

# FLORIDA HOUSE OF REPRESENTATIVES

## FINAL BILL ANALYSIS

*This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.*

**BILL #:** [CS/HB 703](#)

**TITLE:** Utility Relocation

**SPONSOR(S):** Robinson, W.

**COMPANION BILL:** [CS/CS/CS/SB 818](#) (McClain)

**LINKED BILLS:** None

**RELATED BILLS:** None

**FINAL HOUSE FLOOR ACTION:** 106 Y's 0 N's

**GOVERNOR'S ACTION:** Pending

### SUMMARY

#### Effect of the Bill:

The bill modifies the process and cost responsibilities related to the required relocation of facilities that are used by communications services providers to provide service and are located in a public right-of-way by:

- Requiring these providers to submit an estimated schedule and project cost for the relocation of their facilities located within the right-of-way owned by the Department of Transportation (DOT) and other specified state entities;
- Requiring DOT to participate in the costs of such relocation work;
- Creating the Utility Relocation Reimbursement Grant Program (grant program) within the Department of Commerce for such providers to seek reimbursement for relocation work done at the request of county and municipal authorities; and
- Redistributing certain proceeds from the state communications services tax to the grant program to contribute to costs related to such relocation work.

#### Fiscal or Economic Impact:

The bill will have an indeterminate but likely significant negative impact on state government expenditures. The Revenue Estimating Conference estimates that the bill will have a recurring positive \$50 million impact on state trust fund revenue and a recurring negative \$50 million impact on local government revenues beginning in fiscal year 2025-2026..

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## ANALYSIS

### EFFECT OF THE BILL:

The bill modifies the process and cost responsibilities related to the required [relocation of facilities](#) that are used by communications services providers to provide service and that are located within the right-of-way (ROW) limits of a public road or publicly owned rail corridor under the jurisdiction and control of certain state and local government entities.

#### Relocation Required by Counties and Municipal Authorities

Specifically, the bill requires that if a county or municipal authority requires a provider of [communications services](#) that is subject to the [Communications Services Tax Simplification Law](#) to relocate a facility used to provide communications services, the service provider owning or operating such facility must initiate any necessary work upon notice from the authority. The bill states that the county or municipal authority requiring the relocation work is not responsible for paying for the costs of such work, unless otherwise provided by law. (Section [2](#))

The bill creates the Utility Relocation Reimbursement Grant Program (grant program) within the Department of Commerce (Commerce) to reimburse providers of communications services for eligible costs incurred to relocate facilities at the request of a county or municipal authority. Under the bill, Commerce must establish all of the following by rule:

- The criteria and process by which service providers may apply for reimbursement.
- The minimum documentation required to verify eligible prudent and reasonable relocation costs.

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- The timeline for application review and reimbursement disbursement, which may not exceed 90 days from submission. (Section [3](#))

The bill states that grant program funds may only be used to reimburse actual, documented expenses directly attributable to the physical relocation of facilities required by a county or municipal authority. Such funds may not be made to a communications services provider for indirect or administrative costs. Under the bill, program funds are exempt from interest requirements on certain trust funds under current law and any interest earnings shall accrue to the grant program's fund. (Section [3](#))

The bill provides that Commerce is authorized to adopt emergency rules to administer and enforce these provisions. (Section [3](#))

To fund the grant program, the bill requires the Department of Revenue (DOR) to distribute, by a nonoperating transfer, \$50 million of certain state communications services tax proceeds<sup>1</sup> in any fiscal year in monthly installments to the Grants and Donations Trust Fund within Commerce. The bill requires DOR to transfer the remainder of such proceeds, after the distribution to Commerce, to the Local Government Half-cent Sales Tax Clearing Trust Fund. The bill requires that the remainder be reduced by 0.1018 percent beginning October 1, 2025, which amount must be distributed to the Public Employees Relations Commission (PERC) Trust Fund. The bill directs the transfer to the PERC Trust Fund to begin October 1, 2025. (Section [1](#))

Additionally, for the 2025-2026 fiscal year, the bill provides a nonrecurring appropriation from the Grants and Donations Trust Fund within Commerce in the sum of \$50 million to give Commerce spending authority to use those funds for the grant program. (Section [9](#))

#### Relocation Required by DOT and Specified State Agencies

The bill requires a department,<sup>2</sup> within 90 days after a project is added to its project schedule, to notify a provider of communications services that is subject to the Communications Services Tax Simplification Law and that has permitted infrastructure within a planned or existing public ROW if the project may require the provider to relocate its infrastructure for roadway improvements to increase safety or reduce congestion. The bill provides that such notification must include an estimated project schedule and timeline, including an anticipated year of construction. The communications services provider must, within 90 days after receipt of the notification, 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 ROW. (Section [2](#))

The bill requires the department to provide a reasonable offer for joint participation in relocation costs, so long as the communications services provider initiates work within a mutually agreed upon timeframe. The department must incur at least 50 percent of the costs for relocation work as described in a joint participation agreement if:

- The infrastructure relocation is a result of roadway improvements within the public ROW to increase safety or reduce congestion; and
- The impacted infrastructure, at the time of notification, was installed within the past 7 state fiscal years. (Section [2](#))

The bill clarifies that these provisions may not be construed to prevent a department from pursuing the additional relocation processes, agreements, or payment options authorized under [s. 337.403, F.S.](#), or to prevent a communications services provider from using grant funds provided through other government sources to support all or a portion of the relocation costs. (Section [2](#))

<sup>1</sup> These proceeds are comprised of 8.9744 percent of the amount of state communications services taxes, excluding the portion of such taxes that constitute gross receipts taxes, remitted by a sales tax dealer in a county that participates in the local government half-cent sales tax under part VI of chapter 218, F.S.

