Florida League of Cities
Utility Relocation Survey Background Information

Executive Summary
For more than 100 years, state law has provided local government with the authority to require non-government utilities to pay the costs associated with relocating its utility equipment out of public rights-of-way and public utility easements to accommodate public construction projects, such as road improvement projects, and other non-transportation public projects. Public utility easements and public rights-of-way are controlled by local government and access is provided to utilities as a permissive use. Generally, a utility is required to pay the costs to relocate its equipment when relocation is in the public interest.

Background
In many communities, a “public utility easement” is created by dedication in a land developer’s plat for a new community, such as: “The owners of this property do hereby dedicate easements along each boundary of each home site for county drainage purposes and for public utilities.” Typically, public utility easements do not exceed six to ten feet in width and run alongside public rights-of-way in the case of roadways.

Like rights-of-way, courts have found that public utility easements are for the benefit of the public and, therefore, are not owned by utilities. Instead, such easements function as public property for the use of utilities. Thereby, developers create interests relating to particular (limited) property uses by third parties who then use the property to provide essential public services. Occasionally utilities purchase these property interests, but often they do not, leaving local authorities with the burden of purchasing property for public easements and/or rights-of-way as part of roadway improvement projects.

During the 2015 Legislative Session, lobbyists representing primarily the telecommunications industry pushed bills to reverse the century-old state law. The bills would have required cities to pay for relocating all utility equipment under two significant scenarios – (1) if the equipment was located in a public utility easement and needed to be relocated for transportation purposes, and (2) if the equipment was located in a right-of-way and needed to be relocated for a non-transportation purpose. For example, under these bills, the costs for relocations of non-government utility equipment within the right-of-way resulting from water, wastewater or stormwater projects would have to be paid by the city.

The bills died during the 2015 Legislative Session but are expected to reappear during the 2016 Legislative Session. If passed, these changes in the law could have a cumulative long-term fiscal impact of possibly tens to hundreds of millions of dollars to local governments.

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