HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS

BILL #:	CS/CS/HB 1161	**FINAL HOUSE FLOOR ACTION:**	
SPONSOR(S):	Economic Affairs Committee; Transportation & Highway Safety Subcommittee; Goodson	116 **Y's**	0 **N's**
COMPANION BILLS:	CS/CS/SB 1048; CS/HB 345	**GOVERNOR'S ACTION:**	Approved

SUMMARY ANALYSIS

CS/CS/HB 1161 passed the House on April 30, 2014, and subsequently passed the Senate on May 2, 2014. Part of the bill also passed the House and Senate in HB 7175 on May 2, 2014, and CS/CS/CS/SB 218 on April 30, 2014. The bill also includes a portion of CS/HB 345. The bill amends numerous provisions relating to the Department of Transportation (DOT). Specifically, the bill:

- The bill authorizes DOT to enter into agreements with investors to purchase the revenue stream from wireless communications leases.
- The bill revises provisions related to public service warning signs on water management district property.
- The bill also updates the state's outdoor advertising statutes; major changes include:
  - Clarifies that outdoor advertising signs may only be permitted on parcels of land that are in commercial or industrial zones; and creates a process for resolving compliance issues.
  - Revises DOT's authority to enter private land to remove illegal signs.
  - Clarifies disciplinary action for delinquent accounts, and effects of an outdoor advertising license suspension.
  - Clarifies permit requirements to insure compliance with federal regulation.
  - Clarifies that DOT may deny or revoke a permit if the application contains false or misleading information.
  - Clarifies DOT's authority to remove signs with cancelled permits.
  - Clarifies the notification and permitting processes for signs that violate permit requirements.
  - Clarifies the vegetation management permit process.
  - Removes the fine of $75 against an owner who has been assessed the costs of removing a sign.
  - Allows permitted signs to be relocated rather than acquired under certain circumstances.
  - Allows for the clarification and expansion of commerce and local control exemptions unless DOT is notified by the federal government that the exemptions will adversely affect federal funds.
  - Clarifies the process for allowing sign heights to be increased when constructing sound walls.
  - Allows the logo sign program on all limited access roads.
  - Allows for commercial sponsorship displays on multiuse trails through concession agreements.

The bill may have an indeterminate positive fiscal impact on state revenues related to various outdoor advertising permits and the potential for leasing the revenue stream for wireless communications facilities.

Failure of the state to maintain outdoor advertising control may result in reduced amounts of state highway funds from the Federal government of 10 percent, which correlates to approximately $160 million annually.

The bill was approved by the Governor on June 20, 2014, ch. 2014-215, L.O.F., and will become effective on July 1, 2014.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Leases for Wireless Communications Facilities (Section 1)

Current Situation
Section 365.172(12)(f), F.S., authorizes the leasing of state property for wireless communication facilities. Throughout the state, many wireless communications facilities are located on DOT right-of-way. DOT currently does not have statutory authority to allow for the factoring of revenues from leases for wireless communications facilities.

Effect of the Bill
The bill creates s. 339.041, F.S., relating to factoring of revenues from leases for wireless communication facilities. The bill provides Legislative findings that efforts to increase funds for capital expenditure for the transportation system are necessary to protect the public safety and general welfare and to preserve transportation facilities. The Legislature's intent is to:

- Create a mechanism for factoring future revenues received by DOT from leases of wireless communication facilities on DOT property on a nonrecourse basis;
- Fund fixed capital expenditures for the statewide transportation system from proceeds generated through this mechanism; and
- Maximize revenues from factoring by ensuring that such revenues are exempt from income taxation under federal law in order to increase funds available for capital expenditures.

For the purpose of factoring future revenues, DOT property includes:

- Real property located within DOT's limited access rights-of-way,
- Real property located outside the current operating right-of-way limits which is not needed to support transportation facilities,
- Other property owned by the Board of Trustees Internal Improvement Trust Fund and leased by DOT,
- Space on DOT telecommunications facilities, and
- Space on DOT structures.

DOT may solicit investors willing to enter into agreements to purchase the revenue stream from one or more existing DOT leases for wireless communication facilities on property owned or controlled by DOT through an invitation to negotiate process[1]. These agreements would be structured as tax-exempt financings for federal income tax purposes to maximize revenues to the state.

DOT may not pledge the credit, general revenues, or the taxing power of the state or any political subdivision. The obligations of DOT and investors under the agreement do not constitute a general obligation of the state or a pledge of the state's full faith and credit or taxing power. The agreement is payable from and secured solely by payments received from DOT leases for wireless communication facilities on property owned or controlled by DOT, and neither the state nor any of its agencies has any liability beyond such payment.

DOT may make any covenant or representation necessary or desirable in connection with the agreement, including a commitment by DOT to take whatever actions are necessary on behalf of investors to enforce DOT's rights to payments on property leased for wireless communications facilities. DOT may agree to use its best efforts to ensure that anticipated future-year revenues are

[1] Section 287.057(1)(c), F.S., relates to agency procurement of commodities or contractual services and specifies invitation to negotiate procedural requirements.

protected. Any risk that actual revenues received from DOT leases for wireless communications facilities are lower than anticipated shall be borne exclusively by investors.

Subject to annual appropriation, investors will collect the lease payments on a schedule and in a manner established in the agreements entered into by DOT and investors. The agreements may provide for lease payments to be made directly to investors by lessees if the lease agreement and the lessees pursuant to s. 365.172(12)(f), F.S.,[2] allow direct payment.

Proceeds received by DOT from leases for wireless communications facilities shall be deposited in the State Transportation Trust Fund[3] and used for fixed capital expenditures for the statewide transportation system.

According to DOT, it currently has two wireless contracts. One of these contracts is the Florida Turnpike Enterprise's with payment received through in-kind services; therefore, it is unlikely that factoring would be applicable. However, the other contract would be eligible for consideration.[4]

Public Service Warning Signs (Section 2)

Current Situation

SB 1986,[5] passed in 2012, authorizes public information systems located on property owned by water management districts (WMDs), upon terms and conditions approved by the WMD, which must display messages to the general public concerning water management services, activities, events, and sponsors, as well as other public service announcements, including watering restrictions, severe weather reports, amber alerts, and other essential information needed by the public. The law expressly prohibits use of WMD funds to pay the cost to acquire, develop, construct, operate, or manage a public information system and requires that any necessary funds for a public information system be paid for and collected from private sponsors who may display commercial messages.[6]

Section 479.02, F.S., charges DOT with the duty to "administer and enforce provisions of this chapter and the agreement between the state and the United States Department of Transportation (USDOT) relating to the size, lighting, and spacing of signs in accordance with Title 1 of the Highway Beautification Act of 1965 and Title 23 United States Code, and federal regulations in effect as of the effective date of this act." The federal-state agreement and s. 479.07, with limited exception, prohibit a person from erecting, operating, using, or maintaining any sign on the State Highway System outside an urban area or *on any portion of the interstate or federal-aid primary highway system*[7] without first obtaining a permit for the sign and paying an annual fee.

