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1 A bill to be entitled
2 An act relating to the use of rights-of-way by
3 providers of communications services for the purpose
4 of enhancing the reliability of telecommunications,
5 telephone, telegraph, cable television, broadband,
6 internet, and other communications services; creating
7 s. 337.4015, F.S.; declaring the Legislature's intent
8 that, in order to protect and promote the public
9 health, safety, and welfare, the facilities of
10 providers of telecommunications, telephone, telegraph,
11 cable television, broadband, internet, and other
12 communications services should be installed either
13 underground or on strengthened utility poles whenever
14 such facilities are available; providing definitions;
15 providing a mandate for the department of
16 transportation to adopt rules and regulations;
17 providing specific authority for local government
18 authorities to adopt rules and regulations; providing
19 directions to the department and local government
20 authorities for enforcement of their rules and
21 regulations; providing an effective date.

22
23 WHEREAS, the Legislature finds that reliable and
24 continuously available telecommunications, telephone, telegraph,
25 cable television, broadband, internet, and other communications
26 services, are critical to the public health, safety, and welfare
27 of all Floridians, and

28 WHEREAS, the Legislature finds that the reliability and
29 continuous availability of such communications services will be
30 enhanced by locating the lines, wires, and other facilities that

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31 are used to provide those services in underground conduit or on
32 the strongest available overhead poles, including poles that are
33 installed by electric utilities pursuant to applicable rules of
34 the Florida Public Service Commission or pursuant to a utility's
35 own initiatives to strengthen the utility's facilities against
36 potential damage from hurricanes, tropical storms, severe
37 thunderstorms, and other severe weather events, and

38 WHEREAS, the Legislature finds that not all providers of
39 telecommunications, telephone, telegraph, cable television,
40 broadband, internet, and other communications services have
41 relocated their overhead facilities to underground installations
42 or to strengthened overhead poles where such underground or
43 strengthened overhead facilities are available, NOW THEREFORE,

44

45 Be it enacted by the Legislature of the State of Florida:

46

47 Section 1. Section 337.4015, Florida Statutes, is created
48 to read:

49 337.4015 Relocation of communications facilities.—

50 | (1)(a) The department and local government~~al~~ authorities
51 that have jurisdiction and control of public roads or publicly
52 owned rail corridors are authorized to prescribe and enforce
53 reasonable rules or regulations with reference to the placing
54 and maintaining along, across, or on any road or publicly owned
55 rail corridors under their respective jurisdictions any
56 telecommunications, telephone, telegraph, cable television,
57 broadband, internet, or other communications facilities. The
58 department may enter into a permit-delegation agreement with a
59 | local government authority or any other governmental entity if
60 issuance of a permit is based on requirements that the

61 department finds will ensure the safety and integrity of
62 facilities of the Department of Transportation.

63 (b) With respect to the rules and regulations authorized
64 by this section, the following requirements shall be followed
65 and incorporated into such rules and regulations by the
66 department and may be followed and incorporated into such rules
67 and regulations by local government authorities:

68 1. The rules and regulations adopted by the department
69 shall include provisions to accomplish the following:

70 a. Where an electric utility's lines are placed in
71 underground conduit, ~~providers of communications services shall,~~
72 ~~within a reasonable time, (i) convert and relocate all~~
73 ~~communications facilities located on overhead poles, whether~~
74 ~~poles of the electric utility or poles of the provider of~~
75 ~~communications services, to underground service, whether in~~
76 ~~conduit or using direct burial techniques, (ii) remove any and~~
77 ~~all remaining poles and other fixtures, attachments, or other~~
78 ~~facilities of any type whatsoever associated with such remaining~~
79 ~~poles, and (iii) restore the area where such poles and~~
80 ~~facilities were located to a satisfactory condition, as may be~~
81 ~~prescribed by applicable rules and regulations promulgated~~
82 ~~pursuant to this s. 337.4015 any communications facilities, as~~
83 ~~defined in subsection (2)(a) of this section, shall be installed~~
84 ~~underground, whether in conduit or using direct burial~~
85 ~~techniques, within a reasonable time;~~

86 b. Where an electric utility's overhead facilities, as
87 defined in subsection (2)(b) of this section, are converted to
88 underground service, i.e., where the electric utility's lines^T
89 and other equipment are removed from overhead poles and
90 installed to accommodate underground electric service, including

91 transformers and switches installed in ground-mounted or
92 underground cabinets or vaults, and also including the electric
93 utility's wires installed in underground conduit, providers of
94 communications services shall, within a reasonable time, (i)
95 convert and relocate all communications facilities previously
96 located on the utility's overhead poles to underground service,
97 whether in conduit or using direct burial techniques, (ii)
98 remove any and all remaining poles and other fixtures,
99 attachments, or other facilities of any type whatsoever
100 associated with such remaining poles, and (iii) restore the area
101 where such poles and facilities were located to a satisfactory
102 condition, as may be prescribed by applicable rules and
103 regulations promulgated pursuant to this s.

