

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/SB 818

INTRODUCER: Transportation Committee and Senator McClain

SUBJECT: Utility Relocation

DATE: April 15, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Schrader</u>	<u>Imhof</u>	<u>RI</u>	Favorable
2.	<u>Johnson</u>	<u>Vickers</u>	<u>TR</u>	Fav/CS
3.	<u>Schrader</u>	<u>Yeatman</u>	<u>RC</u>	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 818 amends the process under which utilities located within the right-of-way of a public road or publicly-owned rail corridor must be relocated when such utility is found by an authority (Florida Department of Transportation and local government entities) to be unreasonably interfering in any way with the convenient, safe, or continuous use, or the maintenance, improvement, extension, or expansion, of such public road or publicly-owned rail corridor. The bill requires the utility to provide the authority with a reasonable relocation schedule within 30 days after written notice to the utility and requires the owner to initiate the necessary work within 60 days after the written notice.

The bill requires the authority to pay the entire expense for the relocation to the providers of broadband Internet service, cable service, or video service providers. The general requirement is that utility owners must pay for such relocation.

The bill provides a legislative finding and declaration that the bill fulfills an important state interest.

The bill has an effective date of July 1, 2025.

II. Present Situation:

Utility Use of Right of Way

Florida law authorizes an authority, defined as the Florida Department of Transportation (FDOT) and local governmental entities,¹ with jurisdiction and control of public roads or publicly-owned rail corridors to prescribe and enforce reasonable rules or regulations regarding the placement and maintenance of utilities within their rights-of-way.² For the purposes of this provision, the term “utility” is defined to mean electric transmission, voice, telegraph, data, or other communications services lines or wireless facilities; pole lines; poles; railways; ditches; sewers; water, heat, or gas mains; pipelines; fences; gasoline tanks and pumps; or other structures.³

An authority may grant such a utility the use of its right-of-way in accordance with its rules or regulations. A utility may not be installed, located, or relocated unless authorized by an authority-issued permit. However, for roads or rail corridors under FDOT’s jurisdiction, in lieu of a written permit, a utility relocation schedule and relocation agreement may be executed. A utility permit must require that the permitholder is responsible for any damage resulting from the issuance of such permit.⁴

Payment for Moving or Removing Utilities and Exceptions

Section 337.403(1), F.S., requires utilities to bear the cost of relocating utilities placed upon, under, over, or within the right-of-way limits of any public road or publicly-owned rail corridor which is found by the authority to be unreasonably interfering in any way with the convenient, safe, or continuous use, or the maintenance, improvement, extension, or expansion, of such public road or publicly-owned rail corridor. The requirements of s. 337.403(1), F.S., apply even if the utility is within a public utility easement and the utility owner has a franchise agreement with the authority, absent some other agreement to the contrary regarding costs of relocation.⁵ Utility owners, upon 30 days’ written notice, must eliminate the unreasonable interference within a reasonable time or an agreed time, at their own expense. Numerous exceptions are provided to this provision, and are located in s. 337.403(1)(a)-(j), F.S.

Broadband Services

Broadband (or high-speed Internet) services allow users to access Internet and Internet-related services at speeds significantly higher than could be provided by traditional dial-up Internet services. The speeds that can be obtained through broadband service can vary significantly based

¹ Section 334.03(13), F.S., defines the term “local governmental entity” to mean a unit of government with less than statewide jurisdiction, or any officially designated public agency or authority of such a unit of government, that has the responsibility for planning, construction, operation, or maintenance of, or jurisdiction over, a transportation facility; the term includes, but is not limited to, a county, an incorporated municipality, a metropolitan planning organization, an expressway or transportation authority, a road and bridge district, a special road and bridge district, and a regional governmental unit.

² Section 337.401(1)(a), F.S. Section 334.03(21), F.S., defines the term “right-of-way” to mean land in which the state, the department, a county, or a municipality owns the fee or has an easement devoted to or required for use as a transportation facility.

³ *Id.*

⁴ Section 337.401(2), F.S.

