-way of any department-
27 controlled public roads, including longitudinally within limited
28 access facilities where there is no other practicable
29 alternative available, to the greatest extent allowed by federal
30 law, if compliance with the standards established by such rules
31 is achieved. Without limiting or conditioning the department's
32 jurisdiction or authority described in paragraph (a), with
33 respect to limited access right-of-way, such rules may include,
34 but need not be limited to, that the use of the right-of-way for
35 longitudinal placement of electric utility transmission lines is
36 reasonable based upon a consideration of economic and
37 environmental factors, including, without limitation, other
38 practicable alternative alignments, utility corridors and
39 easements, impacts on adjacent property owners, and minimum
40 clear zones and other safety standards, and further provide that
41 placement of the electric utility transmission lines within the

177317 - h0567-line776a1.docx

Published On: 3/24/2025 9:53:38 PM

Amendment No. a1

42 department's right-of-way does not interfere with operational
43 requirements of the transportation facility or planned or
44 potential future expansion of such transportation facility. If
45 the department approves longitudinal placement of electric
46 utility transmission lines in limited access facilities,
47 compensation for the use of the right-of-way is required. Such
48 consideration or compensation paid by the ~~electric~~ utility owner
49 in connection with the department's issuance of a permit does
50 not create any property right in the department's property
51 regardless of the amount of consideration paid or the
52 improvements constructed on the property by the utility owner.
53 Upon notice by the department that the property is needed for
54 expansion or improvement of the transportation facility, the
55 electric utility transmission line will be removed or relocated
56 at the utility owner's ~~electric utility's~~ sole expense. The
57 ~~electric~~ utility owner shall pay to the department reasonable
58 damages resulting from the utility owner's ~~utility's~~ failure or
59 refusal to timely remove or relocate its transmission lines. The
60 rules to be adopted by the department may also address the
61 compensation methodology and removal or relocation. As used in
62 this subsection, the term "base-load generating facilities"
63 means electric power plants that are certified under part II of
64 chapter 403.

65 (c) An entity that places, replaces, or relocates
66 underground utilities within a right-of-way must make such

Amendment No. a1

67 underground utilities electronically detectable using techniques
68 approved by the department.

69 (2) The authority may grant to any person who is a
70 resident of this state, or to any corporation that ~~which~~ is
71 organized under the laws of this state or licensed to do
72 business within this state, the use of a right-of-way for the
73 utility in accordance with such rules or regulations as the
74 authority may adopt. A utility may not be installed, located, or
75 relocated unless authorized by a written permit issued by the
76 authority. However, for public roads or publicly owned rail
77 corridors under the jurisdiction of the department, a utility
78 relocation schedule and relocation agreement may be executed in
79 lieu of a written permit. The permit or relocation agreement
80 must require the permitholder or party to the agreement to be
81 responsible for any damage resulting from the work required. The
82 owner of an electric utility as defined in s. 366.02, the owner
83 of a natural gas utility as defined in s. 366.04(3), or the
84 owner of a water or wastewater utility shall pay to the
85 authority actual damages resulting from a failure or refusal to
86 timely remove or relocate a utility. Issuance of permits for new
87 placement of utilities within the authority's rights-of-way may
88 be subject to payment of actual costs incurred by the authority
89 due to the failure of the utility owner to timely relocate
90 utilities pursuant to an approved utility work schedule or for
91 damage done to existing infrastructure by the utility owner.

177317 - h0567-line776a1.docx

Published On: 3/24/2025 9:53:38 PM

Amendment No. a1

92 ~~issuance of such permit.~~ The authority may initiate injunctive
93 proceedings as provided in s. 120.69 to enforce ~~provisions of~~
94 this subsection or any rule or order issued or entered into
95 pursuant thereto. A permit application required under this
96 subsection by a county or municipality having jurisdiction and
97 control of the right-of-way of any public road must be processed
98 and acted upon in accordance with the timeframes provided in
99 subparagraphs (8) (d) 7., 8., and 9 ~~(7) (d) 7., 8., and 9.~~

100 (3) (a) As used in this subsection, the term "as-built
101 plans" means plans that depict the actual location, depth, and
102 physical configuration of utilities placed within a right-of-way
103 at a location which crosses a navigable waterway or deeper than
104 10 feet beneath the proposed ground surface.

105 (b) The authority and utility owner shall agree in writing
106 to an approved level of detail of as-built plans.