The italicized phrase above is further defined in that section to mean "a sign located within the **controlled area**[8] which is visible from any portion of the main-traveled way[9] of such system."

[2] Section 365.172(12)(f), F.S., relates to leases for telecommunications facilities on state property.
[3] The State Transportation Trust Fund is created under s. 206.46, F.S.
[4] March 17, 2014, e-mail from DOT to Transportation & Highway Safety Subcommittee Staff. Copy on file with the Transportation & Highway Safety Subcommittee.
[5] Ch. 2012-126, L.O.F.
[6] Section 373.618, F.S.
[7] Also includes the national highway system pursuant to 23 U.S.C. 131(t) and s. 479.01(9), F.S.
[8] Section 479.01(6), F.S., defines "controlled area" as "660 feet or less from the nearest edge of the right-of-way of any portion of the State Highway System, interstate, or federal-aid primary system and beyond 660 feet of the nearest edge of the right-of-way of any portion of the State Highway System, interstate, or federal-aid primary highway system outside of an urban area."
[9] Section 479.01(13), F.S., defines "main traveled way" as "the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separate roadways for traffic in opposite directions is a main-traveled way. It does not include such facilities as frontage roads, turning roadways which specifically include on-ramps or off-ramps to the interstate highway system, or parking area."

Certain signs, commonly referred to as "on-premise" signs, are expressly exempted by s. 479.16, F.S., from the requirement to obtain a permit, if the signs comply with the provisions of ss. 479.11(4)-(8), F.S. However, that section expressly specifies that the following types of messages shall not be considered information regarding government services, activities, events, or entertainment:

- Messages which specifically reference any commercial enterprise;
- Messages which reference a commercial sponsor of any event;
- Personal messages; and
- Political campaign messages.

DOT may potentially be subject to an annual loss of 10 percent of federal highway funding if these signs are located within a "controlled area."

Effect of the Bill
The bill amends s. 373.618, F.S., providing that public service warning signs are subject to the Highway Beautification Act of 1965 and all applicable federal laws and agreements.

Outdoor Advertising (Sections 3 through 23)

Current Situation
Since the passage of the Highway Beautification Act (HBA) in 1965,[10] the Federal Highway Administration (FHWA) has established controls for outdoor advertising along Federal-Aid Primary, Interstate and National Highway System (NHS) roads. The HBA allows the location of billboards in commercial and industrial areas, mandates a state compliance program, requires the development of state standards, promotes the expeditious removal of illegal signs, and requires just compensation for takings.

The primary features of the HBA include:

- Billboards are allowed, by statute, in commercial and industrial areas consistent with size, lighting and spacing provisions as agreed to by the state and federal governments. Billboard controls apply to all Interstates, Federal-Aid Primaries, and other highways that are part of the National Highway System.
- States have the discretion to remove legal nonconforming signs[11] along highways. However, the payment of just (monetary) compensation is required for the removal of any lawfully erected billboard along the Federal-Aid Primary, Interstate and National Highway System roads.
- States and localities may enact stricter laws than stipulated in the HBA.
- No new signs can be erected along the scenic portions of state designated scenic byways of the Interstate and Federal-Aid Primary highways, but billboards are allowed in segmented areas deemed un-scenic on those routes.

The HBA mandates state compliance and the development of standards for certain signs as well as the removal of nonconforming signs. While the states are not directly forced to control signs, failure to impose the required controls can result in a substantial penalty. The penalty for noncompliance with the HBA is a 10 percent reduction of the state's annual federal-aid highway apportionment.[12]

Under the provisions of a 1972 agreement[13] between the State of Florida and USDOT incorporating the HBA's required controls, DOT requires commercial signs to meet certain requirements when they are

[10] 23 U.S.C. 131
[11] A "legal nonconforming sign" is a sign that was legally erected according to the applicable laws or regulations of the time, but which does not meet current laws or regulations.
[12] 23 U.S.C. 131(b)
[13] A copy of the 1972 agreement is available at http://www.dot.state.fl.us/rightofway/Documents.shtm (Last visited September 26, 2013).

within 660 feet of Interstate and Federal-Aid Primary highways in urban areas, or visible at any distance from the same roadways when outside of urban areas. The agreement embodies the federally-required "effective control of the erection and maintenance of outdoor advertising signs, displays, and devices."

DOT reviewed ch. 479, F.S., the primary statute for the Outdoor Advertising Regulatory Program, and has proposed comprehensive revisions to the chapter. This chapter has undergone a number of "minor fixes" over the years. This rewrite allows for better continuity and clearer understanding of the provisions of law, which is critical to DOT because the 1972 Agreement provides that failure by the State to maintain control shall result in reduced amounts equal to 10 percent of federal funds apportioned to the State until the State provides for effective control. The 10 percent correlates today to approximately $160 million annually.

Commercial and Industrial Areas

Outdoor advertising signs may legally be located in commercial or industrial areas. In conformance with the 1972 agreement, s. 479.01(4), F.S., currently defines "commercial or industrial zone" as a parcel of land designated for commercial or industrial use under both the Future Land Use Map (FLUM) of the local comprehensive plan and the land development regulations adopted pursuant to ch. 163, F.S.[14] This allows DOT to consider both land development regulations and future land use maps in determining commercial and industrial land use areas and issuing permits for sign locations in such areas.

Unzoned Commercial and Industrial Areas

If a parcel is located in an area designated for multiple uses on the FLUM, and the land development regulations do not clearly designate the parcel for a specific use, the area will be considered an unzoned commercial or industrial area and outdoor advertising signs may be permitted there provided three or more separate commercial or industrial activities take place.[15] However, the following criteria must be met:

- One of the commercial or industrial activities must be located within 800 feet of the sign and on the same side of the highway;
- The commercial or industrial activity must be within 660 feet of the right-of-way; and
- The commercial or industrial activities must be within 1,600 feet of each other.

Regardless of whether the criteria above are met, the following activities are specifically excluded from being recognized as commercial or industrial activities and therefore cannot be considered when determining whether a parcel is an unzoned commercial or industrial area:

- Signs.
- Agricultural, forestry, ranching, grazing, farming, and related activities.
- Transient or temporary activities.
- Activities not visible from the main-traveled way.
- Activities conducted more than 660 feet from the right-of-way.
- Activities conducted in a building principally used as a residence.
- Railroad tracks and minor siding,
- Communications towers.[16]

With the exception of communication towers, the exclusion of these activities is specifically required by the 1972 agreement between the state and USDOT.

Entry Upon Privately Owned Lands

[14] Chapter 163, F.S., related to intergovernmental programs.
[15] Section 479.01(26), F.S.
[16] Section 479.01(26), F.S.

For the purposes of ch. 479, F.S., all of the state is deemed as territory under DOT's jurisdiction.[17] DOT's employees, agents, or independent contractors may enter upon any land upon which a sign is displayed, is proposed to be erected, or is being erected to make sign inspections, surveys, and removals. After receiving consent by the landowner, operator, or person in charge, or appropriate inspection warrant issued by a judge that the removal of an illegal outdoor advertising sign is necessary, DOT may enter upon any intervening privately-owned lands in order to remove illegal signs, provided that DOT has determined that no other legal or economically feasible means of entering the sign site are reasonably available. DOT must repair or replace in like manner any physical damage or destruction of the private property.

