

Bill No. CS/HB 715, 1st Eng.

Amendment No.      Barcode 601886

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Garcia moved the following amendment:

**Senate Amendment (with title amendment)**

On page 2, line 29, through  
page 11, line 15, delete those lines

and insert:

(2) Except as otherwise provided in this section, no municipality, county, or other governmental entity may remove, or cause to be removed, any lawfully erected sign, excluding a nonconforming sign, located along any portion of the interstate or federal-aid primary or other highway system without first paying just compensation for such removal as determined by agreement between the parties or through eminent domain proceedings. Except as otherwise provided in this section, no municipality, county, or other governmental entity may cause in any way the alteration of any lawfully erected sign, excluding a nonconforming sign, located along any portion of the interstate or federal-aid primary or other highway system without first paying just compensation for such alteration as determined by agreement between the parties or

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1 through eminent domain proceedings. The provisions of this  
2 section shall not apply to any ordinance the validity,  
3 constitutionality, and enforceability of which the owner has  
4 by written agreement waived all right to challenge.

5 (3) If a municipality, county, or other governmental  
6 entity undertakes a public project or public goal requiring  
7 alteration or removal of any lawfully erected sign, excluding  
8 a nonconforming sign, the municipality, county, or other  
9 governmental entity shall notify the owner of the affected  
10 sign in writing of the public project or goal and of the  
11 intention of the municipality, county, or other governmental  
12 entity to seek such alteration or removal. Within 30 days  
13 after receipt of the notice, the owner of the sign and the  
14 municipality, county, or other governmental entity shall  
15 attempt to meet for purposes of negotiating and executing a  
16 relocation and reconstruction agreement as provided for in  
17 subsection (1).

18 (4) If the parties fail to enter into a relocation and  
19 reconstruction agreement within 120 days after the initial  
20 notification by the municipality, county, or other  
21 governmental entity, either party may request mandatory  
22 nonbinding arbitration to resolve the disagreements between  
23 the parties. Each party shall select an arbitrator, and the  
24 individuals so selected shall choose a third arbitrator. The  
25 three arbitrators shall constitute the panel that shall  
26 arbitrate the dispute between the parties and, at the  
27 conclusion of the proceedings, shall present to the parties a  
28 proposed relocation and reconstruction agreement that the  
29 panel believes equitably balances the rights, interests,  
30 obligations, and reasonable expectations of the parties. If  
31 the municipality, county, or other governmental entity and the

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1 sign owner accept the proposed relocation and reconstruction  
2 agreement, the municipality, county, or other governmental  
3 entity and the sign owner shall each pay its respective costs  
4 of arbitration and shall pay one-half of the costs of the  
5 arbitration panel, unless the parties otherwise agree.

6 (5) If the parties do not enter into a relocation and  
7 reconstruction agreement, the municipality, county, or other  
8 governmental entity may proceed with the public project or  
9 purpose and the alteration or removal of the sign only after  
10 first paying just compensation for such alteration or removal  
11 as determined by agreement between the parties or through  
12 eminent domain proceedings.

13 (6) The requirement by a municipality, county, or  
14 other governmental entity that a lawfully erected sign,  
15 excluding a nonconforming sign, be removed or altered as a  
16 condition precedent to the issuance or continued effectiveness  
17 of a development order constitutes a compelled removal that is  
18 prohibited without prior payment of just compensation under  
19 subsection (2). This subsection shall not apply when the owner  
20 of the land on which the sign is located is seeking to have  
21 the property redesignated on the future land use map of the  
22 applicable comprehensive plan for exclusively single-family  
23 residential use.

24 (7) The requirement by a municipality, county, or  
25 other governmental entity that a lawfully erected sign,  
26 excluding a nonconforming sign, be altered or removed from the  
27 premises upon which it is located incident to the voluntary  
28 acquisition of such property by a municipality, county, or  
29 other governmental entity constitutes a compelled removal that  
30 is prohibited without payment of just compensation under  
31 subsection (2).

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1       (8) Nothing in this section shall prevent a  
2 municipality, county, or other governmental entity from  
3 acquiring a lawfully erected sign, excluding a nonconforming  
4 sign, through eminent domain or from prospectively regulating  
5 the placement, size, height, or other aspects of new signs  
6 within such entity's jurisdiction, including the prohibition  
7 of new signs, unless otherwise authorized pursuant to this  
8 section. Nothing in this section shall impair any ordinance or  
9 provision of any ordinance not inconsistent with this section,  
10 including a provision that creates a ban or partial ban on new  
11 signs, nor shall this section create any new rights for any  
12 party other than the owner of a sign, the owner of the land  
13 upon which it is located, or a municipality, county, or other  
14 governmental entity as expressed in this section.

