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HB 273, Engrossed 1

2006 Legislature

1 A bill to be entitled
2 An act relating to outdoor advertising; amending s.
3 479.106, F.S.; revising provisions relating to the
4 proximity of vegetation and beautification projects to
5 outdoor advertising signs; prohibiting planting that will
6 block the signs; specifying distances that constitute a
7 view zone on interstate highways, expressways, federal-aid
8 primary highways, and the State Highway System for outdoor
9 advertising signs; authorizing the Department of
10 Transportation and owners of outdoor advertising signs to
11 enter into agreements identifying view zone locations;
12 providing for a claim of violation of view zone clearance
13 requirements; providing procedures; providing for award of
14 compensation; exempting certain curative measures from
15 department permit requirements; requiring notice to the
16 department; limiting liability of certain service
17 providers under certain circumstances; providing for
18 application to certain existing agreements; amending s.
19 479.25, F.S.; revising provisions for height increase of
20 certain outdoor advertising signs; authorizing the height
21 to be increased if visibility is blocked due to
22 installation of certain noise-attenuation barriers;
23 requiring sign reconstruction to meet certain requirements
24 of the Florida Building Code; requiring notice by the
25 department to the local government or jurisdiction;
26 providing for resolution when a sign height increase would
27 conflict with local ordinances or land development

ENROLLED

HB 273, Engrossed 1

2006 Legislature

28 regulations; providing for a survey of impacted property
 29 owners; providing for a public hearing; providing for
 30 application to certain existing agreements; providing an
 31 effective date.

32
 33 Be It Enacted by the Legislature of the State of Florida:

34
 35 Section 1. Subsection (6) of section 479.106, Florida
 36 Statutes, is amended to read:

37 479.106 Vegetation management.--

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

45 (a) View zones are established along the public rights-of-
 46 way of interstate highways, expressways, federal-aid primary
 47 highways, and the State Highway System in the state, excluding
 48 privately or other publicly owned property, as follows:

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

51 2. A view zone of 500 feet for posted speed limits of over
 52 35 miles per hour.

53 (b) The established view zone shall be within the first
 54 1,000 feet measured along the edge of the pavement in the

ENROLLED

HB 273, Engrossed 1

2006 Legislature

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

64 (c) If a sign owner alleges any governmental entity or
65 other party has violated this subsection, the sign owner must
66 provide 90 days' written notice to the governmental entity or
67 other party allegedly violating this subsection. If the alleged
68 violation is not cured by the governmental entity or other party
69 within the 90-day period, the sign owner may file a claim in the
70 circuit court where the sign is located. A copy of such
71 complaint shall be served contemporaneously upon the
72 governmental entity or other party. If the circuit court
73 determines a violation of this subsection has occurred, the
74 court shall award a claim for compensation equal to the lesser
75 of the revenue from the sign lost during the time of screening
76 or the fair market value of the sign, and the governmental
77 entity or other party shall pay the award of compensation
78 subject to available appeal. Any modification or removal of
79 material within a beautification project or other planting by
80 the governmental entity or other party to cure an alleged
81 violation shall not require the issuance of a permit from the

ENROLLED

HB 273, Engrossed 1

2006 Legislature

82 Department of Transportation provided not less than 48 hours'
 83 notice is provided to the department of the modification or
 84 removal of the material. A natural person, private corporation,
 85 or private partnership licensed under part II of chapter 481
 86 providing design services for beautification or other projects
 87 shall not be subject to a claim of compensation under this
 88 section when the initial project design meets the requirements
 89 of this section.

90 (d) This subsection shall not apply to the provisions of
 91 any existing written agreement executed before July 1, 2006,
 92 between any local government and the owner of an outdoor
 93 advertising sign.