License to Engage in the Business of Outdoor Advertising
A person is prohibited from engaging in the business of outdoor advertising without first obtaining a license from DOT. A person is not required to obtain the license to erect outdoor advertising signs or structures as an incidental part of a building construction contract.[18]

Denial or Revocation of License
DOT may deny or revoke any outdoor advertising license requested or granted when DOT determines that the license application contains knowingly false or misleading information, or that the licensee has violated any of the provisions of ch. 479, F.S., unless such licensee corrects such false or misleading information or complies with the provisions of ch. 479, F.S., within 30 days after receiving notice from DOT. Any person aggrieved by any DOT action in denying or revoking a license may apply to DOT for an administrative hearing within 30 days from receipt of the notice.[19]

Section 479.07(1), F.S., except as otherwise specified, provides that a person may not erect, operate, use, or maintain, or cause to be erected, operated, used, or maintained, any sign on the State Highway System (SHS) outside an urban area,[20] or on any portion on the interstate or federal-aid primary highway system without first obtaining a permit for the sign from DOT any paying the required annual fee. Section 479.07(2), F.S., prohibits a person from applying for a permit unless a person has first obtained the written permission of the owner or other person in lawful possession or control of the site designated as the location of the sign in the application for the permit. As part of the application, the applicant or authorized representative must certify in a notarized statement that he or she has obtained the written permission of the owner or other person in lawful possession of the site designated as the location of the sign in the permit application.

Outdoor Advertising Annual Permit Fee/Multiple Transfer Fee/Permit Reinstatement Fee
DOT must establish by rule an annual permit fee for each sign facing[21] in an amount sufficient to offset DOT's total program costs, but shall not exceed $100.[22] The current fee is $71 for each sign facing of more than 200 square feet, and $51 for sign facings of 200 square feet or less.[23]

The transfer of valid permits from one sign owner to another is currently authorized upon written acknowledgement from the current permittee and submittal of a transfer fee of $5 for each permit to be transferred. The maximum transfer fee for any multiple transfers between two outdoor advertisers in a single transaction is $100.[24]

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[17] Section 479.03, F.S.
[18] Section 479.04, F.S.
[19] Section 479.05, F.S.
[20] Section 334.03(31), F.S., defines "urban area" as "a geographic region comprising as a minimum the area inside the United States Bureau of the Census boundary of an urban place with a population of 5,000 or more persons, expanded to include adjacent developed areas as provided for by Federal Highway Administration regulations."
[21] A "sign facing" includes all sign faces and automatic changeable faces displayed in the same location or facing the same direction. A "sign face" means the part of the sign, including trim and background, which contains the message or informative contents. (s. 479.01(22) and (23), F.S.).
[22] Section 479.07(3)(c), F.S.
[23] Rule 14-10.0043(2), F.A.C.
[24] Section 479.07(6), F.S.

Current law provides a process for sign removal if a permittee has not submitted all license and permit renewal fees by the expiration date of the license or permit.[25] With respect to sign permits, if at any time before removal of the sign, the permittee demonstrates that a good faith error on the part of the permittee resulted in the cancellation or nonrenewal of the permit, DOT may reinstate the permit if the permit reinstatement fee of up to $300 based on the size of the sign is paid;[26] all other permit renewal and delinquent permit fees due as of the reinstatement date are paid; and the permittee reimburses DOT for all actual costs resulting from the permit cancellation or nonrenewal.

Permit Tags/Replacement Tags

DOT must furnish a permittee a serially numbered permanent metal permit tag, which the permittee is required to securely attach to the sign facing or, if there is no facing, on the pole nearest the highway. Further, effective, July 1, 2012, the tag must be securely attached to the upper 50 percent of the pole nearest the highway and must be attached in such a manner as to be plainly visible from the main traveled way. In addition, the permit becomes void unless the permit tag is properly and permanently displayed at the permitted site within 30 days after the date of permit issuance.[27]

Current law provides for DOT to issue a replacement tag in the event of a permit tag is lost, stolen, or destroyed and, alternatively, authorizes a permittee to provide its own replacement tag pursuant to DOT specifications that DOT shall adopt by rule at the time it establishes the service fees for replacement tags.[28]

Signs Visible from More than One Highway

If a sign is visible from the controlled area of more than one highway subject to DOT jurisdiction, the sign must meet the permitting requirements of, and be permitted to, the highway having the more stringent requirements.[29]

Pilot Program/Reduction of Distance Between Permitted Signs

Current law establishes a pilot program in Orange, Hillsborough, and Osceola Counties, and within the boundaries of the City of Miami, under which the distance between permitted signs on the same side of an interstate highway may be reduced to 1,000 feet under the specified conditions and directs DOT to maintain statistics tracking the use of the provisions of the pilot program based on notifications received by DOT from local governments.[30]

Sign Removal Following Permit Revocation

A sign permittee is currently required to remove a sign within 30 days after the date of revocation of the permit for the sign and, if the permittee fails to do so, DOT must remove the sign without further notice and without incurring any liability.[31] Further, all costs incurred by DOT in connection with the removal of a sign located within a controlled area adjacent to the SHS, interstate highway system, or federal-aid primary highway system following the revocation of the sign permit is assessed to and collected from the permittee.[32]

Notices of Violation/Signs Erected or Maintained Without Required Permit

Any sign located adjacent to the right-of-way on any highway on the SHS outside an incorporated area or adjacent to the right-of-way on any portion of the interstate or federal-aid primary highway system without the required DOT permit must be removed. Prior to removal, DOT is required to prominently

[25] Section 479.07(8), F.S.
[26] The actual fee is $200 for a sign facing of 200 square feet or less and $300 for a sign facing of greater than 200 square feet. (Rule 14-10.004(9)(d), F.A.C.).
[27] Section 479.07(5), F.S.
[28] Rule 14-10.004(5), F.A.C. The current service fee is $12.
[29] Section 479.07(9)(a), F.S.
[30] Section 479.07(9)(c), F.S.
[31] Section 479.10, F.S.
[32] Section 479.313, F.S.

post on the sign face a notice that the sign is illegal and must be removed within 30 days after the date on which the notice was posted. If the sign bears the name of the licensee or the name and address of the non-licenses sign owner, concurrently with and in addition to posting the notice, DOT must provide a written notice to the owner stating that the sign is illegal and must be permanently removed within the 30-day period; and that the sign owner has a right to request a hearing, which request must be filed with DOT within 30 days after the date of the written notice. If after notice the sign owner does not remove the sign, DOT is required to do so.[33]

Issuance of Permits for Conforming or Nonconforming Signs
If a sign owner demonstrates to DOT that:

- A given sign has been unpermitted, structurally unchanged, and continuously maintained at the same location for seven years or more;
- The sign would have met the criteria established in ch. 479, F.S., for issuance of a permit at any time during the period in which the sign has been erected;
- DOT has not initiated a notice of violation or taken other action to remove the sign during the initial seven-year period; and
- DOT determines that the sign is not located on state right-of-way and is not a safety hazard.

