

By Senator McClain

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1                   A bill to be entitled  
2       An act relating to utility relocation; amending s.  
3       337.403, F.S.; requiring utility owners to provide a  
4       certain authority with utility relocation schedules  
5       within a certain timeframe to expedite work; revising  
6       the timeframe within which a utility owner must  
7       initiate work; requiring a service provider to perform  
8       work under specific circumstances; requiring the  
9       authority to pay relocation expenses in certain  
10      instances; amending s. 125.42, F.S.; conforming a  
11      cross-reference; providing an effective date.

12  
13 Be It Enacted by the Legislature of the State of Florida:

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

17       337.403 Interference caused by utility; expenses.—

18       (1) If a utility that is placed upon, under, over, or  
19 within the right-of-way limits of any public road or publicly  
20 owned rail corridor is found by the authority to be unreasonably  
21 interfering in any way with the convenient, safe, or continuous  
22 use, or the maintenance, improvement, extension, or expansion,  
23 of such public road or publicly owned rail corridor, the utility  
24 owner must ~~shall~~, within 30 days after ~~upon 30 days'~~ written  
25 notice to the utility or its agent by the authority, provide the  
26 authority a reasonable utility relocation schedule to expedite  
27 the completion of the authority's construction or maintenance  
28 project identified in the notice, and, within 60 days after the  
29 written notice from the authority, initiate the work necessary

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30 to alleviate the interference at its own expense except as  
31 provided in paragraphs (a)-(k) ~~(a)-(j)~~. The work must be  
32 completed within such reasonable time as stated in the notice or  
33 such time as agreed to by the authority and the utility owner.

34 (a) If the relocation of utility facilities, as referred to  
35 in s. 111 of the Federal-Aid Highway Act of 1956, Pub. L. No.  
36 84-627, is necessitated by the construction of a project on the  
37 federal-aid interstate system, including extensions thereof  
38 within urban areas, and the cost of the project is eligible and  
39 approved for reimbursement by the Federal Government to the  
40 extent of 90 percent or more under the Federal-Aid Highway Act,  
41 or any amendment thereof, then in that event the utility owning  
42 or operating such facilities must ~~shall~~ perform any necessary  
43 work upon notice from the department, and the state must ~~shall~~  
44 pay the entire expense properly attributable to such work after  
45 deducting therefrom any increase in the value of a new facility  
46 and any salvage value derived from an old facility.

47 (b) When a joint agreement between the department and the  
48 utility is executed for utility work to be accomplished as part  
49 of a contract for construction of a transportation facility, the  
50 department may participate in those utility work costs that  
51 exceed the department's official estimate of the cost of the  
52 work by more than 10 percent. The amount of such participation  
53 is limited to the difference between the official estimate of  
54 all the work in the joint agreement plus 10 percent and the  
55 amount awarded for this work in the construction contract for  
56 such work. The department may not participate in any utility  
57 work costs that occur as a result of changes or additions during  
58 the course of the contract.

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59 (c) When an agreement between the department and utility is  
60 executed for utility work to be accomplished in advance of a  
61 contract for construction of a transportation facility, the  
62 department may participate in the cost of clearing and grubbing  
63 necessary to perform such work.

64 (d) If the utility facility was initially installed to  
65 exclusively serve the authority or its tenants, or both, the  
66 authority must ~~shall~~ bear the costs of the utility work.  
67 However, the authority is not responsible for the cost of  
68 utility work related to any subsequent additions to that  
69 facility for the purpose of serving others. For a county or  
70 municipality, if such utility facility was installed in the  
71 right-of-way as a means to serve a county or municipal facility  
72 on a parcel of property adjacent to the right-of-way and if the  
73 intended use of the county or municipal facility is for a use  
74 other than transportation purposes, the obligation of the county  
75 or municipality to bear the costs of the utility work shall  
76 extend only to utility work on the parcel of property on which  
77 the facility of the county or municipality originally served by  
78 the utility facility is located.