107 (c) The utility owner shall submit as-built plans within
108 20 business days after completion of the utility work which show
109 actual final surface and subsurface utilities, including
110 location alignment profile, depth, and geodetic datum of each
111 structure. As-built plans must be provided in an electronic
112 format that is compatible with department software and meets
113 technical specifications provided by the department or in an
114 electronic format determined by the utility industry to be in
115 accordance with industry standards. The department may by

Amendment No. a1

116 written agreement make exceptions to the electronic format
117 requirement.

118 (d) As-built plans must be submitted before any costs may
119 be reimbursed by the authority under subsection (2).

120 (4) (a) ~~(3) (a)~~ Because of the unique circumstances
121 applicable to providers of communications services, including,
122 but not limited to, the circumstances described in paragraph (e)
123 and the fact that federal and state law require the
124 nondiscriminatory treatment of providers of telecommunications
125 services, and because of the desire to promote competition among
126 providers of communications services, it is the intent of the
127 Legislature that municipalities and counties treat providers of
128 communications services in a nondiscriminatory and competitively
129 neutral manner when imposing rules or regulations governing the
130 placement or maintenance of communications facilities in the
131 public roads or rights-of-way. Rules or regulations imposed by a
132 municipality or county relating to providers of communications
133 services placing or maintaining communications facilities in its
134 roads or rights-of-way must be generally applicable to all
135 providers of communications services, taking into account the
136 distinct engineering, construction, operation, maintenance,
137 public works, and safety requirements of the provider's
138 facilities, and, notwithstanding any other law, may not require
139 a provider of communications services to apply for or enter into
140 an individual license, franchise, or other agreement with the

177317 - h0567-line776a1.docx

Published On: 3/24/2025 9:53:38 PM

Amendment No. a1

141 municipality or county as a condition of placing or maintaining
142 communications facilities in its roads or rights-of-way. In
143 addition to other reasonable rules or regulations that a
144 municipality or county may adopt relating to the placement or
145 maintenance of communications facilities in its roads or rights-
146 of-way under this subsection or subsection (8) ~~(7)~~, a
147 municipality or county may require a provider of communications
148 services that places or seeks to place facilities in its roads
149 or rights-of-way to register with the municipality or county. To
150 register, a provider of communications services may be required
151 only to provide its name; the name, address, and telephone
152 number of a contact person for the registrant; the number of the
153 registrant's current certificate of authorization issued by the
154 Florida Public Service Commission, the Federal Communications
155 Commission, or the Department of State; a statement of whether
156 the registrant is a pass-through provider as defined in
157 subparagraph (7)(a)1. ~~(6)(a)1.~~; the registrant's federal
158 employer identification number; and any required proof of
159 insurance or self-insuring status adequate to defend and cover
160 claims. A municipality or county may not require a registrant to
161 renew a registration more frequently than every 5 years but may
162 require during this period that a registrant update the
163 registration information provided under this subsection within
164 90 days after a change in such information. A municipality or
165 county may not require the registrant to provide an inventory of

177317 - h0567-line776a1.docx

Published On: 3/24/2025 9:53:38 PM

Amendment No. a1

166 | communications facilities, maps, locations of such facilities,
167 | or other information by a registrant as a condition of
168 | registration, renewal, or for any other purpose; provided,
169 | however, that a municipality or county may require as part of a
170 | permit application that the applicant identify at-grade
171 | communications facilities within 50 feet of the proposed
172 | installation location for the placement of at-grade
173 | communications facilities. A municipality or county may not
174 | require a provider to pay any fee, cost, or other charge for
175 | registration or renewal thereof. It is the intent of the
176 | Legislature that the placement, operation, maintenance,
177 | upgrading, and extension of communications facilities not be
178 | unreasonably interrupted or delayed through the permitting or
179 | other local regulatory process. Except as provided in this
180 | chapter or otherwise expressly authorized by chapter 202,
181 | chapter 364, or chapter 610, a municipality or county may not
182 | adopt or enforce any ordinance, regulation, or requirement as to
183 | the placement or operation of communications facilities in a
184 | right-of-way by a communications services provider authorized by
185 | state or local law to operate in a right-of-way; regulate any
186 | communications services; or impose or collect any tax, fee,
187 | cost, charge, or exaction for the provision of communications
188 | services over the communications services provider's
189 | communications facilities in a right-of-way.

