

By the Council for Ready Infrastructure and  
Representatives Bense, Haridopolos and Jennings

1                                   A bill to be entitled  
2           An act relating to transportation; creating s.  
3           70.20, F.S.; providing for a process for  
4           governmental entities and sign owners to enter  
5           into relocation and reconstruction agreements  
6           related to outdoor advertising signs; defining  
7           "relocation and reconstruction agreement";  
8           providing for compensation to sign owners under  
9           certain conditions; requiring a study by the  
10          Office of Program Policy Analysis and  
11          Government Accountability and requiring a  
12          report to the Legislature; amending s.  
13          163.3180, F.S.; extending the period within  
14          which certain transportation facilities needed  
15          to serve new development must be in place or  
16          under actual construction; amending s. 334.044,  
17          F.S.; authorizing the Department of  
18          Transportation to expend funds to promote  
19          scenic highways; authorizing the department to  
20          delegate to other governmental entities the  
21          authority to issue drainage permits under  
22          certain circumstances; amending s. 339.135,  
23          F.S.; providing a 5-year commitment for  
24          projects on the Florida Intrastate Highway  
25          System; amending s. 479.15, F.S.; defining  
26          "federal-aid primary highway system" for  
27          purposes of provisions governing the alteration  
28          of certain lawfully erected signs; creating s.  
29          479.25, F.S.; authorizing local governments to  
30          enter into agreements with the department which  
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1 allow outdoor signs to be erected above sound  
2 barriers; providing an effective date.

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4 Be It Enacted by the Legislature of the State of Florida:

5

6 Section 1. Section 70.20, Florida Statutes, is created  
7 to read:

8 70.20 Balancing of interests.--It is a policy of this  
9 state to encourage municipalities, counties, and other  
10 governmental entities and sign owners to enter into relocation  
11 and reconstruction agreements that allow governmental entities  
12 to undertake public projects and accomplish public goals  
13 without the expenditure of public funds while allowing the  
14 continued maintenance of private investment in signage as a  
15 medium of commercial and noncommercial communication.

16 (1) Municipalities, counties, and all other  
17 governmental entities are specifically empowered to enter into  
18 relocation and reconstruction agreements on whatever terms are  
19 agreeable to the sign owner and the municipality, county, or  
20 other governmental entity involved and to provide for  
21 relocation and reconstruction of signs by agreement,  
22 ordinance, or resolution. As used in this section, a  
23 "relocation and reconstruction agreement" means a consensual,  
24 contractual agreement between a sign owner and a municipality,  
25 county, or other governmental entity for either the  
26 reconstruction of an existing sign or the removal of a sign  
27 and construction of a new sign to substitute for the sign  
28 removed.

29 (2) Except as otherwise provided in this section, no  
30 municipality, county, or other governmental entity may remove,  
31 or cause to be removed, any lawfully erected sign located

1 along any portion of the interstate, federal-aid primary or  
2 other highway system, or any other road without first paying  
3 just compensation for such removal as determined by agreement  
4 between the parties or through eminent domain proceedings.  
5 Except as otherwise provided in this section, no municipality,  
6 county, or other governmental entity may cause in any way the  
7 alteration of any lawfully erected sign located along any  
8 portion of the interstate, federal-aid primary or other  
9 highway system, or any other road without first paying just  
10 compensation for such alteration as determined by agreement  
11 between the parties or through eminent domain proceedings. The  
12 provisions of this section shall not apply to any ordinance  
13 the validity, constitutionality, and enforceability of which  
14 the owner has by written agreement waived all right to  
15 challenge.

16 (3) In the event that a municipality, county, or other  
17 governmental entity undertakes a public project or public goal  
18 requiring alteration or removal of any lawfully erected sign,  
19 the municipality, county, or other governmental entity shall  
20 notify the owner of the affected sign in writing of the public  
21 project or goal and of the intention of the municipality,  
22 county, or other governmental entity to seek such alteration  
23 or removal. Within 30 days after receipt of the notice, the  
24 owner of the sign and the municipality, county, or other  
25 governmental entity shall attempt to meet for purposes of  
26 negotiating and executing a relocation and reconstruction  
27 agreement as provided for in subsection (1).

28 (4) If the parties fail to enter into a relocation and  
29 reconstruction agreement within 120 days after the initial  
30 notification by the municipality, county, or other  
31 governmental entity, either party may request mandatory

1 nonbinding arbitration to resolve the disagreements between  
2 the parties. Each party shall select an arbitrator, and the  
3 individuals so selected shall choose a third arbitrator. The  
4 three arbitrators shall constitute the panel that shall  
5 arbitrate the dispute between the parties and, at the  
6 conclusion of the proceedings, shall present to the parties a  
7 proposed relocation and reconstruction agreement that the  
8 panel believes equitably balances the rights, interests,  
9 obligations, and reasonable expectations of the parties. If  
10 the municipality, county, or other governmental entity and the  
11 sign owner accept the proposed relocation and reconstruction  
12 agreement, the municipality, county, or other governmental  
13 entity and the sign owner shall each pay its respective costs  
14 of arbitration and shall pay one-half of the costs of the  
15 arbitration panel, unless the parties otherwise agree.