DOT may consider the sign a conforming or nonconforming sign and to issue a permit for the sign upon application any payment of a penalty fee of $300 and all pertinent fees required by ch. 479, F.S., including annual permit renewal fees payable since the date of the erection of the sign.[34]

Vegetation Management and View Zones for Outdoor Advertising
Section 479.106, F.S., addresses vegetation management and establishes "view zones" for lawfully permitted outdoor advertising signs on interstates, expressways, federal-aid primary highways, and the State Highway System, excluding privately or other publicly owned property. This section's intent is to create partnering relationships, which will improve the appearance of Florida's highways and creating a net increase in the vegetative habitat along the roads.[35]

The section requires anyone desiring to remove, cut, or trim trees or vegetation on public right-of-way to improve the visibility of a sign or future sign to obtain written permission from DOT. To receive a permit to remove vegetation, the applicant must provide a plan for the removal and for the management of any vegetation planted as the result of a mitigation plan. Rule 14-10.057, F.A.C., requires mitigation where:

- Cutting, trimming, or damaging vegetation permanently detracts from the appearance or health of trees, shrubs, or herbaceous plants, or where such activity is not done in accordance with published standard practices. This does not apply to invasive exotic and other noxious plants;
- Trees taller than the surrounding shrubs and herbaceous plants are permanently damaged or destroyed;
- Species of trees or shrubs not likely to grow to interfere with visibility are damaged or removed;
- Trees or shrubs that are likely to interfere with visibility are trimmed improperly, permanently damaged, or removed; or
- Herbaceous plants are permanently damaged.

When installing a new sign requires the removal, cutting, or trimming of existing trees or vegetation on public right-of-way, DOT may only grant a permit for the new sign when the sign owner has removed at least two non-conforming signs of comparable size and surrendered those signs' permits for cancellation. For signs originally permitted after July 1, 1996,[36] DOT may not grant any permit where

[33] Sections 479.105(1)(a) and (b), F.S.
[34] Section 479.105(1)(e), F.S.
[35] Section 479.106(8), F.S.
[36] The date of enactment of s. 479.106, F.S.

such trees or vegetation are part of a beautification project implemented before the date of the original sign permit application, as specified.

Vegetation Management Application Fee/Multiple Site Fee/Administrative Penalty
DOT may establish an application fee for vegetation management not to exceed $25 for each individual application to defer the costs of processing such application, and a fee not to exceed $200 to defer the costs of processing an application for multiple sites.[37] Further, any person who violates or benefits from a violation of ch. 479, F.S., is subject to an administrative penalty of up to $1,000 and is required to mitigate for the unauthorized removal, cutting, or trimming of trees or vegetation.[38]

Cost of Sign Removal/Additional Fine for Violations
Section 479.107(5), F.S., requires that the cost of removing a specified sign, whether by the DOT or an independent contractor, shall be assessed against the sign's owner. In addition, DOT is directed to assess a fine of $75 against the sign owner for any sign which violates the requirements of that section.

Relocation or Reconstruction of a Publicly Acquired Sign
When DOT acquires land with a lawful nonconforming sign, the sign may, at the its owners and DOT's election and subject to FHWA approval, be relocated or reconstructed adjacent to the new right-of-way along the roadway within 100 feet of the current location, provided the nonconforming sign is not relocated on a parcel zoned residential, and provided further that such relocation is subject to applicable setback requirements.[39] The relocation must be adjacent to the current site, and the sign's face may not increase in size or height or be structurally modified at the point of relocation in conflict with the building codes of the jurisdiction in which the sign is located.[40]

Permits Not Required for Certain Signs
Section 479.16, F.S., currently identifies a number of signs for which permits are not required, including without limitation:

- On-premise signs (signs on property stating only the name of the owner, lessee, or occupant of the premises) not exceeding 8 square feet in area;
- Signs that are not in excess of 8 square feet that are owned by and relate to the facilities or activities of churches, civic organizations, fraternal organizations, charitable organizations, or units or agencies of government;
- Signs place on benches, transit shelters, and waste receptacles; and
- Signs not in excess of 16 square feet placed at a road junction with the State Highway System denoting only the distance or direction of a residence or farm operation, or, in a rural area where a hardship is created because a small business is not visible from the road junction, one sign not in excess of 16 square feet, denoting only the name of, and the distance and direction to, the business. This provision does not apply to charter counties and may not be implemented if the federal government notifies DOT that implementation will adversely affect the allocation of federal funds to DOT.

Compensation for Removal of Signs
DOT must pay just compensation upon its removal of a lawful nonconforming sign along any portion of the interstate or federal-aid primary highway system.[41]

Noise-Attenuation Barriers Blocking View of Signs
The owner of a lawfully erected sign may increase the height above ground level of such sign at its permitted location if any governmental entity permits or erects a noise-attenuation barrier in such a way

[37] Section 479.106(4), F.S.
[38] Section 479.106(7), F.S.
[39] Section 479.15(13), F.S.
[40] Section 479.15(4), F.S.
[41] Section 479.24, F. S.

as to block visibility of the sign. If construction of a proposed noise-attenuation barrier will screen a lawfully permitted sign, DOT must provide notice to the local government or jurisdiction in which the sign is located before erection of the noise attenuation barrier. If it is determined that the increase in height will violate a local ordinance or land development regulation, the local government or jurisdiction must notify DOT.

When notice has been received from the local government or jurisdiction prior to erection of the noise-attenuation barrier, DOT must conduct a written survey of all property owners identified as impacted by highway noise and who may benefit from the proposed barrier. The written survey must, in addition to stating the date, time, and location of a required public hearing, specifically advise the impacted property owners that:

- Erection of the noise-attenuation barrier may block the visibility of an existing outdoor advertising sign;
- The local government or local jurisdiction may restrict or prohibit increasing the height of the existing outdoor advertising sign to make it visible over the barrier; and
- If a majority of the impacted property owners vote for construction of the noise-attenuation barrier, the local government or local jurisdiction is required to:
    - Allow an increase in the height of the sign in violation of a local ordinance or land development regulation;
    - Allow the sign to be relocated or reconstructed at another location if the sign owner agrees; or
    - Pay the fair market value of the sign and its associated interest in the real property.

DOT must hold the public hearing and receive input on the proposed noise-attenuation barrier and its conflict with the local ordinance or land development regulations, and suggest or consider alternatives or modification to the proposed barrier to alleviate or minimize the conflict with the local ordinance or regulation or minimize any costs associated with relocating, reconstructing, or paying for the affected sign. Notice of the hearing, in addition to general provisions, must specifically state the same items specified for inclusion in the written survey above.