⁵ *Lee County Electric Coop., Inc. v. City of Cape Coral*, 159 So. 3d 126, 130 (Fla. 2d DCA 2014).

on a number of factors including the technology used by the provider, infrastructure in place to provide service to a particular end user by that provider, and the level of broadband service ordered by that end user.⁶

Types of broadband generally available include:

- Digital Subscriber Line (DSL), which is a wireline transmission technology that allows data to be transmitted faster over copper-based telephone wires already installed in end-user locations.
- Cable modem, which is a type of broadband provided through the same coaxial cable that delivers an end user's cable television service.
- Fiber, which is a fiber optic technology that converts to light electrical signals that carry data. This light is then sent through transparent glass fibers (these fibers are about the same diameter as a human hair). Fiber can transmit data at speeds far exceeding current DSL or cable modem speeds.
- Wireless (WiFi), which is a technology that connects end-user devices to internet services through short-range wireless technology. Public "hotspots" use this technology. In addition, fixed wireless technologies with longer-range directional equipment can also be used to provide broadband service in sparsely populated or remote areas too costly to provide other types of broadband. Mobile wireless services are also available from mobile broadband service providers—however, this type of service is generally slower than wired or fixed wireless services.
- Satellite, which is essentially another type of wireless broadband, where an end user receives broadband service connection through a fixed satellite mounted at their location transmitting data to a satellite internet modem. This type of connection, which requires a clear line of sight to the provider's satellite, can be useful as well in providing broadband service to remote or sparsely populated areas.⁷

Broadband in Florida

Section 288.9961, F.S., establishes the Florida Office of Broadband within the Division of Community Development within the Florida Department of Commerce (DCM). The Office of Broadband "works with local and state government agencies, community organizations and private businesses to increase the availability and effectiveness of broadband internet throughout the state, specifically in small and rural communities."⁸ The section defines "broadband internet service" as a service that offers a connection to the Internet with a capacity for transmission at a consistent speed of at least 25 megabits per second (mbps) downstream and 3 mbps upstream (25/3 mbps service). This 25/3 mbps service benchmark to be defined as broadband service was the same as that used by the Federal Communications Commission (FCC) since 2015. However, in 2024, the FCC increased that standard to 100 mbps downstream and 20 mbps upstream.⁹

⁶ Federal Communications Commission, *Getting Broadband Q&A*, <https://www.fcc.gov/consumers/guides/getting-broadband-qa> (last accessed Mar. 21, 2025).

⁷ *Id.*

⁸ Florida Department of Commerce, *Office of Broadband*, <https://www.floridajobs.org/community-planning-and-development/broadband/office-of-broadband> (last visited Jan. 22, 2024).

⁹ Federal Communications Commission, *FCC Increases Broadband Speed Benchmark*, Mar. 14, 2024 (available at <https://docs.fcc.gov/public/attachments/DOC-401205A1.pdf>).

Currently, 91.8 percent of Floridians have access to 25/3 mbps service. Presently, there are 229 internet service providers in Florida,¹⁰ including investor-owned companies and cooperative electric utilities.¹¹

Cable and Video Services in Florida

Section 610.102, F.S., provides that the Florida Department of State is the franchising authority for state-issued franchises for the provision of cable or video service. The section provides that municipalities and counties may not grant new franchises for the provision of cable or video services within their jurisdictions. Section 610.103, F.S., which provides the definitions for ch. 610, F.S., defines:

- “Cable service” as the one-way transmission to subscribers of video programming or any other programming service and the subscriber interaction, if any, required for the selection or use of such service.
- “Cable service provider” as a person that provides cable service over a cable system.
- “Cable system” as a facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service that includes video programming and that is provided to multiple subscribers within a community.¹²
- “Video service” as video programming services, including cable services, provided through wireline facilities located at least in part in the public rights-of-way without regard to delivery technology, including Internet protocol technology.¹³
- “Video service provider” as an entity providing video service.

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 337.403, F.S., to revise the process under which utilities located within a public road or publicly-owned rail corridor must be relocated when such utility is found by an authority to be unreasonably interfering in any way with the convenient, safe, or continuous use, or the maintenance, improvement, extension, or expansion, of such public road or publicly-owned rail corridor. Specifically, the bill requires that when a utility owner receives written notice of such a finding by an authority (FDOT and local government entities), it must within 30 days, provide such authority with a reasonable utility relocation schedule to expedite

¹⁰ Broadband Now, *Internet Service Providers in Florida*, <https://broadbandnow.com/Florida> (last accessed Mar. 21, 2025).