177317 - h0567-line776a1.docx

Published On: 3/24/2025 9:53:38 PM

Amendment No. a1

190 (c) Any municipality or county that, as of January 1,
191 2019, elected to require permit fees from any provider of
192 communications services that uses or occupies municipal or
193 county roads or rights-of-way pursuant to former paragraph (c)
194 or former paragraph (j), Florida Statutes 2018, may continue to
195 require and collect such fees. A municipality or county that
196 elected as of January 1, 2019, to require permit fees may elect
197 to forego such fees as provided herein. A municipality or county
198 that elected as of January 1, 2019, not to require permit fees
199 may not elect to impose permit fees. All fees authorized under
200 this paragraph must be reasonable and commensurate with the
201 direct and actual cost of the regulatory activity, including
202 issuing and processing permits, plan reviews, physical
203 inspection, and direct administrative costs; must be
204 demonstrable; and must be equitable among users of the roads or
205 rights-of-way. A fee authorized under this paragraph may not be
206 offset against the tax imposed under chapter 202; include the
207 costs of roads or rights-of-way acquisition or roads or rights-
208 of-way rental; include any general administrative, management,
209 or maintenance costs of the roads or rights-of-way; or be based
210 on a percentage of the value or costs associated with the work
211 to be performed on the roads or rights-of-way. In an action to
212 recover amounts due for a fee not authorized under this
213 paragraph, the prevailing party may recover court costs and
214 attorney fees at trial and on appeal. In addition to the

177317 - h0567-line776a1.docx

Published On: 3/24/2025 9:53:38 PM

Amendment No. a1

215 limitations set forth in this section, a fee levied by a
216 municipality or charter county under this paragraph may not
217 exceed \$100. However, permit fees may not be imposed with
218 respect to permits that may be required for service drop lines
219 not required to be noticed under s. 556.108(5) or for any
220 activity that does not require the physical disturbance of the
221 roads or rights-of-way or does not impair access to or full use
222 of the roads or rights-of-way, including, but not limited to,
223 the performance of service restoration work on existing
224 facilities, extensions of such facilities for providing
225 communications services to customers, and the placement of micro
226 wireless facilities in accordance with subparagraph (8)(e)3
227 ~~(7)(e)3~~.

228 1. If a municipality or charter county elects to not
229 require permit fees, the total rate for the local communications
230 services tax as computed under s. 202.20 for that municipality
231 or charter county may be increased by ordinance or resolution by
232 an amount not to exceed a rate of 0.12 percent.

233 2. If a noncharter county elects to not require permit
234 fees, the total rate for the local communications services tax
235 as computed under s. 202.20 for that noncharter county may be
236 increased by ordinance or resolution by an amount not to exceed
237 a rate of 0.24 percent, to replace the revenue the noncharter
238 county would otherwise have received from permit fees for
239 providers of communications services.

177317 - h0567-line776a1.docx

Published On: 3/24/2025 9:53:38 PM

Amendment No. a1

240 (g) A municipality or county may not use its authority
241 over the placement of facilities in its roads and rights-of-way
242 as a basis for asserting or exercising regulatory control over a
243 provider of communications services regarding matters within the
244 exclusive jurisdiction of the Florida Public Service Commission
245 or the Federal Communications Commission, including, but not
246 limited to, the operations, systems, equipment, technology,
247 qualifications, services, service quality, service territory,
248 and prices of a provider of communications services. A
249 municipality or county may not require any permit for the
250 maintenance, repair, replacement, extension, or upgrade of
251 existing aerial wireline communications facilities on utility
252 poles or for aerial wireline facilities between existing
253 wireline communications facility attachments on utility poles by
254 a communications services provider. However, a municipality or
255 county may require a right-of-way permit for work that involves
256 excavation, closure of a sidewalk, or closure of a vehicular
257 lane or parking lane, unless the provider is performing service
258 restoration to existing facilities. A permit application
259 required by an authority under this section for the placement of
260 communications facilities must be processed and acted upon
261 consistent with the timeframes provided in subparagraphs
262 (8) (d) 7., 8., and 9 ~~(7) (d) 7., 8., and 9.~~ In addition, a
263 municipality or county may not require any permit or other
264 approval, fee, charge, or cost, or other exaction for the

177317 - h0567-line776a1.docx

Published On: 3/24/2025 9:53:38 PM

Amendment No. a1

265 maintenance, repair, replacement, extension, or upgrade of
266 existing aerial lines or underground communications facilities
267 located on private property outside of the public rights-of-way.
268 As used in this section, the term "extension of existing
269 facilities" includes those extensions from the rights-of-way
270 into a customer's private property for purposes of placing a
271 service drop or those extensions from the rights-of-way into a
272 utility easement to provide service to a discrete identifiable
273 customer or group of customers.

274 ~~(6)(5)~~ This section, except subsections (1) and (2) and
275 paragraph ~~(4)(g)~~ ~~(3)(g)~~, does not apply to the provision of pay
276 telephone service on public, municipal, or county roads or
277 rights-of-way.