DOT may not permit the erection of the noise-attenuation barrier to the extent that the barrier screens or blocks visibility of the sign until after the public hearing and until such time as the survey has been conducted and a majority of the impacted property owners have indicated approval. When approved, DOT must notify the local governments or local jurisdictions, and the local government or jurisdiction must, notwithstanding any conflicting ordinance or regulation:

- Issue a permit by variance or otherwise for the reconstruction of a sign;
- Allow the relocation of a sign, or construction of another sign, at an alternative location that is permittable, if the sign owner agrees to relocate the sign or construct another sign; or
- Refuse to issue the required permits for reconstruction of a sign and pay fair market value of the sign and its associated interest in the real property to the sign owner.[42]

Logo Sign Program

DOT must establish a logo sign program for the rights-of-way of the interstate highway system to provide information to motorists about available gas, food, lodging, camping, attractions, and other services, as approved by the FHWA, at interchanges through the use of business logos and may include additional interchanges under the program.[43] As indicated, the program is limited to the interstate highway system, but under the Manual on Uniform Traffic Control Devices (MUTCD),[44] the program may be extended to other limited-access facilities, thereby expanding opportunities for business participation in the program.

[42] Section 479.25, F.S.
[43] Section 479.261, F.S.
[44] Adopted by DOT pursuant to s. 316.0745, F.S.

Tourist-Oriented Directional Sign Program
Section 479.262, F.S., establishes a tourist-oriented directional (TOD) sign program for intersections on rural and conventional state, county, or municipal roads. The program is intended to provide directions to rural tourist-oriented businesses, services, and activities in counties identified by criteria and population in s. 288.0656, F.S, when approved and permitted by county or local government entities.

Section 288.0656, F.S., defines a "rural area of critical economic concern" as a rural community, or region composed of rural communities, designated by the Governor, that has been adversely impacted by an extraordinary economic event, severe or chronic distress, or a natural disaster or that presents a unique economic development opportunity of regional impact. "Rural community" is defined to mean a county with a population of 75,000 or fewer, and a county with a population of 125,000 or fewer that is contiguous to a county with a population of 75,000 or fewer.

A county or local government that issues permits for a TOD sign program[45] is responsible for sign construction, maintenance, and program operation for roads on the State Highway System and may establish permit fees sufficient to offset associated costs.[46] TOD signs installed on the State Highway System must comply with the requirements of the MUTCD and rules established by DOT.

TOD signs may be installed on the SHS only after being permitted by DOT and placement of TOD signs is limited to rural conventional roads, as required by the MUTCD. TOD signs may not be placed within the right-of-way of limited access facilities; within the right-of-way of a limited access facility interchange, regardless of jurisdiction or local road classification; on conventional roads in urban areas; or at interchanges on freeways or expressways.[47]

Effect of the Bill

Definitions (Section 3)
The bill amends the definition of "allowable uses" providing that it means those uses that are authorized within a zoning category as a primary use by right, without the requirement to obtain a variance or waiver. The term includes conditional uses and those allowed by special exception if such uses are a present and actual use, but does not include uses that are accessory, incidental to allowable uses, or allowed only on a temporary basis.

The bill amends the definition of "business of outdoor advertising" removing the terms constructing, erecting, and using.

The bill revises the definition of "federal-aid primary highway system" to mean the federal–aid primary highway system in existence on June 1, 1991, and any highway that was not a part of such system as of that date but that is or becomes after June 1, 1991, a part of the National Highway System but are unbuilt or unopened. This is similar to a definition for "federal-aid primary highway system" currently in s. 479.15, F.S., which is being deleted.

The bill revises the definition of "remove" to mean to disassemble all sign materials above ground level and transport them from the site.

The bill amends the definition of "sign face" to include an automatic changeable face.[48]

[45] Prior to requesting a permit to install a TOD sign on the State Highway System, a local government must first have established by ordinance the criteria provided in part VI of ch. 14-51, F.A.C.
[46] Section 479.262(2), F.S.
[47] Rule 15-51.063, F.A.C. and s. 2K.01 of Chapter 2K of the MUTCD (2009).
[48] Section 479.01(2), F.S., defines "automatic changeable facing" as "a facing that is capable of delivering two or more advertising messages through an automated or remotely controlled process."

The bill revises the definition of 'state highway system" to provide that it has the same meaning as defined in s. 334.03, F.S.[49]

The bill deletes the definitions of "commercial or industrial zone" and "unzoned commercial or industrial area" due to the creation of s. 479.024, F.S., relating to commercial and industrial parcels.

Duties of the Department (Section 4)
The bill amends s. 479.02, F.S., clarifying DOT's duties relating to outdoor advertising are as follows:

- In the duty to administer and enforce ch. 479 F.S., clarifies that it is a 1972 agreement between DOT and USDOT and expressly incorporates provisions of the referenced chapter, agreement, law, and regulations pertaining to the maintenance, continuance, and removal of nonconforming signs.
- In the duty to regulate size, height, lighting, and spacing of permitted signs, revises language to distinguish between commercial and industrial *parcels* and unzoned commercial and industrial *areas.*
- Directs DOT to determine commercial and industrial parcels and unzoned commercial or industrial areas in the manner provided in the newly created s. 479.024, F.S.
- In the duty to adopt rules necessary for proper administration of ch. 479.F.S., including rules that identify activities that may not be recognized as industrial or commercial activities, revises language to distinguish between commercial and industrial *parcels* and unzoned commercial or industrial *areas* and requires the rules to provide for determination of such parcels and areas in the manner provided in the newly created s. 479.024, F.S.
- In the duty to inventory and determine the location of all signs, makes "plain language" revisions and repeals DOT's direction to adopt rules regarding what information is to be collected and preserved in the sign inventory.

Commercial and Industrial Parcels (Section 5)
The bill creates s. 479.024, F.S., relating to commercial and industrial parcels. It provides that signs shall only be permitted by DOT in commercial or industrial zones, as determined by the local government, [50] unless otherwise provided by ch. 479, F.S. Commercial and industrial zones are those areas appropriate for commerce, industry, or trade, regardless of how those areas are labeled. The term "parcel" means the property where the sign is located or is proposed to be located.

The determination as to zoning by the local government for the parcel must meet the following factors:

- The parcel is comprehensively zoned and includes commercial or industrial use as allowable uses.
- The parcel can reasonably accommodate a commercial or industrial use under the future land use map of the comprehensive plan and land use development regulations as follows:
    - Sufficient utilities are available to support commercial development. For purposes of this section "utilities" includes all privately, publically, or cooperatively owned lines, facilities, and systems for producing, transmitting or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste and storm water not connected with highway drainage, and other similar commodities.
    - The size and configuration, and public access of the parcel is sufficient to accommodate a commercial or industrial use given requirements in the comprehensive plan and land development regulations for vehicular access, on-site circulation, building setbacks, buffering, parking, and other applicable standards, or the parcel consists of railroad

[49] Section 334.03(24), F.S., defines "state highway system" as "the interstate system and all other roads within the state which were under the jurisdiction of the state on June 10, 1995, and roads constructed by an agency of the state for the State Highway System, plus roads transferred to the state's jurisdiction after that date by mutual consent with another governmental entity, but not including roads so transferred from the state's jurisdiction. These facilities shall be facilities to which access is regulated."
[50] This is in conformance with ch. 163, F.S., relating to intergovernmental programs.

tracks or minor siding abutting commercial or industrial property that meets the factors of this subsection.
    - The parcel is not being used exclusively for non-commercial or non-industrial uses.

