

By Senator Gruters

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1                   A bill to be entitled  
2       An act relating to energy; amending s. 337.25, F.S.;  
3       prohibiting the Department of Transportation from  
4       assigning or transferring its permitting rights across  
5       transportation rights-of-way operated by the  
6       department to certain third parties under certain  
7       circumstances; amending s. 337.403, F.S.; prohibiting  
8       authorities from requiring the relocation of utilities  
9       on behalf of certain other third party or governmental  
10      agency projects; amending s. 366.04, F.S.; requiring  
11      the Public Service Commission to approve targeted  
12      storm reserve amounts for public utilities; providing  
13      requirements for the targeted storm reserve amounts;  
14      providing for base rate adjustments; amending s.  
15      409.508, F.S.; defining and redefining terms;  
16      requiring the Department of Commerce to expand  
17      categorical eligibility for the low-income home energy  
18      assistance program to include individuals who are  
19      enrolled in certain federal disability programs;  
20      requiring the department to develop a comprehensive  
21      process for automatic payments to be made on behalf of  
22      such individuals; providing requirements for such  
23      process; making technical changes; requiring the  
24      Public Service Commission to conduct or cause to be  
25      conducted a feasibility study on the use of small  
26      modular nuclear reactors in this state; defining the  
27      term "small modular nuclear reactor" or "reactor";  
28      providing requirements for the feasibility study;  
29      requiring the commission to submit a report on the

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30 findings and conclusion of the feasibility study to  
31 the Governor and the Legislature by a specified date;  
32 providing requirements for the report; providing an  
33 effective date.

34  
35 Be It Enacted by the Legislature of the State of Florida:

36  
37 Section 1. Paragraph (e) is added to subsection (1) of  
38 section 337.25, Florida Statutes, to read:

39 337.25 Acquisition, lease, and disposal of real and  
40 personal property.—

41 (1)

42 (e) The department may not, without prior approval from the  
43 Legislature, assign or transfer its permitting rights across any  
44 transportation right-of-way operated by the department to a  
45 third party or governmental entity that does not operate the  
46 transportation right-of-way.

47 Section 2. Subsection (1) of section 337.403, Florida  
48 Statutes, is amended to read:

49 337.403 Interference caused by utility; expenses.—

50 (1) If a utility that is placed upon, under, over, or  
51 within the right-of-way limits of any public road or publicly  
52 owned rail corridor is found by the authority to be unreasonably  
53 interfering in any way with the convenient, safe, or continuous  
54 use, or the maintenance, improvement, extension, or expansion,  
55 of such public road or publicly owned rail corridor, the utility  
56 owner shall, upon 30 days' written notice to the utility or its  
57 agent by the authority, initiate the work necessary to alleviate  
58 the interference at its own expense except as provided in

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59 paragraphs (a)-(j). The authority may not require a utility  
60 within a public road operated by the authority to be relocated  
61 on behalf of any other third-party or governmental agency  
62 project related to a separate public or private road or  
63 transportation corridor. The work must be completed within such  
64 reasonable time as stated in the notice or such time as agreed  
65 to by the authority and the utility owner.

66 (a) If the relocation of utility facilities, as referred to  
67 in s. 111 of the Federal-Aid Highway Act of 1956, Pub. L. No.  
68 84-627, is necessitated by the construction of a project on the  
69 federal-aid interstate system, including extensions thereof  
70 within urban areas, and the cost of the project is eligible and  
71 approved for reimbursement by the Federal Government to the  
72 extent of 90 percent or more under the Federal-Aid Highway Act,  
73 or any amendment thereof, then in that event the utility owning  
74 or operating such facilities shall perform any necessary work  
75 upon notice from the department, and the state shall pay the  
76 entire expense properly attributable to such work after  
77 deducting therefrom any increase in the value of a new facility  
78 and any salvage value derived from an old facility.

79 (b) When a joint agreement between the department and the  
80 utility is executed for utility work to be accomplished as part  
81 of a contract for construction of a transportation facility, the  
82 department may participate in those utility work costs that  
83 exceed the department's official estimate of the cost of the  
84 work by more than 10 percent. The amount of such participation  
85 is limited to the difference between the official estimate of  
86 all the work in the joint agreement plus 10 percent and the  
87 amount awarded for this work in the construction contract for

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88 such work. The department may not participate in any utility  
89 work costs that occur as a result of changes or additions during  
90 the course of the contract.

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

96 (d) If the utility facility was initially installed to  
97 exclusively serve the authority or its tenants, or both, the  
98 authority shall bear the costs of the utility work. However, the  
99 authority is not responsible for the cost of utility work  
100 related to any subsequent additions to that facility for the  
101 purpose of serving others. For a county or municipality, if such  
102 utility facility was installed in the right-of-way as a means to  
103 serve a county or municipal facility on a parcel of property  
104 adjacent to the right-of-way and if the intended use of the  
105 county or municipal facility is for a use other than  
106 transportation purposes, the obligation of the county or  
107 municipality to bear the costs of the utility work shall extend  
108 only to utility work on the parcel of property on which the  
109 facility of the county or municipality originally served by the  
110 utility facility is located.

