

By the Committee on Transportation; and Senator Latvala

306-1754-02

1 A bill to be entitled
2 An act relating to transportation; amending s.
3 163.3180, F.S.; extending the period within
4 which certain transportation facilities needed
5 to serve new development must be in place or
6 under actual construction; amending s. 334.044,
7 F.S.; authorizing the Department of
8 Transportation to expend funds to promote
9 scenic highways; authorizing the department to
10 delegate to other governmental entities the
11 authority to issue drainage permits under
12 certain circumstances; amending s. 339.135,
13 F.S.; providing a 5-year commitment for
14 projects on the Florida Intrastate Highway
15 System; amending s. 479.15, F.S.; defining the
16 term "federal-aid primary highway system" for
17 purposes of provisions governing the alteration
18 of certain lawfully erected signs; creating s.
19 479.25, F.S.; authorizing local governments to
20 enter into agreements with the department which
21 allow outdoor signs to be erected above sound
22 barriers; providing an effective date.

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

26 Section 1. Paragraph (c) of subsection (2) of section
27 163.3180, Florida Statutes, is amended to read:

28 163.3180 Concurrency.--

29 (2)

30 (c) Consistent with the public welfare, and except as
31 otherwise provided in this section, transportation facilities

1 designated as part of the Florida Intrastate Highway System
2 needed to serve new development shall be in place or under
3 actual construction not more than 5 years after issuance by
4 the local government of a certificate of occupancy or its
5 functional equivalent. Other transportation facilities needed
6 to serve new development shall be in place or under actual
7 construction no more than 3 years after issuance by the local
8 government of a certificate of occupancy or its functional
9 equivalent.

10 Section 2. Subsection (5) and paragraph (b) of
11 subsection (15) of section 334.044, Florida Statutes, are
12 amended to read:

13 334.044 Department; powers and duties.--The department
14 shall have the following general powers and duties:

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

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

27 (b) The department is specifically authorized to adopt
28 rules which set forth the purpose; necessary definitions;
29 permit exceptions; permit and assurance requirements; permit
30 application procedures; permit forms; general conditions for a
31 drainage permit; provisions for suspension or revocation of a

1 permit; and provisions for department recovery of fines,
2 penalties, and costs incurred due to permittee actions. In
3 order to avoid duplication and overlap with other units of
4 government, the department shall accept a surface water
5 management permit issued by a water management district, the
6 Department of Environmental Protection, a surface water
7 management permit issued by a delegated local government, or a
8 permit issued pursuant to an approved Stormwater Management
9 Plan or Master Drainage Plan; provided issuance is based on
10 requirements equal to or more stringent than those of the
11 department. The department may enter into a permit-delegation
12 agreement with a governmental entity if issuance of a permit
13 is based on requirements that the department finds will ensure
14 the safety and integrity of facilities of the Department of
15 Transportation.

16 Section 3. Paragraph (b) of subsection (4) of section
17 339.135, Florida Statutes, is amended to read:

18 339.135 Work program; legislative budget request;
19 definitions; preparation, adoption, execution, and
20 amendment.--

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

22 (b)1. A tentative work program, including the ensuing
23 fiscal year and the successive 4 fiscal years, shall be
24 prepared for the State Transportation Trust Fund and other
25 funds managed by the department, unless otherwise provided by
26 law. The tentative work program shall be based on the
27 district work programs and shall set forth all projects by
28 phase to be undertaken during the ensuing fiscal year and
29 planned for the successive 4 fiscal years. The total amount of
30 the liabilities accruing in each fiscal year of the tentative
31 work program may not exceed the revenues available for

1 expenditure during the respective fiscal year based on the
2 cash forecast for that respective fiscal year.

3 2. The tentative work program shall be developed in
4 accordance with the Florida Transportation Plan required in s.
5 339.155 and must comply with the program funding levels
6 contained in the program and resource plan.