If a local government has not designated zoning through land development regulations,[51] but has designated the parcel under the future land use map of the comprehensive plan for uses that include commercial or industrial uses, the parcel will be considered an unzoned commercial or industrial area. For a permit to be issued for a sign in an unzoned commercial or industrial area, there must be three or more distinct commercial or industrial activities within 1,600 feet of each other, with at least one of the commercial or industrial activities being located on the same side of the highway as the sign location within 800 feet of the sign location. Multiple commercial or industrial activities enclosed in one building will be considered one use when all uses only have shared building entrances.

For purposes of s. 479.024, F.S., certain uses and activities, including but not limited to the following, may not be independently recognized as commercial or industrial:

- Signs.
- Agricultural, forestry, ranching, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands.
- Transient or temporary activities.
- Activities not visible from the main-traveled way, unless a DOT transportation facility is the only cause for the activity not being visible.
- Activities conducted more than 660 feet from the nearest edge of the right-of-way.
- Activities conducted in a building principally used as a residence.
- Railroad tracks and minor sidings, unless such use is immediately abutted by commercial or industrial property which meets the factors above.
- Communication towers.
- Public parks, public recreation services, and governmental uses and activities that take place in a structure that serves as the permanent public meeting place for local, state, or federal boards, commissions, or courts.

If the local government has indicated the proposed sign location is on a parcel that is a commercial or industrial zone, but DOT finds that it is not, DOT shall notify the sign applicant in writing.

An applicant whose application for a permit is denied may, within 30 days from the receipt of the notification of intent to deny, request an administrative hearing[52] to determine whether the parcel is located in a commercial or industrial zone. Upon receiving the request, DOT must notify the local government that the applicant has requested an administrative hearing.

If DOT determines in a final order that the parcel does not meet the permitting conditions outlined in this section and a sign exists on the parcel, the applicant is responsible for all sign removal costs and the sign must be removed from the sign location within 30 days of the final order.

If FHWA reduces funds which would be apportioned to DOT due to a local government's failure to comply with s. 479.024, F.S., DOT will reduce the state's apportioned transportation funding within the jurisdiction of the local government entity in an equivalent amount.

Jurisdiction of DOT; Entry upon Privately Owned Lands (Section 6)
The bill amends s. 479.03, F.S., revising DOT's authority to enter upon privately owned lands to remove a sign by striking references to receipt of consent, inserting a specified written notice requirement, and expanding those to whom written notice must be alternatively given to a person in charge of an intervening privately owned land.

[51] These regulations must be in compliance with ch. 163, F.S.
[52] Administrative hearings are pursuant to ch. 120, F.S.

Business of Outdoor Advertising; License Requirement; Renewal; Fees (Section 7)
The bill amends s. 479.04, F.S., relating to the required license to engage in the business of outdoor advertising, clarifying that a person is not required to obtain an outdoor advertising license solely to erect or construct outdoor advertising signs or structures. This conforms the statute to the revised definition of "business of outdoor advertising."

Denial, Suspension, or Revocation of License (Section 8)
The bill amends s. 479.05, F.S., clarifying disciplinary actions for delinquent accounts. The bill authorizes the suspension of any license requested or granted under ch. 479, F.S., in addition to denial or revocation, in any case when DOT determines the application contains false or misleading information of material consequence, that the licensee has failed to pay fees or costs owed to DOT for outdoor advertising purposes, or that the licensee has violated any of the provisions of ch. 479, F.S., unless such licensee, within 30 days after receipt of DOT's notice, corrects such false or misleading information, pays the outstanding amount, or complies with the provisions of ch. 479, F.S. The bill provides that suspensions of a license allows the licensee to maintain existing sign permits, but DOT may not grant a transfer of an existing permit or issue an additional permit to a licensee with a suspended license.

Sign Permits (Section 9)
The bill amends s. 479.07, F.S., clarifying existing language and clarifying permit requirements to ensure compliance with federal regulations on all highways subject to DOT jurisdiction. Specifically the bill:

- Removes the requirement for a notarized permit application, which will allow for future on-line permit processing.
- Removes a prohibition against prorating a fee for a period of less than the remainder of the permit year to accommodate short-term publicity features.
- Clarifies that DOT must act on a permit application within 30 days after receipt of the application by granting, denying, or returning the incomplete application.
- Changes the tag posting placement requirement to the upper 50 percent of the sign structure from the upper 50 percent of the pole nearest the highway to accommodate various sign structure.
- Removes the authorization for a permittee to provide its own replacement tag and related rulemaking authority regarding replacement tags. This will ensure consistency in tags.
- Clarifies that if a sign is visible to more than one highway and within the controlled area of these highways it shall meet the permitting requirements of all highways.
- Clarifies that the height restriction of a sign is based on the main-traveled way to which the sign is permitted.
- Removes the establishment of a pilot program where signs where the distance between signs in certain areas[53] may be reduced to 1,000 feet if certain requirements are met and makes it statewide.
- Removes pilot program sign placement requirements, which are redundant to the newly created s. 479.024, F.S.
- Removes requirements for maintaining pilot program statistics.
- Deletes obsolete language and makes grammatical and editorial changes.

Denial or Revocation of Permit (Section 10)
The bill amends s. 479.08, F.S., revising DOT's authority to deny or revoke any permit when it determines that the application contains false or misleading information of material consequence, eliminating that the information is knowingly false or misleading.

[53] The pilot program is in Orange, Hillsborough, and Osceola Counties and within the boundaries of the City of Miami.

Sign Removal following Permit Revocation or Cancellation (Section 11)
The bill amends s. 479.10, F.S., regarding sign removal, to require a permittee to remove a sign within 30 days of the date of cancellation (in addition to revocation) of the permit for a sign and specifies removal of the sign at the permittee's expense if DOT removes the sign because of the permittee's failure to do so.

Signs Erected or Maintained Without Permit – Removal (Section 12)
The bill amends s. 479.105, F.S., regarding signs erected or maintained without a required permit, to:

- Revise provisions for placement of DOT's notice of violation on a sign;
- Require DOT to concurrently with and in addition to posting the notice, provide a written notice to the owner of the sign, the advertiser displayed on the sign, or the owner of the property;
- Provides that a notice of violation includes notification that a sign is illegal and that it must be removed within 30 days;
- Provide that written notice state that a hearing may be requested as specified;
- Provides that if a sign is not removed within the 30 day period, DOT is required to immediately remove the sign; and
- Relocate and clarify existing provisions for DOT issuance of permits for conforming and nonconforming signs erected or maintained without the required permit

Vegetation Management (Section 13)
The bill amends s. 479.106, F.S., relating to vegetation management and sign visibility to:

- Require signs originally permitted after July 1, 1996, the first application or application for change of view zone, for the removal, cutting, or trimming of trees or vegetation must require, in addition to mitigation or contribution to a plan of mitigation , the removal of two nonconforming signs; and
- Provide that the administrative penalty for engaging in removal, cutting, or trimming in violation of s.479.106, F.S. or benefitting from such action is up to $1,000 per sign facing. DOT currently assesses a fee of $1,000 per incident, per sign facing.[54]

Signs on Highway Rights-of-Way; Removal (Section 14)
The bill amends s. 479.107(5), F.S., removing the fine of $75 against a sign owner who has been assessed the cost of removal for a sign which is in violation of the law. DOT advises that it often costs more than $75 to collect the fine, if it can be collected at all. Therefore, DOT does not even pursue the fine.[55]

Specified Signs Allowed within Controlled Portions of the Interstate and Federal-Aid Primary Highway System (Section 15)
The bill amends s. 479.111(2), F.S., clarifying that this section refers to the 1972 agreement between the state and USDOT.

