By the Committees on Rules; and Transportation; and Senator McClain

595-03656-25 2025818c2

A bill to be entitled

An act relating to utility relocation; amending s. 202.18, F.S.; requiring that a specified percentage of a local communications services tax levied by municipalities and counties be distributed to the Department of Commerce to fund the Utility Relocation Reimbursement Grant Program; creating the program within the department; providing the purpose of the program; requiring the Department of Revenue to deposit certain proceeds into an account to fund the program beginning on a certain date; requiring the Department of Commerce to establish program requirements by rule; authorizing certain uses of program funds; exempting program funds from a certain service charge; providing that interest earned on program funds accrues to the program's fund; amending s. 337.403, F.S.; requiring a service provider to perform communications services facility relocation work under certain circumstances; requiring an authority to pay the expense properly attributable to such work; providing an exception for county and municipal authorities; authorizing a service provider to apply to the Utility Relocation Reimbursement Grant Program for reimbursement of relocation expenses; requiring a department to notify certain providers of communications services of certain projects within a specified timeframe; defining the term "department"; providing notification requirements; requiring a provider to respond to the notification with certain

information within a specified timeframe; requiring a department to provide a reasonable offer for joint participation in certain relocation costs under certain conditions; providing construction; amending s. 125.42, F.S.; conforming a cross-reference; providing a finding and declaration of important state interest; providing an effective date.

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

Section 1. Paragraphs (a) and (c) of subsection (3) of section 202.18, Florida Statutes, are amended, and subsection (4) is added to that section, to read:

202.18 Allocation and disposition of tax proceeds.—The proceeds of the communications services taxes remitted under this chapter shall be treated as follows:

(3)(a) Notwithstanding any law to the contrary, the proceeds of each local communications services tax levied by a municipality or county pursuant to s. 202.19(1) or s. 202.20(1), <u>less 7.5 percent distributed to the Department of Commerce to fund the Utility Relocation Reimbursement Grant Program created in subsection (4) and</u> less the department's costs of administration, shall be transferred to the Local Communications Services Tax Clearing Trust Fund and held there to be distributed to such municipality or county. However, the proceeds of any communications services tax imposed pursuant to s. 202.19(5) shall be deposited and disbursed in accordance with ss. 212.054 and 212.055. For purposes of this section, the proceeds of any tax levied by a municipality, county, or school

board under s. 202.19(1) or s. 202.20(1) are all funds collected and received by the department pursuant to a specific levy authorized by such sections, including any interest and penalties attributable to the tax levy.

(c)1. Except as otherwise provided in this paragraph, proceeds of the taxes levied pursuant to s. 202.19, less 7.5 percent distributed to the Department of Commerce to fund the Utility Relocation Reimbursement Grant Program created in subsection (4) and less amounts deducted for costs of administration in accordance with paragraph (b), shall be distributed monthly to the appropriate jurisdictions. The proceeds of taxes imposed pursuant to s. 202.19(5) shall be distributed in the same manner as discretionary surtaxes are distributed, in accordance with ss. 212.054 and 212.055.

2. The department shall make any adjustments to the distributions pursuant to this section which are necessary to reflect the proper amounts due to individual jurisdictions or trust funds. In the event that the department adjusts amounts due to reflect a correction in the situsing of a customer, such adjustment shall be limited to the amount of tax actually collected from such customer by the dealer of communication services.

3.a. Adjustments in distributions which are necessary to correct misallocations between jurisdictions shall be governed by this subparagraph. If the department determines that misallocations between jurisdictions occurred, it shall provide written notice of such determination to all affected jurisdictions. The notice shall include the amount of the misallocations, the basis upon which the determination was made,

data supporting the determination, and the identity of each affected jurisdiction. The notice shall also inform all affected jurisdictions of their authority to enter into a written agreement establishing a method of adjustment as described in sub-subparagraph c.

b. An adjustment affecting a distribution to a jurisdiction which is less than 90 percent of the average monthly distribution to that jurisdiction for the 6 months immediately preceding the department's determination, as reported by all communications services dealers, shall be made in the month immediately following the department's determination that misallocations occurred.

c. If an adjustment affecting a distribution to a jurisdiction equals or exceeds 90 percent of the average monthly distribution to that jurisdiction for the 6 months immediately preceding the department's determination, as reported by all communications services dealers, the affected jurisdictions may enter into a written agreement establishing a method of adjustment. If the agreement establishing a method of adjustment provides for payments of local communications services tax monthly distributions, the amount of any such payment agreed to may not exceed the local communications services tax monthly distributions available to the jurisdiction that was allocated amounts in excess of those to which it was entitled. If affected jurisdictions execute a written agreement specifying a method of adjustment, a copy of the written agreement shall be provided to the department no later than the first day of the month following 90 days after the date the department transmits notice of the misallocation. If the department does not receive a copy

of the written agreement within the specified time period, an adjustment affecting a distribution to a jurisdiction made pursuant to this sub-subparagraph shall be prorated over a time period that equals the time period over which the misallocations occurred.

(4) There is created within the Department of Commerce a Utility Relocation Reimbursement Grant Program. The purpose of the program is to reimburse providers of communications services which are subject to this chapter for eligible costs incurred in relocating facilities at the request of a county or municipal authority.

