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LEGISLATIVE ACTION

Senate

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House

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Floor: 1d/AD/2R

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04/30/2013 03:44 PM

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Senator Brandes moved the following:

1 **Senate Amendment to Amendment (740626) (with title**
2 **amendment)**

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4 Between lines 953 and 954
5 insert:

6 Section 19. Paragraphs (h) and (i) are added to subsection
7 (1), and subsection (1) of section 337.403, Florida Statutes, is
8 further amended to read:

9 337.403 Interference caused by ~~relocation~~ of utility;
10 expenses.—

11 (1) If a utility that is placed upon, under, over, or along
12 any public road or publicly owned rail corridor is found by the
13 authority to be unreasonably interfering in any way with the



399930

14 convenient, safe, or continuous use, or the maintenance,
15 improvement, extension, or expansion, of such public road or
16 publicly owned rail corridor, the utility owner shall, upon 30
17 days' written notice to the utility or its agent by the
18 authority, initiate the work necessary to alleviate the
19 interference at its own expense except as provided in paragraphs
20 (a) - ~~(i)~~ ~~(g)~~. The work must be completed within such reasonable
21 time as stated in the notice or such time as agreed to by the
22 authority and the utility owner.

23 (a) If the relocation of utility facilities, as referred to
24 in s. 111 of the Federal-Aid Highway Act of 1956, Pub. L. No.
25 627 of the 84th Congress, is necessitated by the construction of
26 a project on the federal-aid interstate system, including
27 extensions thereof within urban areas, and the cost of the
28 project is eligible and approved for reimbursement by the
29 Federal Government to the extent of 90 percent or more under the
30 Federal Aid Highway Act, or any amendment thereof, then in that
31 event the utility owning or operating such facilities shall
32 perform any necessary work upon notice from the department, and
33 the state shall pay the entire expense properly attributable to
34 such work after deducting therefrom any increase in the value of
35 a new facility and any salvage value derived from an old
36 facility.

37 (b) When a joint agreement between the department and the
38 utility is executed for utility work to be accomplished as part
39 of a contract for construction of a transportation facility, the
40 department may participate in those utility work costs that
41 exceed the department's official estimate of the cost of the
42 work by more than 10 percent. The amount of such participation



399930

43 shall be limited to the difference between the official estimate
44 of all the work in the joint agreement plus 10 percent and the
45 amount awarded for this work in the construction contract for
46 such work. The department may not participate in any utility
47 work costs that occur as a result of changes or additions during
48 the course of the contract.

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

54 (d) If the utility facility was initially installed to
55 exclusively serve the authority or its tenants, or both, the
56 authority shall bear the costs of the utility work. However, the
57 authority is not responsible for the cost of utility work
58 related to any subsequent additions to that facility for the
59 purpose of serving others. For a county or municipality, if such
60 utility facility was installed in the right of way as a means to
61 serve a county or municipal facility on a parcel of property
62 adjacent to the right of way, and the intended use of the county
63 or municipal facility is for other than transportation purposes,
64 the obligation of the county or municipality to bear the costs
65 of the utility work shall extend only to utility work on the
66 parcel of property on which the facility of the county or
67 municipality originally served by the utility facility is
68 located.

69 (e) If, under an agreement between a utility and the
70 authority entered into after July 1, 2009, the utility conveys,
71 subordinates, or relinquishes a compensable property right to



399930

72 the authority for the purpose of accommodating the acquisition
73 or use of the right-of-way by the authority, without the
74 agreement expressly addressing future responsibility for the
75 cost of necessary utility work, the authority shall bear the
76 cost of removal or relocation. This paragraph does not impair or
77 restrict, and may not be used to interpret, the terms of any
78 such agreement entered into before July 1, 2009.

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

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

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

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

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



399930

101 (h) If the relocation of utility facilities is necessitated
102 by the construction of a commuter rail service project or an
103 inter-city passenger rail service project and the cost of the
104 project is eligible and approved for reimbursement by the
105 Federal Government, then in that event the utility owning or
106 operating such facilities located by permit on a department-
107 owned rail corridor shall perform any necessary utility
108 relocation work upon notice from the department, and the
109 department shall pay the expense properly attributable to such
110 utility relocation work in the same proportion as Federal funds
111 are expended on the commuter rail service project or an inter-
112 city passenger rail service project after deducting therefrom
113 any increase in the value of a new facility and any salvage
114 value derived from an old facility. In no event shall the state
115 be required to use state dollars for such utility relocation
116 work. This subsection shall not apply to any phase of the
117 Central Florida Rail Corridor project known as SunRail.

118 (i) If a city or county owned utility is located in a rural
119 area of critical economic concern, designated pursuant to s.
120 288.0656, and the department's comptroller determines that the
121 utility is not able, and will not within the following 10 years
122 be able, to pay for the cost of utility work necessitated by a
123 department project on the State Highway System, the department
124 may pay the cost of such utility work performed by the
125 department or the department's contractor, in whole or in part.

127 ===== T I T L E A M E N D M E N T =====

128 And the title is amended as follows:

129 Delete line 4487



399930

130 and insert:

131 lease must meet; amending s. 337.403, F.S.; revising
132 the conditions under which an authority may bear the
133 costs of utility work required to eliminate an
134 unreasonable interference when the utility is unable
135 to establish that it has a compensable property right
136 in the property where the utility is located;
137 requiring the department to pay the expenses of
138 utility work necessitated by certain federally-funded
139 projects under certain conditions; prohibiting the use
140 of state dollars for such work; providing the
141 subsection does not apply to any phase of the SunRail
142 project; authorizing the department to pay the cost of
143 utility work necessitated by a department project on
144 the State Highway System for a city- or county-owned
145 utility located in a rural area of critical economic
146 concern designated pursuant to s. 288.0656; amending
147 s. 338.161, F.S.;

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