278 ~~(7)(6)~~

279 (e) This subsection does not alter any provision of this
280 section or s. 202.24 relating to taxes, fees, or other charges
281 or impositions by a municipality or county on a dealer of
282 communications services or authorize that any charges be
283 assessed on a dealer of communications services, except as
284 specifically set forth herein. A municipality or county may not
285 charge a pass-through provider any amounts other than the
286 charges under this subsection as a condition to the placement or
287 maintenance of a communications facility in the roads or rights-
288 of-way of a municipality or county by a pass-through provider,

Amendment No. a1

289 except that a municipality or county may impose permit fees on a
290 pass-through provider consistent with paragraph (4) (c) ~~(3) (e)~~.

291 (8) ~~(7)~~

292 (d) An authority may require a registration process and
293 permit fees in accordance with subsection (4) ~~(3)~~. An authority
294 shall accept applications for permits and shall process and
295 issue permits subject to the following requirements:

296 1. An authority may not directly or indirectly require an
297 applicant to perform services unrelated to the collocation for
298 which approval is sought, such as in-kind contributions to the
299 authority, including reserving fiber, conduit, or pole space for
300 the authority.

301 2. An applicant may not be required to provide more
302 information to obtain a permit than is necessary to demonstrate
303 the applicant's compliance with applicable codes for the
304 placement of small wireless facilities in the locations
305 identified in the application. An applicant may not be required
306 to provide inventories, maps, or locations of communications
307 facilities in the right-of-way other than as necessary to avoid
308 interference with other at-grade or aerial facilities located at
309 the specific location proposed for a small wireless facility or
310 within 50 feet of such location.

311 3. An authority may not:

312 a. Require the placement of small wireless facilities on
313 any specific utility pole or category of poles;

177317 - h0567-line776a1.docx

Published On: 3/24/2025 9:53:38 PM

Amendment No. a1

314 b. Require the placement of multiple antenna systems on a
315 single utility pole;

316 c. Require a demonstration that collocation of a small
317 wireless facility on an existing structure is not legally or
318 technically possible as a condition for granting a permit for
319 the collocation of a small wireless facility on a new utility
320 pole except as provided in paragraph (i);

321 d. Require compliance with an authority's provisions
322 regarding placement of small wireless facilities or a new
323 utility pole used to support a small wireless facility in
324 rights-of-way under the control of the department unless the
325 authority has received a delegation from the department for the
326 location of the small wireless facility or utility pole, or
327 require such compliance as a condition to receive a permit that
328 is ancillary to the permit for collocation of a small wireless
329 facility, including an electrical permit;

330 e. Require a meeting before filing an application;

331 f. Require direct or indirect public notification or a
332 public meeting for the placement of communication facilities in
333 the right-of-way;

334 g. Limit the size or configuration of a small wireless
335 facility or any of its components, if the small wireless
336 facility complies with the size limits in this subsection;

337 h. Prohibit the installation of a new utility pole used to
338 support the collocation of a small wireless facility if the

177317 - h0567-line776a1.docx

Published On: 3/24/2025 9:53:38 PM

Amendment No. a1

339 installation otherwise meets the requirements of this
340 subsection; or

341 i. Require that any component of a small wireless facility
342 be placed underground except as provided in paragraph (i).

343 4. Subject to paragraph (r), an authority may not limit
344 the placement, by minimum separation distances, of small
345 wireless facilities, utility poles on which small wireless
346 facilities are or will be collocated, or other at-grade
347 communications facilities. However, within 14 days after the
348 date of filing the application, an authority may request that
349 the proposed location of a small wireless facility be moved to
350 another location in the right-of-way and placed on an
351 alternative authority utility pole or support structure or
352 placed on a new utility pole. The authority and the applicant
353 may negotiate the alternative location, including any objective
354 design standards and reasonable spacing requirements for ground-
355 based equipment, for 30 days after the date of the request. At
356 the conclusion of the negotiation period, if the alternative
357 location is accepted by the applicant, the applicant must notify
358 the authority of such acceptance and the application shall be
359 deemed granted for any new location for which there is agreement
360 and all other locations in the application. If an agreement is
361 not reached, the applicant must notify the authority of such
362 nonagreement and the authority must grant or deny the original
363 application within 90 days after the date the application was

177317 - h0567-line776a1.docx

Published On: 3/24/2025 9:53:38 PM

Page 15 of 30

Amendment No. a1

364 filed. A request for an alternative location, an acceptance of
365 an alternative location, or a rejection of an alternative
366 location must be in writing and provided by electronic mail.

