

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:

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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, including a provision that
19 creates a ban or partial ban on new signs, nor shall this
20 section create any new rights for any party other than the
21 owner of a sign, the owner of the land upon which it is
22 located, or a municipality, county, or other governmental
23 entity as expressed in this section.

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

30 (10) This section shall not apply to any actions taken
31 by the Department of Transportation that relate to the

1 operation, maintenance, or expansion of transportation
2 facilities, and this section shall not affect existing law
3 regarding eminent domain relating to the Department of
4 Transportation.

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

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

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

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

9 Section 2. Paragraph (c) of subsection (2) of section
10 163.3180, Florida Statutes, is amended to read:

11 163.3180 Concurrency.--

12 (2)

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

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

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

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

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

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

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

30 Section 4. Paragraph (b) of subsection (4) of section
31 339.135, Florida Statutes, is amended to read:

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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