15       (9) This section applies only to a lawfully erected  
16 sign, excluding a nonconforming sign, the subject matter of  
17 which relates to premises other than the premises on which it  
18 is located or to merchandise, services, activities, or  
19 entertainment not sold, produced, manufactured, or furnished  
20 on the premises on which the sign is located.

21       (10) This section shall not apply to any actions taken  
22 by the Department of Transportation that relate to the  
23 operation, maintenance, or expansion of transportation  
24 facilities, and this section shall not affect existing law  
25 regarding eminent domain relating to the Department of  
26 Transportation.

27       (11) Nothing in this section shall impair or affect  
28 any written agreement existing prior to the effective date of  
29 this act, including, but not limited to, any settlement  
30 agreements reliant upon the legality or enforceability of  
31 local ordinances. The provisions of this section shall not

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1 apply to any signs that are required to be removed by a date  
2 certain in areas designated by local ordinance as view  
3 corridors if the local ordinance creating the view corridors  
4 was enacted in part to effectuate a consensual agreement  
5 between the local government and two or more sign owners prior  
6 to the effective date of this act, nor shall the provisions of  
7 this section apply to any signs that are the subject of an  
8 ordinance providing an amortization period, which period has  
9 expired, and which ordinance or any amendment thereto is the  
10 subject of judicial proceedings that were commenced on or  
11 before October 1, 2001, nor shall this section apply to any  
12 municipality with an ordinance that prohibits billboards and  
13 has two or fewer billboards located within its current  
14 boundaries or its future annexed properties. This section does  
15 not apply to a municipality with an ordinance adopted in 1992  
16 or earlier which prohibits billboards in whole or in part.

17 (12) Subsection (6) shall not apply when the  
18 development order permits construction of a replacement sign  
19 that cannot be erected without the removal of the lawfully  
20 erected sign, excluding a nonconforming sign, being replaced.

21 (13) Effective upon this section becoming a law, the  
22 Office of Program Policy Analysis and Government  
23 Accountability, in consultation with the property appraisers  
24 and the affected private-sector parties, shall conduct a study  
25 of the value of offsite signs in relation to, and in  
26 comparison with, the valuation of other commercial properties  
27 for ad valorem tax purposes, including a comparison of tax  
28 valuations from other states. The Office of Program Policy  
29 Analysis and Government Accountability shall complete the  
30 study by December 31, 2002, and shall report the results of  
31 the study to the President of the Senate and the Speaker of

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1 the House of Representatives.

2 Section 2. Paragraph (c) of subsection (2) of section  
3 163.3180, Florida Statutes, is amended to read:

4 163.3180 Concurrency.--

5 (2)

6 (c) Consistent with the public welfare, and except as  
7 otherwise provided in this section, transportation facilities  
8 designated as part of the Florida Intrastate Highway System  
9 needed to serve new development shall be in place or under  
10 actual construction not more than 5 years after issuance by  
11 the local government of a certificate of occupancy or its  
12 functional equivalent. Other transportation facilities needed  
13 to serve new development shall be in place or under actual  
14 construction no more than 3 years after issuance by the local  
15 government of a certificate of occupancy or its functional  
16 equivalent.

17 Section 3. Subsection (5) and paragraph (b) of  
18 subsection (15) of section 334.044, Florida Statutes, are  
19 amended to read:

20 334.044 Department; powers and duties.--The department  
21 shall have the following general powers and duties:

22 (5) To purchase, lease, or otherwise acquire property  
23 and materials, including the purchase of promotional items as  
24 part of public information and education campaigns for the  
25 promotion of scenic highways, traffic and train safety  
26 awareness, alternatives to single-occupant vehicle travel, and  
27 commercial motor vehicle safety; to purchase, lease, or  
28 otherwise acquire equipment and supplies; and to sell,  
29 exchange, or otherwise dispose of any property that is no  
30 longer needed by the department.

31 (15) To regulate and prescribe conditions for the

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1 transfer of stormwater to the state right-of-way as a result  
2 of manmade changes to adjacent properties.

3 (b) The department is specifically authorized to adopt  
4 rules which set forth the purpose; necessary definitions;  
5 permit exceptions; permit and assurance requirements; permit  
6 application procedures; permit forms; general conditions for a  
7 drainage permit; provisions for suspension or revocation of a  
8 permit; and provisions for department recovery of fines,  
9 penalties, and costs incurred due to permittee actions. In  
10 order to avoid duplication and overlap with other units of  
11 government, the department shall accept a surface water  
12 management permit issued by a water management district, the  
13 Department of Environmental Protection, a surface water  
14 management permit issued by a delegated local government, or a  
15 permit issued pursuant to an approved Stormwater Management  
16 Plan or Master Drainage Plan; provided issuance is based on  
17 requirements equal to or more stringent than those of the  
18 department. The department may enter into a permit-delegation  
19 agreement with a governmental entity if issuance of a permit  
20 is based on requirements that the department finds will ensure  
21 the safety and integrity of facilities of the Department of  
22 Transportation.