367 5. An authority shall limit the height of a small wireless
368 facility to 10 feet above the utility pole or structure upon
369 which the small wireless facility is to be collocated. Unless
370 waived by an authority, the height for a new utility pole is
371 limited to the tallest existing utility pole as of July 1, 2017,
372 located in the same right-of-way, other than a utility pole for
373 which a waiver has previously been granted, measured from grade
374 in place within 500 feet of the proposed location of the small
375 wireless facility. If there is no utility pole within 500 feet,
376 the authority shall limit the height of the utility pole to 50
377 feet.

378 6. The installation by a communications services provider
379 of a utility pole in the public rights-of-way, other than a
380 utility pole used to support a small wireless facility, is
381 subject to authority rules or regulations governing the
382 placement of utility poles in the public rights-of-way.

383 7. Within 14 days after receiving an application, an
384 authority must determine and notify the applicant by electronic
385 mail as to whether the application is complete. If an
386 application is deemed incomplete, the authority must
387 specifically identify the missing information. An application is

Amendment No. a1

388 deemed complete if the authority fails to provide notification
389 to the applicant within 14 days.

390 8. An application must be processed on a nondiscriminatory
391 basis. A complete application is deemed approved if an authority
392 fails to approve or deny the application within 60 days after
393 receipt of the application. If an authority does not use the 30-
394 day negotiation period provided in subparagraph 4., the parties
395 may mutually agree to extend the 60-day application review
396 period. The authority shall grant or deny the application at the
397 end of the extended period. A permit issued pursuant to an
398 approved application shall remain effective for 1 year unless
399 extended by the authority.

400 9. An authority must notify the applicant of approval or
401 denial by electronic mail. An authority shall approve a complete
402 application unless it does not meet the authority's applicable
403 codes. If the application is denied, the authority must specify
404 in writing the basis for denial, including the specific code
405 provisions on which the denial was based, and send the
406 documentation to the applicant by electronic mail on the day the
407 authority denies the application. The applicant may cure the
408 deficiencies identified by the authority and resubmit the
409 application within 30 days after notice of the denial is sent to
410 the applicant. The authority shall approve or deny the revised
411 application within 30 days after receipt or the application is
412 deemed approved. The review of a revised application is limited

177317 - h0567-line776a1.docx

Published On: 3/24/2025 9:53:38 PM

Amendment No. a1

413 to the deficiencies cited in the denial. If an authority
414 provides for administrative review of the denial of an
415 application, the review must be complete and a written decision
416 issued within 45 days after a written request for review is
417 made. A denial must identify the specific code provisions on
418 which the denial is based. If the administrative review is not
419 complete within 45 days, the authority waives any claim
420 regarding failure to exhaust administrative remedies in any
421 judicial review of the denial of an application.

422 10. An applicant seeking to collocate small wireless
423 facilities within the jurisdiction of a single authority may, at
424 the applicant's discretion, file a consolidated application and
425 receive a single permit for the collocation of up to 30 small
426 wireless facilities. If the application includes multiple small
427 wireless facilities, an authority may separately address small
428 wireless facility collocations for which incomplete information
429 has been received or which are denied.

430 11. An authority may deny an application to collocate a
431 small wireless facility or place a utility pole used to support
432 a small wireless facility in the public rights-of-way if the
433 proposed small wireless facility or utility pole used to support
434 a small wireless facility:

435 a. Materially interferes with the safe operation of
436 traffic control equipment.

Amendment No. a1

437 b. Materially interferes with sight lines or clear zones
438 for transportation, pedestrians, or public safety purposes.

439 c. Materially interferes with compliance with the
440 Americans with Disabilities Act or similar federal or state
441 standards regarding pedestrian access or movement.

442 d. Materially fails to comply with the 2017 edition of the
443 Florida Department of Transportation Utility Accommodation
444 Manual.

445 e. Fails to comply with applicable codes.

446 f. Fails to comply with objective design standards
447 authorized under paragraph (r).