(a) Beginning October 1, 2025, the department shall deposit the proceeds to be distributed to the Department of Commerce under subsection (3) into an account to fund the Utility Relocation Reimbursement Grant Program. The department shall ensure the transfer of such funds on a monthly basis.

(b) The Department of Commerce shall establish by rule all of the following:

1. The criteria and process by which service providers may apply for reimbursement.

2. The minimum documentation required to verify eligible relocation costs, which may not be excessive or burdensome.

3. The timeline for application review and reimbursement disbursement, which may not exceed 90 days from submission.

(c) Program funds may be used only to reimburse actual, documented expenses directly attributable to the physical relocation of facilities required by a county or municipal authority. Reimbursement may not be made to a service provider for indirect or administrative costs.

(d) Program funds are exempt from s. 215.20 and any interest earnings shall accrue to the program's fund.

Section 2. Subsection (1) of section 337.403, Florida Statutes, is amended, and subsection (4) is added to that section, to read:

337.403 Interference caused by utility; expenses.—

(1) If a utility that is placed upon, under, over, or within the right-of-way limits of any public road or publicly owned rail corridor 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 utility owner must ~~shall~~, within 30 days after ~~upon 30 days'~~ written notice to the utility or its agent by the authority, initiate the work necessary to alleviate the interference at its own expense except as provided in paragraphs (a)-(k) ~~(a)-(j)~~. The work must be completed within such reasonable time as stated in the notice or such time as agreed to by the authority and the utility owner.

(a) If the relocation of utility facilities, as referred to in s. 111 of the Federal-Aid Highway Act of 1956, Pub. L. No. 84-627, is necessitated by the construction of a project on the federal-aid interstate system, including extensions thereof within urban areas, and the cost of the project is eligible and approved for reimbursement by the Federal Government to the extent of 90 percent or more under the Federal-Aid Highway Act, or any amendment thereof, then in that event the utility owning or operating such facilities must ~~shall~~ perform any necessary work upon notice from the department, and the state must ~~shall~~

pay the entire expense properly attributable to such work after deducting therefrom any increase in the value of a new facility and any salvage value derived from an old facility.

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

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

(d) If the utility facility was initially installed to exclusively serve the authority or its tenants, or both, the authority must ~~shall~~ bear the costs of the utility work. However, the authority is not responsible for the cost of utility work related to any subsequent additions to that facility for the purpose of serving others. For a county or municipality, if such utility facility was installed in the right-of-way as a means to serve a county or municipal facility on a parcel of property adjacent to the right-of-way and if the

intended use of the county or municipal facility is for a use other than transportation purposes, the obligation of the county or municipality to bear the costs of the utility work shall extend only to utility work on the parcel of property on which the facility of the county or municipality originally served by the utility facility is located.

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

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

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

1. The utility was physically located on the particular

property before the authority acquired rights in the property;

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

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

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

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

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

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

(k)1. Except as provided in subparagraph 2., if the authority requires a provider of communications services which is subject to chapter 202 to relocate a facility used to provide such communications services, the service provider owning or operating such facility must perform any necessary work upon notice from the authority. The authority requiring the relocation shall pay the entire expense properly attributable to such work.

2. If a county or municipal authority requires a provider of communications services which is subject to chapter 202 to relocate a facility used to provide such communications services, the service provider owning or operating such facility must perform any necessary work upon notice from the authority. The county or municipal authority requiring such relocation is

not responsible for paying the expense of such work. The service provider may apply for reimbursement of relocation expenses from the Utility Relocation Reimbursement Grant Program pursuant to s. 202.18(4), subject to the availability of funds and in compliance with the requirements of the program.

(4) Notwithstanding paragraph (1)(k), a department shall notify providers of communications services that are subject to chapter 202 which have permitted infrastructure within a planned or existing public right-of-way within 90 days after a project is added to the department's project schedule which may require the provider to relocate its infrastructure for roadway improvements to increase safety or reduce congestion. For purposes of this subsection, the term "department" means the Department of Transportation or an agency of the state created under chapter 348 or chapter 349.

(a) The notification provided under this subsection must include an estimated project schedule and timeline, including the anticipated year of construction.

(b) Within 90 days after receipt of the notification, the provider shall respond to the department with an estimated timeframe and project cost for the relocation of the provider's infrastructure. The response must include a draft relocation schedule within or adjacent to the existing or planned public right-of-way.

(c) Notwithstanding any other provision of this section, the department shall provide a reasonable offer for joint participation in relocation costs, so long as the provider begins work within a mutually agreed upon timeframe and, if the infrastructure relocation is a result of roadway improvements

within the public right-of-way to increase safety or reduce congestion and the impacted infrastructure was, at the time of notification under this subsection, installed within the past 7 state fiscal years, the department must incur at least 50 percent of the costs for relocation work as described in a joint participation agreement.

(d) This subsection may not be construed to prevent a department from pursuing the additional relocation processes, agreements, or payment options authorized under this section or to prevent a provider from using grant funds provided through other government sources to support all or a portion of the relocation costs.

Section 3. Subsection (5) of section 125.42, Florida Statutes, is amended to read:

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

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

Section 4. The Legislature finds and declares that this act fulfills an important state interest.

Section 5. This act shall take effect July 1, 2025.