16 (5) If the parties do not enter into a relocation and  
17 reconstruction agreement, the municipality, county, or other  
18 governmental entity may proceed with the public project or  
19 purpose and the alteration or removal of the sign only after  
20 first paying just compensation for such alteration or removal  
21 as determined by agreement between the parties or through  
22 eminent domain proceedings.

23 (6) The requirement by a municipality, county, or  
24 other governmental entity that a lawfully erected sign be  
25 removed or altered as a condition precedent to the issuance or  
26 continued effectiveness of a development order constitutes a  
27 compelled removal that is prohibited without prior payment of  
28 just compensation under subsection (2). This subsection shall  
29 not apply when the owner of the land on which the sign is  
30 located is seeking to have the property redesignated on the  
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1 future land use map of the applicable comprehensive plan for  
2 exclusively single-family residential use.

3 (7) The requirement by a municipality, county, or  
4 other governmental entity that a lawfully erected sign be  
5 altered or removed from the premises upon which it is located  
6 incident to the voluntary acquisition of such property by a  
7 municipality, county, or other governmental entity constitutes  
8 a compelled removal that is prohibited without payment of just  
9 compensation under subsection (2).

10 (8) Nothing in this section shall prevent a  
11 municipality, county, or other governmental entity from  
12 acquiring a lawfully erected sign through eminent domain or  
13 from prospectively regulating the placement, size, height, or  
14 other aspects of new signs within such entity's jurisdiction,  
15 including the prohibition of new signs, unless otherwise  
16 authorized pursuant to this section. Nothing in this section  
17 shall impair any ordinance or provision of any ordinance not  
18 inconsistent with this section, nor shall this section create  
19 any new rights for any party other than the owner of a sign,  
20 the owner of the land upon which it is located, or a  
21 municipality, county, or other governmental entity as  
22 expressed in this section.

23 (9) This section applies only to a lawfully erected  
24 sign the subject matter of which relates to premises other  
25 than the premises on which it is located or to merchandise,  
26 services, activities, or entertainment not sold, produced,  
27 manufactured, or furnished on the premises on which the sign  
28 is located.

29 (10) This section shall not apply to any actions taken  
30 by the Department of Transportation that relate to the  
31 operation, maintenance, or expansion of transportation

1 facilities, and this section shall not affect existing law  
2 regarding eminent domain relating to the Department of  
3 Transportation.

4 (11) Nothing in this section shall impair or affect  
5 any written agreement existing prior to the effective date of  
6 this act, including, but not limited to, any settlement  
7 agreements reliant upon the legality or enforceability of  
8 local ordinances. The provisions of this section shall not  
9 apply to any signs that are required to be removed by a date  
10 certain in areas designated by local ordinance as view  
11 corridors if the local ordinance creating the view corridors  
12 was enacted in part to effectuate a consensual agreement  
13 between the local government and two or more sign owners prior  
14 to the effective date of this act, nor shall the provisions of  
15 this section apply to any signs that are the subject of an  
16 ordinance providing an amortization period, which period has  
17 expired, and which ordinance is the subject of judicial  
18 proceedings that were commenced on or before January 1, 2001,  
19 nor shall this section apply to any municipality with an  
20 ordinance that prohibits billboards and has two or fewer  
21 billboards located within its current boundaries or its future  
22 annexed properties.

23 (12) Subsection (6) shall not apply when the  
24 development order permits construction of a replacement sign  
25 that cannot be erected without the removal of the lawfully  
26 erected sign being replaced.

27 (13) Effective upon this section becoming a law, the  
28 Office of Program Policy Analysis and Government  
29 Accountability, in consultation with the property appraisers  
30 and the affected private-sector parties, shall conduct a study  
31 of the value of offsite signs in relation to, and in

1 comparison with, the valuation of other commercial properties  
2 for ad valorem tax purposes, including a comparison of tax  
3 valuations from other states. The Office of Program Policy  
4 Analysis and Government Accountability shall complete the  
5 study by December 31, 2002, and shall report the results of  
6 the study to the President of the Senate and the Speaker of  
7 the House of Representatives.

8 Section 2. Paragraph (c) of subsection (2) of section  
9 163.3180, Florida Statutes, is amended to read:

10 163.3180 Concurrency.--

11 (2)

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

23 Section 3. Subsection (5) and paragraph (b) of  
24 subsection (15) of section 334.044, Florida Statutes, are  
25 amended to read:

26 334.044 Department; powers and duties.--The department  
27 shall have the following general powers and duties:

28 (5) To purchase, lease, or otherwise acquire property  
29 and materials, including the purchase of promotional items as  
30 part of public information and education campaigns for the  
31 promotion of scenic highways, traffic and train safety

1 awareness, alternatives to single-occupant vehicle travel, and  
2 commercial motor vehicle safety; to purchase, lease, or  
3 otherwise acquire equipment and supplies; and to sell,  
4 exchange, or otherwise dispose of any property that is no  
5 longer needed by the department.