448 12. An authority may adopt by ordinance provisions for
449 insurance coverage, indemnification, force majeure, abandonment,
450 authority liability, or authority warranties. Such provisions
451 must be reasonable and nondiscriminatory. An authority may
452 require a construction bond to secure restoration of the
453 postconstruction rights-of-way to the preconstruction condition.
454 However, such bond must be time-limited to not more than 18
455 months after the construction to which the bond applies is
456 completed. For any financial obligation required by an authority
457 allowed under this section, the authority shall accept a letter
458 of credit or similar financial instrument issued by any
459 financial institution that is authorized to do business within
460 the United States, provided that a claim against the financial
461 instrument may be made by electronic means, including by

177317 - h0567-line776a1.docx

Published On: 3/24/2025 9:53:38 PM

Amendment No. a1

462 facsimile. A provider of communications services may add an
463 authority to any existing bond, insurance policy, or other
464 relevant financial instrument, and the authority must accept
465 such proof of coverage without any conditions other than consent
466 to venue for purposes of any litigation to which the authority
467 is a party. An authority may not require a communications
468 services provider to indemnify it for liabilities not caused by
469 the provider, including liabilities arising from the authority's
470 negligence, gross negligence, or willful conduct.

471 13. Collocation of a small wireless facility on an
472 authority utility pole does not provide the basis for the
473 imposition of an ad valorem tax on the authority utility pole.

474 14. An authority may reserve space on authority utility
475 poles for future public safety uses. However, a reservation of
476 space may not preclude collocation of a small wireless facility.
477 If replacement of the authority utility pole is necessary to
478 accommodate the collocation of the small wireless facility and
479 the future public safety use, the pole replacement is subject to
480 make-ready provisions and the replaced pole shall accommodate
481 the future public safety use.

482 15. A structure granted a permit and installed pursuant to
483 this subsection shall comply with chapter 333 and federal
484 regulations pertaining to airport airspace protections.

485 (n) This subsection does not affect provisions relating to
486 pass-through providers in subsection (7) ~~(6)~~.

177317 - h0567-line776a1.docx

Published On: 3/24/2025 9:53:38 PM

Page 20 of 30

Amendment No. a1

487 **Section 17. Present subsections (2) and (3) of**
488 **section 337.403, Florida Statutes, are redesignated as**
489 **subsections (3) and (), respectively, new subsection (2) is**
490 **added to that section, and subsection (1) of that section is**
491 **amended, to read:**

492 337.403 Interference caused by utility; expenses.—

493 (1) If a utility that is placed upon, under, over, or
494 within the right-of-way limits of any public road or publicly
495 owned rail corridor is found by the authority to be unreasonably
496 interfering in any way with the convenient, safe, or continuous
497 use, or the maintenance, improvement, extension, or expansion,
498 of such public road or publicly owned rail corridor, the utility
499 owner shall, upon 30 days' written notice to the utility or its
500 agent by the authority, initiate the work necessary to alleviate
501 the interference at its own expense except as provided in
502 paragraphs (a)-(k) ~~(a)-(j)~~. The work must be completed within
503 such reasonable time as stated in the notice or such time as
504 agreed to by the authority and the utility owner.

505 (a) If the relocation of utility facilities, as referred
506 to in s. 111 of the Federal-Aid Highway Act of 1956, Pub. L. No.
507 84-627, is necessitated by the construction of a project on the
508 federal-aid interstate system, including extensions thereof
509 within urban areas, and the cost of the project is eligible and
510 approved for reimbursement by the Federal Government to the
511 extent of 90 percent or more under the Federal-Aid Highway Act,

177317 - h0567-line776a1.docx

Published On: 3/24/2025 9:53:38 PM

Amendment No. a1

512 or any amendment thereof, ~~then in that event~~ the utility owning
513 or operating such facilities must ~~shall~~ perform any necessary
514 work upon notice from the department, and the state must ~~shall~~
515 pay the entire expense properly attributable to such work after
516 deducting therefrom any increase in the value of a new facility
517 and any salvage value derived from an old facility.

518 (b) The department may, at its discretion, provide an
519 incentive to the owner of an electric utility as defined in s.
520 366.02, the owner of a natural gas utility as defined in s.
521 366.04(3), or the owner of a water or wastewater utility to
522 facilitate the accelerated completion of utility relocation.
523 Such incentive must be provided for via a joint agreement
524 between the department and the utility.

525 (c) ~~(b)~~ When a joint agreement between the department and
526 the utility is executed for utility work to be accomplished as
527 part of a contract for construction of a transportation
528 facility, the department may participate in those utility work
529 costs that exceed the department's official estimate of the cost
530 of the work by more than 10 percent in addition to any costs
531 identified in paragraph (a). The amount of such participation is
532 limited to the difference between the official estimate of all
533 the work in the joint agreement plus 10 percent and the amount
534 awarded for this work in the construction contract for such
535 work. The department may not participate in any utility work

Amendment No. a1

536 costs that occur as a result of changes or additions during the
537 course of the contract.

538 ~~(d)~~(e) When an agreement between the department and
539 utility is executed for utility work to be accomplished in
540 advance of a contract for construction of a transportation
541 facility, the department may participate in the cost of clearing
542 and grubbing necessary to perform such work.