¹¹ Section 425.04, F.S., provides that rural electric cooperatives may engage in the provision of broadband, pursuant to the requirement in s. 364.391, F.S. Section 364.391, F.S., provides that if a cooperative engages in the provision of broadband, all poles owned by the cooperative are subject to regulation under s. 366.04(8), F.S., on the same basis as if that cooperative were a public utility under that subsection.

¹² However, the term does not include 1) a facility serving only to retransmit the television signals of television broadcast stations; 2) a facility serving only subscribers in one or more multiple-unit dwellings under common ownership, control, or management (unless it does so using any public right-of-way); 3) a facility serving subscribers without using public right-of-way; 4) a facility of a common carrier that is subject, in whole or in part, to the provisions of Title II of the federal Communications Act of 1934 (except that such facility is considered a cable system other than for purposes of 47 U.S.C. s. 541(c) to the extent such facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services); 5) any facilities of any electric utility used solely for operating its electric utility systems; or 6) an open video system complying with 47 U.S.C. s. 573.

¹³ “Video service” does not, however, include any video programming provided by a commercial mobile service provider as defined in 47 U.S.C. s. 332(d), video programming provided as part of and via a service that enables end users to access content, information, electronic mail, or other services offered over the public Internet.

the completion of that authority's construction or maintenance project identified in the notice. The bill also extends the time, from 30 days to 60 days, to initiate the work to alleviate the interference.

In addition, the bill provides an exemption for broadband Internet providers,¹⁴ and cable service and video service providers,¹⁵ from the general requirement that utility owners bear the cost of relocating utilities placed upon, under, over, or within the right-of-way limits of any public road or publicly-owned rail corridor which is found by the authority to be unreasonably interfering in any way with the convenient, safe, or continuous use, or the maintenance, improvement, extension, or expansion, of such public road or publicly-owned rail corridor. The bill provides, instead, that the authority requiring such relocation must pay the entire expense of the relocation work. The general requirement is that the utility owner must pay for such relocation.

Section 2 of the bill amends s. 125.42, F.S., to conform a cross-reference to amendments made by the bill.

Section 3 of the bill provides a legislative finding and declaration that the bill fulfills an important state interest.

Section 4 of the bill provides an effective date of July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, section 18 (a) of the Florida Constitution provides that a county or municipality may not be bound by a general law requiring a county or municipality to spend funds or take an action that requires the expenditure of funds unless certain specified exemptions or exceptions are met. Under the bill, authorities including local governments are required to pay the entire cost of relocating facilities used to provide broadband Internet service, cable service, or video service in circumstances which they currently are not required to pay such costs.

However, the bill meets an exception specified in the Constitution and the Legislature has determined that the bill fulfills an important state interest and this expenditure is required by a law which applies to both state and local governments. Under the bill, any authority requiring relocation of certain utilities must bear the costs, which authorities include both a state agency (FDOT) and other local governmental entities such as expressway authorities and certain special districts.

B. Public Records/Open Meetings Issues:

None.

¹⁴ As defined in s. 288.9961(2), F.S.

¹⁵ As defined in s. 610.103, F.S.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill eliminates utility relocation costs for providers of broadband Internet, cable service, and video service when such providers are located within the right-of-way limits of roads and rail corridors under the jurisdiction and control of the FDOT or a local government entity.

C. Government Sector Impact:

The bill will have an indeterminate, but likely substantial, impact on state and local government expenditures when engaging in a transportation project requiring the relocation of facilities used to provide broadband Internet, cable service, and video service.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 337.403 of the Florida Statutes.

This bill amends section 125.42 of the Florida Statutes to amend a cross-reference.

This bill creates an undesignated section of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Transportation on April 1, 2025:

Provides a legislative finding and declaration that the bill fulfills an important state interest.

- B. **Amendments:**

None.