111 (e) If, under an agreement between a utility and the  
112 authority entered into after July 1, 2009, the utility conveys,  
113 subordinates, or relinquishes a compensable property right to  
114 the authority for the purpose of accommodating the acquisition  
115 or use of the right-of-way by the authority, without the  
116 agreement expressly addressing future responsibility for the

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117 cost of necessary utility work, the authority shall bear the  
118 cost of removal or relocation. This paragraph does not impair or  
119 restrict, and may not be used to interpret, the terms of any  
120 such agreement entered into before July 1, 2009.

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

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

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

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

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

143 (h) If a municipally owned utility or county-owned utility  
144 is located in a rural area of opportunity, as defined in s.  
145 288.0656(2), and the department determines that the utility is

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146 unable, and will not be able within the next 10 years, to pay  
147 for the cost of utility work necessitated by a department  
148 project on the State Highway System, the department may pay, in  
149 whole or in part, the cost of such utility work performed by the  
150 department or its contractor.

151 (i) If the relocation of utility facilities is necessitated  
152 by the construction of a commuter rail service project or an  
153 intercity passenger rail service project and the cost of the  
154 project is eligible and approved for reimbursement by the  
155 Federal Government, then in that event the utility owning or  
156 operating such facilities located by permit on a department-  
157 owned rail corridor shall perform any necessary utility  
158 relocation work upon notice from the department, and the  
159 department shall pay the expense properly attributable to such  
160 utility relocation work in the same proportion as federal funds  
161 are expended on the commuter rail service project or an  
162 intercity passenger rail service project after deducting  
163 therefrom any increase in the value of a new facility and any  
164 salvage value derived from an old facility. In no event shall  
165 the state be required to use state dollars for such utility  
166 relocation work. This paragraph does not apply to any phase of  
167 the Central Florida Commuter Rail project, known as SunRail.

168 (j) If a utility is lawfully located within an existing and  
169 valid utility easement granted by recorded plat, regardless of  
170 whether such land was subsequently acquired by the authority by  
171 dedication, transfer of fee, or otherwise, the authority must  
172 bear the cost of the utility work required to eliminate an  
173 unreasonable interference. The authority shall pay the entire  
174 expense properly attributable to such work after deducting any

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175 increase in the value of a new facility and any salvage value  
176 derived from an old facility.

177 Section 3. Subsection (10) is added to section 366.04,  
178 Florida Statutes, to read:

179 366.04 Jurisdiction of commission.—

180 (10) The commission shall approve a targeted storm reserve  
181 amount to be effective January 1, 2025, for each public utility.  
182 The targeted storm reserve amount must be set at a level equal  
183 to 80 percent of the approved incremental storm costs incurred  
184 for the public utility's highest cost storm impacting its  
185 service area over the 5 calendar years before January 2025. The  
186 approved incremental storm costs that form the basis for the  
187 targeted storm reserve amount must be based on the filings of  
188 the public utility with the commission and orders issued by the  
189 commission.

190 (a)1. The initial targeted storm reserve amount established  
191 by the commission:

192 a. Is subject to adjustment on an annual basis for  
193 successive rolling 5-year periods;

194 b. Must be funded by an increase in base rates effective  
195 January 1, 2025; and

196 c. Must be designed to allow the utility to recover the  
197 costs to fund the targeted reserve level over a 4-year period.

198 2. All base rate adjustments and accompanying tariffs must  
199 be:

200 a. Implemented by administrative approval of the commission  
201 and employ the most recent authorized base rate structure for  
202 the public utility;

203 b. Filed by October 15 together with the current storm

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204 reserve and supporting documentation and the highest cost storm  
205 over the prior 5 years as reflected by commission order; and

206 c. Administratively approved by each November 15 to take  
207 effect on January 1 of the following calendar year.

208 (b) Suspension of base rate increases and implementation of  
209 base rate adjustments under this subsection based on use and  
210 depletion of the storm reserve and the determination of the  
211 annual storm reserve amount must be administratively determined  
212 and approved by the commission consistent with calendar  
213 deadlines under paragraph (a).

214 (c) The adjustments to base rates must be designed to fund  
215 the public utility storm reserves; the cost recovery of such  
216 base rates must be without regard to any impact on a public  
217 utility's previous, current, or projected earnings; and the  
218 revenues from such base rates may not be considered in the  
219 calculation of a public utility's earnings in earnings  
220 surveillance reports filed with the commission.

221 Section 4. Section 409.508, Florida Statutes, is amended to  
222 read:

223 409.508 Low-income home energy assistance program.—

224 (1) As used in this section, the term:

225 (a) "Department" means the Department of Commerce.

226 (b) "Eligible household" means a household eligible for  
227 funds from the program ~~Low-income Home Energy Assistance Act of~~  
228 ~~1981, 42 U.S.C. ss. 8621 et seq.~~

229 ~~(c) (b)~~ "Home energy" means a source of heating or cooling  
230 in residential dwellings.

231 (d) "Program" means the federal low-income home energy  
232 assistance program established pursuant to 42 U.S.C. ss. 8621 et

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233 seq.

