

## CHAMBER ACTION

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1 The State Infrastructure Council recommends the following:

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3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to outdoor advertising; amending s.  
7 479.106, F.S.; revising provisions relating to the  
8 proximity of vegetation and beautification projects to  
9 outdoor advertising signs; prohibiting planting that will  
10 block the signs; specifying distances that constitute a  
11 view zone on interstate highways, expressways, federal-aid  
12 primary highways, and the State Highway System for outdoor  
13 advertising signs; authorizing the Department of  
14 Transportation and owners of outdoor advertising signs to  
15 enter into agreements identifying view zone locations;  
16 providing for a claim of violation of view zone clearance  
17 requirements; providing procedures; providing for award of  
18 compensation; exempting certain curative measures from  
19 department permit requirements; requiring notice to the  
20 department; limiting liability of certain service  
21 providers under certain circumstances; providing for  
22 application to certain existing agreements; amending s.  
23 479.25, F.S.; revising provisions for height increase of

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24 | certain outdoor advertising signs; authorizing the height  
 25 | to be increased if visibility is blocked due to  
 26 | installation of certain noise-attenuation barriers;  
 27 | requiring sign reconstruction to meet certain requirements  
 28 | of the Florida Building Code; requiring notice by the  
 29 | department to the local government or jurisdiction;  
 30 | providing for resolution when a sign height increase would  
 31 | conflict with local ordinances or land development  
 32 | regulations; providing for a survey of impacted property  
 33 | owners; providing for a public hearing; providing for  
 34 | application to certain existing agreements; providing an  
 35 | effective date.

36 |  
 37 | Be It Enacted by the Legislature of the State of Florida:

38 |  
 39 | Section 1. Subsection (6) of section 479.106, Florida  
 40 | Statutes, is amended to read:

41 | 479.106 Vegetation management.--

42 | (6) Beautification projects, trees, or other vegetation  
 43 | shall not be planted or located in the view zone of an area  
 44 | ~~which will screen from view~~ legally erected and permitted  
 45 | outdoor advertising signs which have been permitted prior to the  
 46 | date of the beautification project or other planting, where such  
 47 | planting will, at the time of planting or after future growth,  
 48 | screen such sign from view.

49 | (a) View zones are established along the public rights-of-  
 50 | way of interstate highways, expressways, federal-aid primary

51 highways, and the State Highway System in the state, excluding  
 52 privately or other publicly owned property, as follows:

53 1. A view zone of 350 feet for posted speed limits of 35  
 54 miles per hour or less.

55 2. A view zone of 500 feet for posted speed limits of over  
 56 35 miles per hour.

57 (b) The established view zone shall be within the first  
 58 1,000 feet measured along the edge of the pavement in the  
 59 direction of approaching traffic from a point on the edge of the  
 60 pavement perpendicular to the edge of the sign facing nearest  
 61 the highway and shall be continuous unless interrupted by  
 62 existing, naturally occurring vegetation. The department and the  
 63 sign owner may enter into an agreement identifying the specific  
 64 location of the view zone for each sign facing. In the absence  
 65 of such agreement, the established view zone shall be measured  
 66 from the sign along the edge of the pavement in the direction of  
 67 approaching traffic as provided in this subsection.

68 (c) If a sign owner alleges any governmental entity or  
 69 other party has violated this subsection, the sign owner must  
 70 provide 90 days' written notice to the governmental entity or  
 71 other party allegedly violating this subsection. If the alleged  
 72 violation is not cured by the governmental entity or other party  
 73 within the 90-day period, the sign owner may file a claim in the  
 74 circuit court where the sign is located. A copy of such  
 75 complaint shall be served contemporaneously upon the  
 76 governmental entity or other party. If the circuit court  
 77 determines a violation of this subsection has occurred, the  
 78 court shall award a claim for compensation equal to the lesser

79 | of the revenue from the sign lost during the time of screening  
 80 | or the fair market value of the sign, and the governmental  
 81 | entity or other party shall pay the award of compensation  
 82 | subject to available appeal. Any modification or removal of  
 83 | material within a beautification project or other planting by  
 84 | the governmental entity or other party to cure an alleged  
 85 | violation shall not require the issuance of a permit from the  
 86 | Department of Transportation provided not less than 48 hours'  
 87 | notice is provided to the department of the modification or  
 88 | removal of the material. A natural person, private corporation,  
 89 | or private partnership licensed under part II of chapter 481  
 90 | providing design services for beautification or other projects  
 91 | shall not be subject to a claim of compensation under this  
 92 | section when the initial project design meets the requirements  
 93 | of this section.

94 | (d) This subsection shall not apply to the provisions of  
 95 | any existing written agreement executed before July 1, 2006,  
 96 | between any local government and the owner of an outdoor  
 97 | advertising sign.