Harmony of Regulations (Section 16)
The bill amends s. 479.15, F.S., providing for harmony of state and local regulations, to:

- Strike the definition of "federal-aid primary highway system," which is now defined in s 479.01, F.S.
- Provide that subject to FHWA approval and whenever public acquisition of land which as a lawful permitted (rather than nonconforming) sign occurs, the sign may, at the election of its owner and DOT, be relocated or reconstructed adjacent to the new ROW and in close proximity to the current site (rather than along the roadway within 100 feet to the current location),

[54].Section 14-10.057(4), F.A.C.
[55] October 21, 2013, e-mail from DOT to staff of the Transportation & Highway Safety Subcommittee. Copy on file with subcommittee staff.

provided that the sign is not relocated in an area inconsistent with s. 479.024, F.S., (rather than on a parcel zoned residential) and provided further that such relocation shall be subject to the requirements (rather than applicable setback requirements) in the 1972 agreement between the state and the USDOT.
- Provides the face of a nonconforming sign may not be increased in size or height or structurally modified at the point of relocation as specified; and
- Provide a neighboring sign that is already permitted and that is within the spacing requirements of ch. 479.07(9)(a), F.S., is not cause to become nonconforming.

Wall Murals[56] (Section 17)
The bill amends s. 479.156, F.S., relating to wall murals, to replace references to the "Highway Beautification Act" with references to its statutory placement in federal law, 23 U.S.C. s. 131, and to correct cross-references.

Signs for Which Permits Are Not Required (Section 18)
The bill amends s. 479.16, F.S., relating to signs where permits are not required. The bill also provides that signs on modular news racks, street light poles, and public pay telephones within the right-of-way are exempt from ch. 479, F.S.

The bill clarifies an already existing exemption of signs for rural business directional signs to make the provision applicable to signs located outside an incorporated area. The bill also removes the rural business exemption exception for charter counties.

The bill provides the following new exemptions with the caveat that they may not be implemented or continued if the Federal Government notifies DOT that the implementation or continuation will adversely affect the allocation of federal funds to DOT:

- Signs placed by a local tourist oriented business located within a Rural Area of Critical Economic Concern which signs meet the following criteria:
    - Not more than eight square feet in size or more than four feet in height;
    - Located only in rural areas along non-limited access highways;
    - Located within two miles of the business location and not less than 500 feet apart;
    - Located only in two directions leading to the business;
    - Not located within the road right-of-way.

  Businesses placing such signs must be at least four miles from any other business utilizing this exemption and such business may not participate in any other DOT directional signage program.
- Signs not in excess of 32 square feet placed temporarily during harvest season of a farm operation for a period of no more than four months at a road jurisdiction with the SHS denoting only the distance or direction of the farm operation.
- Acknowledgement signs erected upon publicly funded school premises relating to a specific public school club, team or event placed no closer than 1,000 feet from another acknowledgement sign on the same side of the roadway. All sponsors on an acknowledgement sign may constitute no more than 100 square feet of the sign.[57]
- Displays erected upon a sports facility that displays content directly related to the facility's activities or where a presence of the products or services offered on the property exists.

[56] Section 479.01(30), F.S., defines "wall mural" as "a sign that is a painting or an artistic work composed of photographs or arrangements of color that displays a commercial or noncommercial message, relies solely on the side of the building for rigid structural support, and is painted on the building or depicted in vinyl, fabric, or other similarly flexible material that is held in place flush or flat against the surface of the building. The term excludes a painting or work placed on a structure that is erected for the sole or primary purpose of signage."
[57] The bill defines "acknowledgement sign" as signs that are intended to inform the traveling public that a public school club, team, or event has been sponsored by a person, firm, or entity.

Displays are to be mounted flush or flat to the surface of the sports facility and rely upon the building façade for structural support.[58]

The bill provides that if certain exemptions are not implemented or continued due to Federal Government notification that the allocation of federal funds to DOT will be adversely affected, DOT must notify the sign owner that the sign must be removed within 30 days. If the sign is not removed within 30 days, DOT may remove the sign and all costs associated with sign removal are to be assessed against and collected from the sign owner.

Compensation for signs; Eminent Domain, Exceptions (Section 19)
The bill amends s. 479.24, F.S., requiring DOT pay just compensation for its acquisition (rather than removal) of a lawful *conforming or* nonconforming signs.

Erection of Noise-attenuation Barrier Blocking View of Sign (Section 20)
The bill amends. s. 479.25, F.S., relating to the erection of noise-attenuation barriers blocking the view of a sign, to:

- Make "plain language" and conforming changes;
- Require, upon determination that in increase in height as allowed will violate a provision contained in an ordinance or land development regulation, *prior to construction*, the local government or jurisdiction shall provide a variance or waiver to allow an increase in the height of the sign; and
- Remove a DOT requirement to conduct a written survey of all property owners impacted by noise and who may benefit from the barrier.

Logo Sign Program (Section 21)
The bill amends s. 479.261, F.S., expanding the logo sign program to the entire limited-access highway system, rather than just to the interstate highway system, as is already authorized by the MUTCD, thereby increasing opportunities for business participation.

Tourist Oriented Directional Sign Program (Section 22)
The bill amends s. 479.262(1), F.S., continuing the authorization of the tourist-oriented directional sign program at intersections on rural and conventional state, county, or municipal roads, but removing the restriction for participation in the program to such roads in rural counties,[59] and to expressly state, consistent with rule 14-51.063, F.A.C., and the MUTCD, and that a tourist-oriented directional sign may not be used on roads in urban areas or at interchanges of freeways or expressways.

Permit Revocation and Cancellation; Cost of Removal (Section 23)
The bill amends s. 479.313, F.S., relating to sign removal, to include *cancellation*, along with revocation, in the direction that all costs incurred by DOT in connection with the removal of a sign be assessed and collected from the permitee.

<u>Tourist-Oriented Commerce Sign/Permit Exemption</u> (Section 24)

<u>Current Situation</u>
In an effort to increase visibility and facilitate economic development for small businesses in rural areas of critical economic concern HB 599[60] was passed in 2012, authorizing DOT to seek approval from FHWA for a tourist-oriented commerce sign pilot program and to submit the pilot program for legislative approval in the next regular legislative session.