543 ~~(e)~~(d) If the utility facility was initially installed to
544 exclusively serve the authority or its tenants, or both, the
545 authority must ~~shall~~ bear the costs of the utility work.
546 However, the authority is not responsible for the cost of
547 utility work related to any subsequent additions to that
548 facility for the purpose of serving others. For a county or
549 municipality, if such utility facility was installed in the
550 right-of-way as a means to serve a county or municipal facility
551 on a parcel of property adjacent to the right-of-way and if the
552 intended use of the county or municipal facility is for a use
553 other than transportation purposes, the obligation of the county
554 or municipality to bear the costs of the utility work extends
555 ~~shall extend~~ only to utility work on the parcel of property on
556 which the facility of the county or municipality originally
557 served by the utility facility is located.

558 ~~(f)~~(e) If, under an agreement between a utility owner and
559 the authority entered into after July 1, 2009, the utility
560 conveys, subordinates, or relinquishes a compensable property

Amendment No. a1

561 right to the authority for the purpose of accommodating the
562 acquisition or use of the right-of-way by the authority, without
563 the agreement expressly addressing future responsibility for the
564 cost of necessary utility work, the authority must ~~shall~~ bear
565 the cost of removal or relocation. This paragraph does not
566 impair or restrict, and may not be used to interpret, the terms
567 of any such agreement entered into before July 1, 2009.

568 (g) ~~(f)~~ If the utility is an electric facility being
569 relocated underground in order to enhance vehicular, bicycle,
570 and pedestrian safety and in which ownership of the electric
571 facility to be placed underground has been transferred from a
572 private to a public utility within the past 5 years, the
573 department shall incur all costs of the necessary utility work.

574 (h) ~~(g)~~ An authority may bear the costs of utility work
575 required to eliminate an unreasonable interference when the
576 utility is not able to establish that it has a compensable
577 property right in the particular property where the utility is
578 located if:

- 579 1. The utility was physically located on the particular
580 property before the authority acquired rights in the property;
- 581 2. The utility demonstrates that it has a compensable
582 property right in adjacent properties along the alignment of the
583 utility or, after due diligence, certifies that the utility does
584 not have evidence to prove or disprove that it has a compensable

Amendment No. a1

585 property right in the particular property where the utility is
586 located; and

587 3. The information available to the authority does not
588 establish the relative priorities of the authority's and the
589 utility's interests in the particular property.

590 (i)~~(h)~~ If a municipally owned utility or county-owned
591 utility is located in a rural area of opportunity, as defined in
592 s. 288.0656(2), and the department determines that the utility
593 owner is unable, and will not be able within the next 10 years,
594 to pay for the cost of utility work necessitated by a department
595 project on the State Highway System, the department may pay, in
596 whole or in part, the cost of such utility work performed by the
597 department or its contractor.

598 (j)~~(i)~~ If the relocation of utility facilities is
599 necessitated by the construction of a commuter rail service
600 project or an intercity passenger rail service project and the
601 cost of the project is eligible and approved for reimbursement
602 by the Federal Government, ~~then~~ in that event the utility owning
603 or operating such facilities located by permit on a department-
604 owned rail corridor must~~shall~~ perform any necessary utility
605 relocation work upon notice from the department, and the
606 department must~~shall~~ pay the expense properly attributable to
607 such utility relocation work in the same proportion as federal
608 funds are expended on the commuter rail service project or an
609 intercity passenger rail service project after deducting

177317 - h0567-line776a1.docx

Published On: 3/24/2025 9:53:38 PM

Amendment No. a1

610 therefrom any increase in the value of a new facility and any
611 salvage value derived from an old facility. In no event ~~is shall~~
612 the state ~~be~~ required to use state dollars for such utility
613 relocation work. This paragraph does not apply to any phase of
614 the Central Florida Commuter Rail project, known as SunRail.

615 (k) ~~(j)~~ If a utility is lawfully located within an existing
616 and valid utility easement granted by recorded plat, regardless
617 of whether such land was subsequently acquired by the authority
618 by dedication, transfer of fee, or otherwise, the authority must
619 bear the cost of the utility work required to eliminate an
620 unreasonable interference. The authority shall pay the entire
621 expense properly attributable to such work after deducting any
622 increase in the value of a new facility and any salvage value
623 derived from an old facility.