<sup>2</sup> The bill defines the term "department" to mean DOT or an agency of the state created under chapter 348 or chapter 349. In addition to DOT, this includes the Greater Miami, Tampa, and Central Florida Expressway Authorities and the Jacksonville Transportation Authority.

The bill amends cross-references to conform to these changes. (Sections [4](#), [5](#), [6](#), and [7](#))

The bill provides a legislative finding that it fulfills an important state interest. (Section [8](#))

Subject to the Governor’s veto powers, the effective date of this bill is October 1, 2025. (Section [10](#))

#### **RULEMAKING:**

The bill provides that Commerce is authorized to adopt emergency rules to administer and enforce the grant program.

***Lawmaking is a legislative power; however, the Legislature may delegate a portion of such power to executive branch agencies to create rules that have the force of law. To exercise this delegated power, an agency must have a grant of rulemaking authority and a law to implement.***

#### **FISCAL OR ECONOMIC IMPACT:**

##### **STATE GOVERNMENT:**

The bill will have an indeterminate but likely significant negative impact on state government expenditures associated with transportation projects because it requires DOT and other specified transportation authorities to participate in costs for relocation of broadband Internet, cable, and video service facilities located within the right-of-way limits of roads and rail corridors under the jurisdiction and control of those authorities.

The bill requires Commerce to adopt emergency rules and expands the responsibilities of Commerce to operate the newly created grant program. Any expenses related to rulemaking can be absorbed within existing resources. The cost of implementing and administering the grant program is indeterminate.

The Revenue Estimating Conference estimates that the provisions of the bill will have a positive \$50 million recurring impact on state trust fund revenue beginning in fiscal year 2025-26.

##### **LOCAL GOVERNMENT:**

The Revenue Estimating Conference estimates that the provisions of the bill will have a recurring negative \$50 million impact on local government revenues beginning in fiscal year 2025-26.

##### **PRIVATE SECTOR:**

The bill reduces or eliminates utility relocation costs for communications services providers (e.g., broadband Internet, cable, video, and voice service providers) when such utilities are located within the right-of-way limits of public roads or rail corridors under the jurisdiction and control of DOT, specified transportation authorities, or a county or municipality.

## **RELEVANT INFORMATION**

### **SUBJECT OVERVIEW:**

#### Utility Use of the Public Right-of-Way

The Department of Transportation (DOT) and each local government that has jurisdiction and control of public roads or publicly owned rail corridors is authorized to prescribe and enforce reasonable rules or regulations related to placing and maintaining utility facilities across, on, or within the right-of-way (ROW) limits of any road or publicly owned rail corridors under its jurisdiction. Each of these types of government entities is individually referred to as an “authority” when acting in this capacity.<sup>3</sup>

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<sup>3</sup> S. [337.401\(1\), F.S.](#)

Each ROW authority may authorize any person who is a resident of this state, or any corporation organized under the laws of this state or licensed to do business within this state, to use a public ROW for a utility in accordance with the authority's rules or regulations. For purposes of obtaining such use, a "utility" includes:

- Electric transmission lines
- Voice, telegraph, data, or other communications services lines
- Wireless facilities
- Poles and pole lines
- Railways
- Ditches
- Sewers
- Water, heat, or gas mains
- Pipelines
- Fences
- Gasoline tanks and pumps
- Any other structures referred to in ss. 337.401–337.404, F.S.<sup>4</sup>

A utility may not be installed, located, or relocated within a public ROW unless authorized by a written permit. However, for public roads or publicly owned rail corridors under DOT's jurisdiction, a utility relocation schedule and relocation agreement may be executed in lieu of a written permit.<sup>5</sup>

### [Relocation of Facilities](#)

If a public ROW authority finds that a utility placed within the ROW limits of a public road or publicly owned rail corridor is unreasonably interfering in any way with the use, maintenance, improvement, extension, or expansion of the road or rail corridor, it must notify the utility or its agent in writing. Within 30 days of such notice, the utility owner must initiate the work necessary to alleviate the interference at its own expense.<sup>6</sup> The work must be completed within a reasonable time as stated in the notice or a time agreed to by the authority and utility owner.<sup>7</sup>

### [Communications Services Tax \(CST\) Simplification Law](#)

Chapter 202, F.S., is the Communications Services Tax (CST) Simplification Law. The term "[communications services](#)" means the transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals, including video services, to a point, or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave, or other medium or method, regardless of the protocol used for such transmission or conveyance.<sup>8</sup>

Section [202.105, F.S.](#), provides the legislative findings and intent related to enactment of the CST simplification law. The law simplified the state and local tax and fee system for communications services by restructuring separate taxes and fees into a revenue-neutral CST centrally administered by the Department of Revenue, i.e. a single tax to replace multiple taxes and fees previously imposed.

The state CST rate, except for direct-to-home satellite service, is 4.92 percent.<sup>9</sup> Local governments may also levy a discretionary CST.<sup>10</sup>

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<sup>4</sup> *Id.*

<sup>5</sup> S. [337.401\(2\), F.S.](#)

<sup>6</sup> S. [337.401\(1\), F.S.](#) This law provides a list of specific scenarios in which responsibility for relocation expenses is modified.

<sup>7</sup> *Id.*

<sup>8</sup> S. [202.11\(1\), F.S.](#) Excluded from this definition is information services; installation or maintenance of wiring or equipment on a customer's premises; the sale or rental of tangible personal property; the sale of advertising, including, but not limited to, directory advertising; bad check charges; late payment charges; billing and collection services; and internet access service, electronic mail service, electronic bulletin board service, or similar online computer services.

<sup>9</sup> S. 202.12(1)(a) and (b), F.S.

<sup>10</sup> S. [202.19, F.S.](#)