[58]The bill defines, "sports facility" as an athletic complex, athletic arena, or athletic stadium, including physically connected parking facilities, which is open to the public and has a permanent installed seating capacity of 15,000 or more.
[59] Rural counties are identified by criteria and population in s. 288.0656, F.S.
[60] Section 76, ch. 2012-174, L.O.F.

In continued discussions with the FHWA, DOT has been advised that approval of the pilot program is not expected. According to DOT, it was advised by FHWA to proceed by obtaining permission to replace authorization to seek pilot program approval with an exemption from permitting requirements, as well as language identical to that under current s. 479.16(15), F.S., relating to an exemption for permitting rural hardship signs, that would protect against any adverse impact upon the allocation of federal funds to DOT.

Effect of the Bill
The bill repeals s. 76 of ch. 2012-174, L.O.F., which was a pilot program for tourist-oriented commerce outdoor advertising signs in rural areas of critical economic concern, which is replaced by authority to erect such signs without a permit under certain conditions.

Palm Beach County Pilot Program (Section 25)

Current Situation
In Palm Beach County, each of its 30 high schools have business partnerships to promote Project Graduation and other key school events. The schools raise funds through business partnerships for these activities and display sponsorship banners around school fencing recognizing these sponsors.

Because Palm Beach County has schools in 26 municipalities, plus unincorporated portions of the county, there are widely varying municipal and local sign codes. While the Palm Beach County Commission supports the display of school sponsorship banners, it has concerns about amending its sign code for a school exception, which could leave it open for other entities to request an exception. In 2008, it was suggested by the Palm Beach County Commission and Palm Beach County School Board to create a pilot program that attempts to standardize the display and location of these school recognitions.

The current pilot program expires on June 30, 2014.

Effect of the Bill
The bill establishes a pilot program for the School District of Palm Beach County to recognize its business partners by publicly displaying their names on school district property in unincorporated areas of the county. Recognitions of project graduations and athletic sponsorships are examples of appropriate recognitions. The school district is required to make every effort to display the names of its business partners in a manner that is consistent with the county standards for uniformity in size, color, and placement of the signs.

If the provisions of this section are inconsistent with county ordinances or regulations relating to signs in the unincorporated areas of the county or inconsistent with ch. 125, F.S., or ch. 166, F.S., the provisions of this section prevail.

If FHWA determines that DOT is not providing effective control of outdoor advertising as a result of a business partner recognition by the school district under this program, DOT shall notify the school district by certified mail of any nonconforming recognition, and the school district shall remove the recognition specified in the notice within 30 days after receiving the notification.

The pilot program expires on June 30, 2015.

Commercial Sponsorship on Multiuse Trails and Related Facilities (Section 26)

Current Situation
State Transportation Trust Fund (STTF) revenues are derived from state fuel taxes, motor vehicle fees, toll road receipts, and federal grants. The use of moneys in the STTF is limited to those uses set forth in s. 339.08, F.S., and unless otherwise specifically authorized, these funds cannot be allocated for projects off the state system. State funds available for projects such as recreational or multiuse trails

are limited to DOT district dedicated revenues from the proceeds of the State Comprehensive Enhanced Transportation System (SCETS) Tax.

Under current law, s. 335.065(3), F.S., allows DOT, in cooperation with the Department of Environmental Protection, to establish a statewide integrated system of bicycle and pedestrian ways in such a manner as to take full advantage of any such ways which are maintained by any governmental entity. Further, bicycle facilities may be established as part of or separate from the actual roadway and may utilize existing road rights-of-way or other rights-of-way or easements acquired for public use.

Effect of the Bill

The bill allows DOT to enter into a concession agreement with a not-for-profit entity or private sector business or entity for commercial sponsorship displays on multiuse trails and related facilities and use any concession agreement revenues for the maintenance of the multiuse trails and related facilities. Commercial sponsorship displays are subject to the requirements of the HBA, and all federal laws and agreements, when applicable.

DOT will administer concession agreements for the displays and the agreements must include:

- Signage or displays must comply with s. 337.407 and chapter 479 and:
  - One large sign or display, not to exceed 16 square feet in area, may be located at each trailhead or parking area.
  - One small sign or display, not to exceed 4 square feet in area, may be located at each designated trail public access point.
- Each name or sponsorship display must be approved by DOT.
- DOT shall ensure that signs are consistent with the management plan for the property and the standards of the department; the signs may include a logo and this wording: "(Name of the sponsor) proudly sponsors the costs of maintaining the (Name of the greenway or trail)"
- All costs of a display are to be paid by the concessionaire.

A concession agreement term is for a minimum of one year, but may be for a longer period under a multiyear agreement, and may be terminated for just cause by DOT upon 60 days' advance notice. Just cause for termination includes, but is not limited to, violation of the terms of the agreement or s. 335.065, F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

DOT may see some additional up-front revenues from agreements with investors willing to purchase the revenue stream from one or more existing DOT leases of wireless communication facilities under section 1 of the bill. To the extent that such agreements are executed, there would be a reduction in future revenues to DOT from the lease payments purchased by the investors. The amount of these revenue impacts would be dependent on the terms of various agreements and cannot be determined at this time. DOT advises that it has one contract that would be eligible for consideration, and further estimates that firms would purchase the revenue stream discounted by 25 to 45 percent of the lease's net present value.

Allowing logo signs on all limited access highways under section 21 of the bill has the potential to increase the state's revenue from the logo sign program, but this cannot be quantified and has an indeterminate positive impact on the State Transportation Trust Fund.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Section 20 of the bill may require local governments to provide a variance or waiver of local ordinances and land development regulations under certain circumstances. The cost to the local governments to provide the variances or waivers is indeterminate, but is expected to be insignificant due to limited number of signs that would be impacted. These costs would be absorbed as part of the normal land use administrative responsibilities of a local government.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill expands the list of exemptions from permitting requirements for certain signs. To the extent a sign owner had been paying for permits for these signs in the past, this change will have a positive impact on the private sector. Such signs are also required to be removed at the owner's expense should DOT find the sign must be removed due to federal notification. The net effect of these provisions on a sign owner is indeterminate.

Placing logo signs on additional limited access facilities could potentially increase revenue at those establishments that advertise on the logo signs. Any possible impact to the private sector is indeterminate.

D. FISCAL COMMENTS:

Failure of the state to maintain control of its outdoor advertising could result in a 10 percent reduction in federal highway funds, which correlates to approximately $160 million annually.

If FHWA reduces funds which would be apportioned to DOT due to a local government's failure to comply with land use determination requirements, DOT will reduce the state's apportioned transportation funding within the jurisdiction of the local government entity in an equivalent amount. To the extent this situation arises, there would be an impact on a local government, but such impact is indeterminate at this time.

The bill removes the existing $75 fine against a sign owner who has been assessed the cost of sign removal for a sign found in violation of the law. According to DOT, it has not been pursuing the fine since it costs more than $75 to collect.

To the extent that commercial sponsorship displays on multiuse trails are implemented, any concession agreement revenues would help offset the costs of maintenance of the trails and related facilities. The amount of this revenue cannot be quantified and has an indeterminate positive impact on the state.