234 (e)~~(e)~~ "Utility" means any person, corporation,  
235 partnership, municipality, cooperative, association, or other  
236 legal entity and its lessees, trustees, or receivers now or  
237 hereafter owning, operating, managing, or controlling any plant  
238 or other facility supplying electricity or natural gas to or for  
239 the public within this state, directly or indirectly, for  
240 compensation.

241 (2) The department ~~of Economic Opportunity~~ is designated as  
242 the state agency to administer the program ~~Low-income Home~~  
243 ~~Energy Assistance Act of 1981, 42 U.S.C. ss. 8621 et seq.~~ The  
244 department may ~~of Economic Opportunity is authorized to~~ provide  
245 home energy assistance benefits to eligible households which may  
246 be in the form of cash, vouchers, certificates, or direct  
247 payments to electric or natural gas utilities or other energy  
248 suppliers and operators of low-rent, subsidized housing in  
249 behalf of eligible households. Priority must ~~shall~~ be given to  
250 eligible households having at least one elderly or handicapped  
251 individual and to eligible households with the lowest incomes.

252 (3) (a) The department shall expand categorical eligibility  
253 for the program to include households with residents of this  
254 state who are enrolled in any of the following federal  
255 disability programs:

- 256 1. Social Security Disability Insurance program.
- 257 2. Social Security Insurance program.
- 258 3. United States Department of Veterans Affairs disability  
259 benefits.
- 260 4. Supplemental Nutritional Assistance Program.
- 261 5. Temporary Assistance for Needy Families.

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262       (b) The department shall develop a comprehensive process  
263 for automatic program payments on behalf of such individuals to  
264 be made directly to the household's home energy supplier. The  
265 process must include all of the following:

266           1. Detailed requirements for any necessary statutory or  
267 regulatory changes, application process changes, or other  
268 requirements necessary to allow the department to identify  
269 individuals who qualify under this subsection for automatic  
270 program payments without requiring the individual to submit  
271 additional program applications.

272           2. A data sharing process detailing the steps the  
273 department will take to identify and share a list of  
274 categorically eligible residents with home energy suppliers. A  
275 home energy supplier that agrees to receive direct program  
276 payments must apply the benefits as prescribed to the resident  
277 accounts identified by the department and document such payments  
278 in its annual program performance measures report.

279           (4) Agreements may be established between electric or  
280 natural gas utility companies, other energy suppliers, the  
281 department, and the Department of Revenue to provide, ~~and the~~  
282 ~~Department of Economic Opportunity for the purpose of providing~~  
283 payments to energy suppliers in the form of a credit against  
284 sales and use taxes due or direct payments to energy suppliers  
285 for services rendered to low-income, eligible households.

286           (5)~~(4)~~ The department of Economic Opportunity shall adopt  
287 rules to carry out the provisions of this section act.

288           Section 5. (1) The Public Service Commission shall conduct  
289 or cause to be conducted a study regarding the feasibility of  
290 using small modular nuclear reactors in this state. As used in

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291 this section, the term "small modular nuclear reactor" or  
292 "reactor" means a nuclear reactor that:

293 (a) Has a rated capacity of not more than 300 megawatts of  
294 electricity;

295 (b) Can be constructed and operated in combination with  
296 other similar reactors at a single site if multiple reactors are  
297 necessary; and

298 (c) Has been licensed by the United States Nuclear  
299 Regulatory Commission and is in compliance with all requirements  
300 and conditions associated with the license.

301 (2) The feasibility study must include an evaluation of all  
302 of the following:

303 (a) Existing state law, to determine and identify which, if  
304 any, statutes and agency rules would need to be amended to  
305 enable the construction and operation of small modular nuclear  
306 reactors in this state;

307 (b) The economic feasibility of replacing carbon-based  
308 energy sources with reactors, while accounting for the net  
309 present value of revenue requirements that would result from the  
310 retirement of coal-fired plants;

311 (c) The safety of and the waste stream resulting from the  
312 construction and operation of reactors; and

313 (d) The property tax benefits to counties, school  
314 districts, and special taxing districts in connection with the  
315 use of reactors.

316 (e) The number of jobs that could be created and the  
317 overall impact to local economies in connection with the use of  
318 small modular nuclear reactors.

319 (f) The reliability and cost of small modular nuclear

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320 reactors as compared to natural gas, wind, and solar energy  
321 production.

322 (g) Local government permitting requirements or approvals  
323 that would be required for the operation of small modular  
324 nuclear reactors in this state.

325 (h) Any other information that the commission deems  
326 necessary.

327 (3) On or before July 1, 2025, the commission shall submit  
328 a report of the findings and conclusions of the feasibility  
329 study to the Governor, the President of the Senate, and the  
330 Speaker of the House of Representatives. The report must include  
331 any recommendations regarding:

332 (a) The potential for using small modular nuclear reactors  
333 to provide energy in this state; and

334 (b) Administrative or legislative action needed to promote  
335 the use of small modular nuclear reactors in this state.

336 Section 6. This act shall take effect July 1, 2024.