98 | Section 2. Section 479.25, Florida Statutes, is amended to  
 99 | read:

100 | 479.25 Erection of noise-attenuation barrier blocking view  
 101 | of sign; procedures; application of ~~chapter.--~~

102 | (1) The owner of a lawfully erected sign that is governed  
 103 | by and conforms to state and federal requirements for land use,  
 104 | size, height, and spacing may increase the height above ground  
 105 | level of such sign ~~This chapter does not prevent a governmental~~  
 106 | ~~entity from entering into an agreement allowing the height above~~

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107 ~~ground level of a lawfully erected sign to be increased~~ at its  
108 permitted location if a noise-attenuation barrier, ~~visibility~~  
109 ~~screen, or other highway improvement~~ is permitted by or erected  
110 by any governmental entity in such a way as to screen or block  
111 visibility of the sign. ~~However, if a nonconforming sign is~~  
112 ~~located on the federal-aid primary highway system, as such~~  
113 ~~system existed on June 1, 1991, or on any highway that was not a~~  
114 ~~part of such system as of that date but that is or becomes after~~  
115 ~~June 1, 1991, a part of the National Highway System, the~~  
116 ~~agreement must be approved by the Federal Highway~~  
117 ~~Administration.~~ Any increase in height permitted under this  
118 section may only be the increase in height which is required to  
119 achieve the same degree of visibility from the right-of-way  
120 which the sign had prior to the construction of the noise-  
121 attenuation barrier, notwithstanding the restrictions contained  
122 in s. 479.07(9)(b) ~~visibility screen, or other highway~~  
123 improvement. A sign reconstructed under this section shall  
124 comply with the building standards and wind load requirements  
125 set forth in the Florida Building Code. If construction of a  
126 proposed noise-attenuation barrier will screen a sign lawfully  
127 permitted under this chapter, the department shall provide  
128 notice to the local government or local jurisdiction within  
129 which the sign is located prior to erection of the noise-  
130 attenuation barrier. Upon a determination that an increase in  
131 the height of a sign as permitted under this section will  
132 violate a provision contained in an ordinance or land  
133 development regulation of the local government or local  
134 jurisdiction, the local government or local jurisdiction shall

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135 so notify the department. When notice has been received from the  
136 local government or local jurisdiction prior to erection of the  
137 noise-attenuation barrier, the department shall:

138 (a) Conduct a written survey of all property owners  
139 identified as impacted by highway noise and who may benefit from  
140 the proposed noise-attenuation barrier. The written survey shall  
141 inform the property owners of the location, date, and time of  
142 the public hearing described in paragraph (b) and shall  
143 specifically advise the impacted property owners that:

144 1. Erection of the noise-attenuation barrier may block the  
145 visibility of an existing outdoor advertising sign;

146 2. The local government or local jurisdiction may restrict  
147 or prohibit increasing the height of the existing outdoor  
148 advertising sign to make it visible over the barrier; and

149 3. If a majority of the impacted property owners vote for  
150 construction of the noise-attenuation barrier, the local  
151 government or local jurisdiction will be required to:

152 a. Allow an increase in the height of the sign in  
153 violation of a local ordinance or land development regulation;

154 b. Allow the sign to be relocated or reconstructed at  
155 another location if the sign owner agrees; or

156 c. Pay the fair market value of the sign and its  
157 associated interest in the real property.

158 (b) Hold a public hearing within the boundaries of the  
159 affected local governments or local jurisdictions to receive  
160 input on the proposed noise-attenuation barrier and its conflict  
161 with the local ordinance or land development regulation and to  
162 suggest or consider alternatives or modifications to the

163 proposed noise-attenuation barrier to alleviate or minimize the  
164 conflict with the local ordinance or land development regulation  
165 or minimize any costs that may be associated with relocating,  
166 reconstructing, or paying for the affected sign. The public  
167 hearing may be held concurrently with other public hearings  
168 scheduled for the project. The department shall provide a  
169 written notification to the local government or local  
170 jurisdiction of the date and time of the public hearing and  
171 shall provide general notice of the public hearing in accordance  
172 with the notice provisions of s. 335.02(1). The notice shall not  
173 be placed in that portion of a newspaper in which legal notices  
174 or classified advertisements appear. The notice shall  
175 specifically state that:

- 176 1. Erection of the proposed noise-attenuation barrier may  
177 block the visibility of an existing outdoor advertising sign;  
178 2. The local government or local jurisdiction may restrict  
179 or prohibit increasing the height of the existing outdoor  
180 advertising sign to make it visible over the barrier; and  
181 3. If a majority of the impacted property owners vote for  
182 construction of the noise-attenuation barrier, the local  
183 government or local jurisdiction will be required to:  
184 a. Allow an increase in the height of the sign in  
185 violation of a local ordinance or land development regulation;  
186 b. Allow the sign to be relocated or reconstructed at  
187 another location if the sign owner agrees; or  
188 c. Pay the fair market value of the sign and its  
189 associated interest in the real property.

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190       (2) The department shall not permit erection of the noise-  
191 attenuation barrier to the extent the barrier screens or blocks  
192 visibility of the sign until after the public hearing is held  
193 and until such time as the survey has been conducted and a  
194 majority of the impacted property owners have indicated approval  
195 to erect the noise-attenuation barrier. When the impacted  
196 property owners approve of the noise-attenuation barrier  
197 construction, the department shall notify the local governments  
198 or local jurisdictions. The local government or local  
199 jurisdiction shall, notwithstanding the provisions of a  
200 conflicting ordinance or land development regulation:

201       (a) Issue a permit by variance or otherwise for the  
202 reconstruction of a sign under this section;

203       (b) Allow the relocation of a sign, or construction of  
204 another sign, at an alternative location that is permissible  
205 under the provisions of this chapter, if the sign owner agrees  
206 to relocate the sign or construct another sign; or

207       (c) Refuse to issue the required permits for  
208 reconstruction of a sign under this section and pay fair market  
209 value of the sign and its associated interest in the real  
210 property to the owner of the sign.

211       (3) This section shall not apply to the provisions of any  
212 existing written agreement executed before July 1, 2006, between  
213 any local government and the owner of an outdoor advertising  
214 sign.

215       Section 3. This act shall not apply to any existing  
216 settlement agreement executed before the effective date of this



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217 | act between any local government and the owner of an outdoor  
218 | advertising sign.

219 | Section 4. This act shall take effect upon becoming a law.