104 ~~337.4015communications facilities previously located on the~~
105 ~~utility's overhead poles shall be converted to underground~~
106 ~~service, whether in conduit or using direct burial techniques,~~
107 ~~within a reasonable time;~~

108 c. Where an electric utility's overhead lines are
109 relocated to stronger overhead poles, whether such relocation is
110 made ~~(i)~~ pursuant to a "Storm Hardening Plan" approved by the
111 Florida Public Service Commission or ~~(ii)~~ pursuant to the
112 electric utility's own initiative, providers of communications
113 services shall, within a reasonable time, (i) relocate all
114 communications facilities previously located on the utility's
115 previously existing overhead poles to the electric utility's
116 new, stronger poles, or, at the option of the provider of
117 communications services, convert and relocate all communications
118 facilities previously located on the electric utility's overhead
119 poles to underground service, whether in conduit or using direct
120 burial techniques, and (ii) remove any and all remaining poles

121 and other fixtures, attachments, or other facilities of any type
122 whatsoever associated with such remaining poles, and (iii)
123 restore the area where such poles and facilities were located to
124 a satisfactory condition, as may be prescribed by applicable
125 rules and regulations promulgated pursuant to this s.
126 ~~337.4015communications facilities previously located on overhead~~
127 ~~poles shall be relocated to such stronger overhead poles within~~
128 ~~a reasonable time.~~

129 2. Local government authorities are authorized to adopt
130 rules and regulations that will accomplish the purposes set
131 forth in subsections (1)(b)1.a through (1)(b)1.c above.

132 3. The department is directed to enforce its rules and
133 regulations as a priority and, where necessary, the department
134 is directed to initiate injunctive proceedings to accomplish the
135 purposes set forth above, to protect and promote the public
136 health, safety, and welfare.

137 4. ~~If~~Notwithstanding any other provision of law, if any
138 provider of communications services has not complied with the
139 department's rules and regulations within a reasonable time, as
140 defined in subsection (2)(c) of this section, the department is
141 directed to deny permits for any work to be done by any such
142 non-compliant provider in any area subject to the department's
143 permitting jurisdiction until such provider complies with the
144 department's rules and regulations.

145 5. Local government authorities are encouraged to enforce
146 their rules and regulations as a priority and, where necessary,
147 local government authorities are authorized and encouraged to
148 initiate injunctive proceedings to accomplish the purposes set
149 forth above, to protect and promote the public health, safety,
150 and welfare.

151 | 6. ~~If~~Notwithstanding any other provision of law, if any
152 | provider of communications services has not complied with a
153 | local government authority's rules and regulations within a
154 | reasonable time, as defined in subsection (2)(c) of this
155 | section, the local government authority is authorized to deny
156 | permits for any work to be done by any such non-compliant
157 | provider in any area subject to the local government authority's
158 | permitting jurisdiction until such provider complies with the
159 | authority's rules and regulations.

160 | 7. Providers of communications services are not
161 | prohibited from ~~including~~recovering the costs of such
162 | conversions or relocations from their customers, but they may
163 | not recover any costs of complying with the rules and
164 | regulations prescribed or authorized by this section from the
165 | department or from any local government authority.

166 | (2) As used in this ~~sub~~section, the following definitions
167 | apply:

168 | (a) "Communications facility" or "communications
169 | facilities" means any facility or facilities that may be used to
170 | provide communications services, including, without limitation,
171 | any form of telecommunications, telephone, telegraph, cable
172 | television, broadband, internet, or other communications
173 | services.

174 | (b) "Local government authority" means any municipality or
175 | county having jurisdiction and control of public roads or
176 | publicly owned rail corridors.

177 | (c) "Overhead facilities" shall mean, (i) with respect to the
178 | equipment and facilities of an electric utility, the utility's poles,
179 | the electrical wires and conductors attached to those poles,
180 | transformers, insulators, guy wires, and all hardware and related
181 | equipment associated with the electric utility's poles and wires, and

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182 (ii) with respect to communications facilities, all equipment, wires,
183 fiber, cables, and other equipment or hardware of any type that are
184 mounted on poles, regardless whether such poles are owned by an
185 electric utility or other entity.

186 | (ed) "Reasonable time" shall mean a period of eighteen (18)
187 months after the electric utility has converted its overhead
188 facilities to underground facilities or after the electric
189 utility has ~~replaced~~ moved its overhead facilities from its
190 previously existing overhead poles ~~with~~ to stronger overhead
191 poles.

192 (3) No provision of this s. 337.4015 shall apply to
193 electric utilities as defined in s. 366.02(2).

194 Section 2. This act shall take effect July 1, 2014.