23 Section 4. Paragraph (b) of subsection (4) of section  
24 339.135, Florida Statutes, is amended to read:

25 339.135 Work program; legislative budget request;  
26 definitions; preparation, adoption, execution, and  
27 amendment.--

28 (4) FUNDING AND DEVELOPING A TENTATIVE WORK PROGRAM.--

29 (b)1. A tentative work program, including the ensuing  
30 fiscal year and the successive 4 fiscal years, shall be  
31 prepared for the State Transportation Trust Fund and other

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1 funds managed by the department, unless otherwise provided by  
2 law. The tentative work program shall be based on the  
3 district work programs and shall set forth all projects by  
4 phase to be undertaken during the ensuing fiscal year and  
5 planned for the successive 4 fiscal years. The total amount of  
6 the liabilities accruing in each fiscal year of the tentative  
7 work program may not exceed the revenues available for  
8 expenditure during the respective fiscal year based on the  
9 cash forecast for that respective fiscal year.

10 2. The tentative work program shall be developed in  
11 accordance with the Florida Transportation Plan required in s.  
12 339.155 and must comply with the program funding levels  
13 contained in the program and resource plan.

14 3. The department may include in the tentative work  
15 program proposed changes to the programs contained in the  
16 previous work program adopted pursuant to subsection (5);  
17 however, the department shall minimize changes and adjustments  
18 that affect the scheduling of project phases in the 4 common  
19 fiscal years contained in the previous adopted work program  
20 and the tentative work program. The department, in the  
21 development of the tentative work program, shall advance by 1  
22 fiscal year all projects included in the second year of the  
23 previous year's adopted work program, unless the secretary  
24 specifically determines that it is necessary, for specific  
25 reasons, to reschedule or delete one or more projects from  
26 that year. Such changes and adjustments shall be clearly  
27 identified, and the effect on the 4 common fiscal years  
28 contained in the previous adopted work program and the  
29 tentative work program shall be shown. It is the intent of  
30 the Legislature that the first 5 years of the adopted work  
31 program for facilities designated as part of the Florida



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1 Intrastate Highway System and the first 3 years of the adopted  
2 work program stand as the commitment of the state to undertake  
3 transportation projects that local governments may rely on for  
4 planning purposes and in the development and amendment of the  
5 capital improvements elements of their local government  
6 comprehensive plans.

7 4. The tentative work program must include a balanced  
8 36-month forecast of cash and expenditures and a 5-year  
9 finance plan supporting the tentative work program.

10 Section 5. Subsection (2) of section 479.15, Florida  
11 Statutes, is amended to read:

12 479.15 Harmony of regulations.--

13 (2) A municipality, county, local zoning authority, or  
14 other local governmental entity may not remove, or cause to be  
15 removed, any lawfully erected sign, excluding a nonconforming  
16 sign, along any portion of the interstate or federal-aid  
17 primary highway system without first paying just compensation  
18 for such removal. A local governmental entity may not cause in  
19 any way the alteration of any lawfully erected sign, excluding  
20 a nonconforming sign, located along any portion of the  
21 interstate or federal-aid primary highway system without  
22 payment of just compensation if such alteration constitutes a  
23 taking under state law. The municipality, county, local zoning  
24 authority, or other local government entity that adopts  
25 ~~promulgating~~ requirements for such alteration shall pay ~~must~~  
26 ~~be responsible for payment of~~ just compensation to the sign  
27 owner if such alteration constitutes a taking under state law.  
28 This subsection applies only to a lawfully erected sign,  
29 excluding a nonconforming sign, the subject matter of which  
30 relates to premises other than the premises on which it is  
31 located or to merchandise, services, activities, or

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1 entertainment not sold, produced, manufactured, or furnished  
2 on the premises on which the sign is located. As used in this  
3 subsection, the term "federal-aid primary highway system"  
4 means the federal-aid primary highway system in existence on  
5 June 1, 1991, and any highway that was not a part of such  
6 system as of that date but that is or becomes after June 1,  
7 1991, a part of the National Highway System.This subsection  
8 shall not be interpreted as explicit or implicit legislative  
9 recognition that alterations do or do not constitute a taking  
10 under state law.

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

14 And the title is amended as follows:

15 On page 1, line 28, delete that line

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17 and insert:

18 of certain lawfully erected signs, excluding  
19 nonconforming signs; creating s.

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