79 (e) If, under an agreement between a utility and the  
80 authority entered into after July 1, 2009, the utility conveys,  
81 subordinates, or relinquishes a compensable property right to  
82 the authority for the purpose of accommodating the acquisition  
83 or use of the right-of-way by the authority, without the  
84 agreement expressly addressing future responsibility for the  
85 cost of necessary utility work, the authority must ~~shall~~ bear  
86 the cost of removal or relocation. This paragraph does not  
87 impair or restrict, and may not be used to interpret, the terms

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88 of any such agreement entered into before July 1, 2009.

89 (f) If the utility is an electric facility being relocated  
90 underground in order to enhance vehicular, bicycle, and  
91 pedestrian safety and in which ownership of the electric  
92 facility to be placed underground has been transferred from a  
93 private to a public utility within the past 5 years, the  
94 department must ~~shall~~ incur all costs of the necessary utility  
95 work.

96 (g) An authority may bear the costs of utility work  
97 required to eliminate an unreasonable interference when the  
98 utility is not able to establish that it has a compensable  
99 property right in the particular property where the utility is  
100 located if:

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

103 2. The utility demonstrates that it has a compensable  
104 property right in adjacent properties along the alignment of the  
105 utility or, after due diligence, certifies that the utility does  
106 not have evidence to prove or disprove that it has a compensable  
107 property right in the particular property where the utility is  
108 located; and

109 3. The information available to the authority does not  
110 establish the relative priorities of the authority's and the  
111 utility's interests in the particular property.

112 (h) If a municipally owned utility or county-owned utility  
113 is located in a rural area of opportunity, as defined in s.  
114 288.0656(2), and the department determines that the utility is  
115 unable, and will not be able within the next 10 years, to pay  
116 for the cost of utility work necessitated by a department

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117 project on the State Highway System, the department may pay, in  
118 whole or in part, the cost of such utility work performed by the  
119 department or its contractor.

120 (i) If the relocation of utility facilities is necessitated  
121 by the construction of a commuter rail service project or an  
122 intercity passenger rail service project and the cost of the  
123 project is eligible and approved for reimbursement by the  
124 Federal Government, then in that event the utility owning or  
125 operating such facilities located by permit on a department-  
126 owned rail corridor must ~~shall~~ perform any necessary utility  
127 relocation work upon notice from the department, and the  
128 department must ~~shall~~ pay the expense properly attributable to  
129 such utility relocation work in the same proportion as federal  
130 funds are expended on the commuter rail service project or an  
131 intercity passenger rail service project after deducting  
132 therefrom any increase in the value of a new facility and any  
133 salvage value derived from an old facility. In no event is ~~shall~~  
134 the state ~~be~~ required to use state dollars for such utility  
135 relocation work. This paragraph does not apply to any phase of  
136 the Central Florida Commuter Rail project, known as SunRail.

137 (j) If a utility is lawfully located within an existing and  
138 valid utility easement granted by recorded plat, regardless of  
139 whether such land was subsequently acquired by the authority by  
140 dedication, transfer of fee, or otherwise, the authority must  
141 bear the cost of the utility work required to eliminate an  
142 unreasonable interference. The authority shall pay the entire  
143 expense properly attributable to such work after deducting any  
144 increase in the value of a new facility and any salvage value  
145 derived from an old facility.

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146       (k) If the authority requires a provider of broadband  
147 Internet service as defined in s. 288.9961(2), or a cable  
148 service provider or video service provider as defined in s.  
149 610.103, to relocate a facility used to provide such service,  
150 the service provider owning or operating such facility must  
151 perform any necessary work upon notice from the authority, and  
152 the authority requiring such relocation must pay the entire  
153 expense properly attributable to such work.

154       Section 2. Subsection (5) of section 125.42, Florida  
155 Statutes, is amended to read:

156       125.42 Water, sewage, gas, power, telephone, other utility,  
157 and television lines within the right-of-way limits of county  
158 roads and highways.—

159       (5) In the event of widening, repair, or reconstruction of  
160 any such road, the licensee shall move or remove such water,  
161 sewage, gas, power, telephone, and other utility lines and  
162 television lines at no cost to the county should they be found  
163 by the county to be unreasonably interfering, except as provided  
164 in s. 337.403(1)(d)-(k) ~~s. 337.403(1)(d)-(j)~~.

165       Section 3. This act shall take effect July 1, 2025.