6 (15) To regulate and prescribe conditions for the  
7 transfer of stormwater to the state right-of-way as a result  
8 of manmade changes to adjacent properties.

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

29 Section 4. Paragraph (b) of subsection (4) of section  
30 339.135, Florida Statutes, is amended to read:

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1           339.135 Work program; legislative budget request;  
2 definitions; preparation, adoption, execution, and  
3 amendment.--  
4           (4) FUNDING AND DEVELOPING A TENTATIVE WORK PROGRAM.--  
5           (b)1. A tentative work program, including the ensuing  
6 fiscal year and the successive 4 fiscal years, shall be  
7 prepared for the State Transportation Trust Fund and other  
8 funds managed by the department, unless otherwise provided by  
9 law. The tentative work program shall be based on the  
10 district work programs and shall set forth all projects by  
11 phase to be undertaken during the ensuing fiscal year and  
12 planned for the successive 4 fiscal years. The total amount of  
13 the liabilities accruing in each fiscal year of the tentative  
14 work program may not exceed the revenues available for  
15 expenditure during the respective fiscal year based on the  
16 cash forecast for that respective fiscal year.  
17           2. The tentative work program shall be developed in  
18 accordance with the Florida Transportation Plan required in s.  
19 339.155 and must comply with the program funding levels  
20 contained in the program and resource plan.  
21           3. The department may include in the tentative work  
22 program proposed changes to the programs contained in the  
23 previous work program adopted pursuant to subsection (5);  
24 however, the department shall minimize changes and adjustments  
25 that affect the scheduling of project phases in the 4 common  
26 fiscal years contained in the previous adopted work program  
27 and the tentative work program. The department, in the  
28 development of the tentative work program, shall advance by 1  
29 fiscal year all projects included in the second year of the  
30 previous year's adopted work program, unless the secretary  
31 specifically determines that it is necessary, for specific

1 reasons, to reschedule or delete one or more projects from  
2 that year. Such changes and adjustments shall be clearly  
3 identified, and the effect on the 4 common fiscal years  
4 contained in the previous adopted work program and the  
5 tentative work program shall be shown. It is the intent of  
6 the Legislature that the first 5 years of the adopted work  
7 program for facilities designated as part of the Florida  
8 Intrastate Highway System and the first 3 years of the adopted  
9 work program stand as the commitment of the state to undertake  
10 transportation projects that local governments may rely on for  
11 planning purposes and in the development and amendment of the  
12 capital improvements elements of their local government  
13 comprehensive plans.

14 4. The tentative work program must include a balanced  
15 36-month forecast of cash and expenditures and a 5-year  
16 finance plan supporting the tentative work program.

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

19 479.15 Harmony of regulations.--

20 (2) A municipality, county, local zoning authority, or  
21 other local governmental entity may not remove, or cause to be  
22 removed, any lawfully erected sign along any portion of the  
23 interstate or federal-aid primary highway system without first  
24 paying just compensation for such removal. A local  
25 governmental entity may not cause in any way the alteration of  
26 any lawfully erected sign located along any portion of the  
27 interstate or federal-aid primary highway system without  
28 payment of just compensation if such alteration constitutes a  
29 taking under state law. The municipality, county, local zoning  
30 authority, or other local government entity that adopts  
31 ~~promulgating~~ requirements for such alteration shall pay ~~must~~

1 ~~be responsible for payment of~~ just compensation to the sign  
2 owner if such alteration constitutes a taking under state law.  
3 This subsection applies only to a lawfully erected sign the  
4 subject matter of which relates to premises other than the  
5 premises on which it is located or to merchandise, services,  
6 activities, or entertainment not sold, produced, manufactured,  
7 or furnished on the premises on which the sign is located. As  
8 used in this subsection, the term "federal-aid primary highway  
9 system" means the federal-aid primary highway system in  
10 existence on June 1, 1991, and any highway that was not a part  
11 of such system as of that date but that is or becomes after  
12 June 1, 1991, a part of the National Highway System. This  
13 subsection shall not be interpreted as explicit or implicit  
14 legislative recognition that alterations do or do not  
15 constitute a taking under state law.

16 Section 6. Section 479.25, Florida Statutes, is  
17 created to read:

18 479.25 Application of chapter.--This chapter does not  
19 prevent a governmental entity from entering into an agreement  
20 allowing the height above ground level of a lawfully erected  
21 sign to be increased at its permitted location if a  
22 noise-attenuation barrier, visibility screen, or other highway  
23 improvement is erected in such a way as to screen or block  
24 visibility of the sign. However, if a nonconforming sign is  
25 located on the federal-aid primary highway system, as such  
26 system existed on June 1, 1991, or on any highway that was not  
27 a part of such system as of that date but that is or becomes  
28 after June 1, 1991, a part of the National Highway System, the  
29 agreement must be approved by the Federal Highway  
30 Administration. Any increase in height permitted under this  
31 section may only be the increase in height which is required

1 to achieve the same degree of visibility from the right-of-way  
2 which the sign had prior to the construction of the  
3 noise-attenuation barrier, visibility screen, or other highway  
4 improvement.

5           Section 7. This act shall take effect July 1, 2002.  
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