94 Section 2. Section 479.25, Florida Statutes, is amended to
 95 read:

96 479.25 Erection of noise-attenuation barrier blocking view
 97 of sign; procedures; application of ~~chapter.~~--

98 (1) The owner of a lawfully erected sign that is governed
 99 by and conforms to state and federal requirements for land use,
 100 size, height, and spacing may increase the height above ground
 101 level of such sign ~~This chapter does not prevent a governmental~~
 102 ~~entity from entering into an agreement allowing the height above~~
 103 ~~ground level of a lawfully erected sign to be increased at its~~
 104 ~~permitted location if a noise-attenuation barrier, visibility~~
 105 ~~screen, or other highway improvement is~~ permitted by or erected
 106 by any governmental entity in such a way as to screen or block
 107 visibility of the sign. ~~However, if a nonconforming sign is~~
 108 ~~located on the federal aid primary highway system, as such~~

ENROLLED

HB 273, Engrossed 1

2006 Legislature

109 ~~system existed on June 1, 1991, or on any highway that was not a~~
 110 ~~part of such system as of that date but that is or becomes after~~
 111 ~~June 1, 1991, a part of the National Highway System, the~~
 112 ~~agreement must be approved by the Federal Highway~~
 113 ~~Administration.~~ Any increase in height permitted under this
 114 section may only be the increase in height which is required to
 115 achieve the same degree of visibility from the right-of-way
 116 which the sign had prior to the construction of the noise-
 117 attenuation barrier, notwithstanding the restrictions contained
 118 in s. 479.07(9)(b) visibility screen, or other highway
 119 improvement. A sign reconstructed under this section shall
 120 comply with the building standards and wind load requirements
 121 set forth in the Florida Building Code. If construction of a
 122 proposed noise-attenuation barrier will screen a sign lawfully
 123 permitted under this chapter, the department shall provide
 124 notice to the local government or local jurisdiction within
 125 which the sign is located prior to erection of the noise-
 126 attenuation barrier. Upon a determination that an increase in
 127 the height of a sign as permitted under this section will
 128 violate a provision contained in an ordinance or land
 129 development regulation of the local government or local
 130 jurisdiction, the local government or local jurisdiction shall
 131 so notify the department. When notice has been received from the
 132 local government or local jurisdiction prior to erection of the
 133 noise-attenuation barrier, the department shall:
 134 (a) Conduct a written survey of all property owners
 135 identified as impacted by highway noise and who may benefit from

ENROLLED

HB 273, Engrossed 1

2006 Legislature

136 the proposed noise-attenuation barrier. The written survey shall
137 inform the property owners of the location, date, and time of
138 the public hearing described in paragraph (b) and shall
139 specifically advise the impacted property owners that:

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

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

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

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

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

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

154 (b) Hold a public hearing within the boundaries of the
155 affected local governments or local jurisdictions to receive
156 input on the proposed noise-attenuation barrier and its conflict
157 with the local ordinance or land development regulation and to
158 suggest or consider alternatives or modifications to the
159 proposed noise-attenuation barrier to alleviate or minimize the
160 conflict with the local ordinance or land development regulation
161 or minimize any costs that may be associated with relocating,
162 reconstructing, or paying for the affected sign. The public

ENROLLED

HB 273, Engrossed 1

2006 Legislature

163 hearing may be held concurrently with other public hearings
164 scheduled for the project. The department shall provide a
165 written notification to the local government or local
166 jurisdiction of the date and time of the public hearing and
167 shall provide general notice of the public hearing in accordance
168 with the notice provisions of s. 335.02(1). The notice shall not
169 be placed in that portion of a newspaper in which legal notices
170 or classified advertisements appear. The notice shall
171 specifically state that:

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

186 (2) The department shall not permit erection of the noise-
187 attenuation barrier to the extent the barrier screens or blocks
188 visibility of the sign until after the public hearing is held
189 and until such time as the survey has been conducted and a

ENROLLED

HB 273, Engrossed 1

2006 Legislature

190 majority of the impacted property owners have indicated approval
191 to erect the noise-attenuation barrier. When the impacted
192 property owners approve of the noise-attenuation barrier
193 construction, the department shall notify the local governments
194 or local jurisdictions. The local government or local
195 jurisdiction shall, notwithstanding the provisions of a
196 conflicting ordinance or land development regulation:

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

199 (b) Allow the relocation of a sign, or construction of
200 another sign, at an alternative location that is permissible
201 under the provisions of this chapter, if the sign owner agrees
202 to relocate the sign or construct another sign; or

203 (c) Refuse to issue the required permits for
204 reconstruction of a sign under this section and pay fair market
205 value of the sign and its associated interest in the real
206 property to the owner of the sign.

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

211 Section 3. This act shall not apply to any existing
212 settlement agreement executed before the effective date of this
213 act between any local government and the owner of an outdoor
214 advertising sign.

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