7 3. The department may include in the tentative work
8 program proposed changes to the programs contained in the
9 previous work program adopted pursuant to subsection (5);
10 however, the department shall minimize changes and adjustments
11 that affect the scheduling of project phases in the 4 common
12 fiscal years contained in the previous adopted work program
13 and the tentative work program. The department, in the
14 development of the tentative work program, shall advance by 1
15 fiscal year all projects included in the second year of the
16 previous year's adopted work program, unless the secretary
17 specifically determines that it is necessary, for specific
18 reasons, to reschedule or delete one or more projects from
19 that year. Such changes and adjustments shall be clearly
20 identified, and the effect on the 4 common fiscal years
21 contained in the previous adopted work program and the
22 tentative work program shall be shown. It is the intent of
23 the Legislature that the first 5 years of the adopted work
24 program for facilities designated as part of the Florida
25 Intrastate Highway System and the first 3 years of the adopted
26 work program stand as the commitment of the state to undertake
27 transportation projects that local governments may rely on for
28 planning purposes and in the development and amendment of the
29 capital improvements elements of their local government
30 comprehensive plans.

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1 4. The tentative work program must include a balanced
2 36-month forecast of cash and expenditures and a 5-year
3 finance plan supporting the tentative work program.

4 Section 4. Subsection (2) of section 479.15, Florida
5 Statutes, is amended to read:

6 479.15 Harmony of regulations.--

7 (2) A municipality, county, local zoning authority, or
8 other local governmental entity may not remove, or cause to be
9 removed, any lawfully erected sign along any portion of the
10 interstate or federal-aid primary highway system without first
11 paying just compensation for such removal. A local
12 governmental entity may not cause in any way the alteration of
13 any lawfully erected sign located along any portion of the
14 interstate or federal-aid primary highway system without
15 payment of just compensation if such alteration constitutes a
16 taking under state law. The municipality, county, local zoning
17 authority, or other local government entity that adopts
18 ~~promulgating~~ requirements for such alteration shall pay must
19 ~~be responsible for payment of~~ just compensation to the sign
20 owner if such alteration constitutes a taking under state law.
21 This subsection applies only to a lawfully erected sign the
22 subject matter of which relates to premises other than the
23 premises on which it is located or to merchandise, services,
24 activities, or entertainment not sold, produced, manufactured,
25 or furnished on the premises on which the sign is located. As
26 used in this subsection, the term "federal-aid primary highway
27 system" means the federal-aid primary highway system in
28 existence on June 1, 1991, and any highway that was not a part
29 of such system as of that date, but that is, or becomes after
30 July 1, 2002, a part of the National Highway System.This
31 subsection shall not be interpreted as explicit or implicit

1 legislative recognition that alterations do or do not
2 constitute a taking under state law.

3 Section 5. Section 479.25, Florida Statutes, is
4 created to read:

5 479.25 Application of chapter.--This chapter does not
6 prevent a governmental entity from entering into an agreement
7 with the department allowing the height above ground level of
8 a lawfully erected sign to be increased at its permitted
9 location if a noise-attenuation barrier, visibility screen, or
10 other highway improvement is erected in such a way as to
11 screen or block visibility of the sign. However, if a
12 nonconforming sign is located on the federal-aid primary
13 highway system, as such system existed on June 1, 1991, or on
14 any highway that was not a part of such system as of that
15 date, but that is, or becomes after July 1, 2002, a part of
16 the National Highway System, the agreement must be approved by
17 the Federal Highway Administration. Any increase in height
18 permitted under this section may only be the increase in
19 height which is required to achieve the same degree of
20 visibility from the right-of-way which the sign had prior to
21 the construction of the noise-attenuation barrier, visibility
22 screen, or other highway improvement.

23 Section 6. This act shall take effect July 1, 2002.

24

25 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
26 COMMITTEE SUBSTITUTE FOR
27 SB 728

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28 The CS amends s. 339.135, F.S., to provide the first five
29 years (currently 3 years) of the adopted work program for
30 projects on the Florida Intrastate Highway System is a
31 commitment to local governments from the state to undertake
transportation projects to allow local governments to plan for
future development.