624 (2) Before the notice to initiate the work, the department
625 and the owner of an electric utility as defined in s. 366.02,
626 the owner of a natural gas utility as defined in s. 366.04(3),
627 and the owner of a water or wastewater utility shall follow a
628 procedure that includes all of the following:

629 (a) The department shall provide to the utility owner
630 preliminary plans for a proposed highway improvement project and
631 notice of a period that begins 30 days and ends within 120 days
632 after receipt of the notice within which the utility owner shall
633 submit to the department the plans required in accordance with

Amendment No. a1

634 paragraph (b). The utility owner shall provide to the department
635 written acknowledgement of receipt of the preliminary plans.

636 (b) The utility owner shall submit to the department plans
637 showing existing and proposed locations of utility facilities
638 within the period provided by the department. If the utility
639 owner fails to submit the plans to the department within the
640 period, the department is not required to participate in the
641 work, may withhold any amount due to the utility owner on other
642 projects within the rights-of-way of the same district of the
643 department, and may withhold issuance of any other permits for
644 work within the rights-of-way of the same district of the
645 department.

646 (c) The plans submitted by the utility owner must include
647 a utility relocation schedule for approval by the department.
648 The utility relocation schedule must include a duration and
649 completion date for the work, and must meet form and timeframe
650 requirements established by department rule.

651 (d) If a state of emergency is declared by the Governor,
652 the utility is entitled to receive an extension to the utility
653 relocation schedule which is at least equal to any extension
654 granted to the contractor by the department. The utility owner
655 shall notify the department of any additional delays associated
656 with causes beyond the utility owner's control, including, but
657 not limited to, participation in recovery work under a mutual
658 aid agreement. The notification must occur within 10 calendar

177317 - h0567-line776a1.docx

Published On: 3/24/2025 9:53:38 PM

Amendment No. a1

659 days after commencement of the delay and provide a reasonably
660 complete description of the cause and nature of the delay and
661 the possible impacts to the utility relocation schedule. Within
662 10 calendar days after the cause of the delay ends, the utility
663 owner shall submit a revised utility relocation schedule for
664 approval by the department. The department may not unreasonably
665 withhold, delay, or condition such approval.

666 (e) If the utility owner does not initiate work in
667 accordance with the utility relocation schedule, the department
668 must provide the utility owner a final notice directing the
669 utility owner to initiate work within 10 calendar days. If the
670 utility owner does not begin work within 10 calendar days after
671 receipt of the final notice or, having so begun work, thereafter
672 fails to complete the work in accordance with the utility
673 relocation schedule, the department is not required to
674 participate in the work, may withhold any amount due to the
675 utility owner for projects within the rights-of-way of the same
676 district of the department, and may exercise its right to obtain
677 injunctive relief under s. 120.69.

678 (f) If additional utility work is found necessary after
679 the letting date of a highway improvement project, the utility
680 must provide a revised utility relocation schedule within 30
681 calendar days after becoming aware of the need for such
682 additional work or upon receipt of the department's written
683 notification advising of the need for such additional work. The

177317 - h0567-line776a1.docx

Published On: 3/24/2025 9:53:38 PM

Amendment No. a1

684 department shall review the revised utility relocation schedule
 685 for compliance with the form and timeframe requirements of the
 686 department and must approve the revised utility relocation
 687 schedule if such requirements are met.

688 (g) The utility owner is liable to the department for
 689 documented damages resulting from the utility's failure to
 690 comply with the utility relocation schedule, including any delay
 691 costs incurred by the contractor and approved by the department.
 692 Within 45 days after receipt of written notification from the
 693 department that the utility owner is liable for damages, the
 694 utility owner must pay to the department the amount for which
 695 the utility owner is liable.

696
 697 -----
 698 **T I T L E A M E N D M E N T**

699 Remove line 1299 of the amendment and insert:
 700 provision; amending s. 337.401, F.S.; requiring
 701 certain underground utilities to be electronically
 702 detectable by specified techniques; requiring the
 703 utility owner to pay certain reasonable damages and
 704 reimburse certain costs; defining the term "as-built
 705 plans"; amending s. 337.403, F.S.; authorizing the
 706 department to provide an incentive to specified
 707 utility owners under certain circumstances; providing
 708 requirements for department rules and procedures for

Amendment No. a1

709 | engaging with utility owners; requiring the department
710 | to grant an extension to the utility relocation
711 | schedule during a state of emergency; authorizing the
712 | department to give final notice if the utility owner
713 | does not initiate work within a specified timeframe;
714 | authorizing the department to withhold amounts due or
715 | exercise injunctive relief under certain
716 | circumstances; providing that the utility owner is
717 | liable to the department for certain damages; amending
718 | s. 339.175, F.S.; revising