

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Transportation Committee

BILL: SB 566

INTRODUCER: Senator Haridopolis

SUBJECT: Outdoor Advertising

DATE: January 17, 2006

REVISED: 2/8/06

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Eichin	Meyer	TR	Fav/2 amendments
2.			CA	
3.			JU	
4.				
5.				
6.				

Please see last section for Summary of Amendments

- Technical amendments were recommended
- Amendments were recommended
- Significant amendments were recommended

I. Summary:

This bill establishes law concerning “viewing zones” for lawfully permitted outdoor advertising signs along the State Highway System and expressways. The bill requires a governmental entity or other party violating the established view zone provisions to pay the sign owner a penalty equal to the lesser of the sign’s fair market value or the lost revenue during the time the sign’s viewing area was blocked.

Additionally, the bill allows the owner of a lawfully erected sign governed by and conforming to state and federal standards to increase the sign’s height if a noise wall is erected or permitted by a governmental entity to block or screen the sign. It also specifies a sign reconstructed for this purpose, must comply with the Florida Building Code’s construction standards and wind load requirements. This bill also requires local governments to either issue permits, if necessary, to reconstruct these signs despite any contrary local ordinance or land development regulation, or to pay just compensation to the sign’s owner.

This bill substantially amends sections 479.106 and 479.25 of the Florida Statutes.

II. Present Situation:

Florida has an estimated 20,674 permitted outdoor advertising signs on 13,659 structures. About 4,647 are considered by the Florida Department of Transportation (FDOT) as lawful, non-conforming signs, meaning they were in compliance with federal, state, and, if applicable, local regulations when they were erected, but are not in compliance with current regulations.

Chapter 479, F.S., governs billboards and other outdoor advertising signs. Advertising companies and other owners of outdoor signs must obtain and renew a license from FDOT. The fee for such license, and for each annual renewal, is \$300.¹ The FDOT is responsible for administering and enforcing the provisions of chapter 479 and the agreement between the state and the United States Department of Transportation relating to the size, lighting, and spacing of signs in accordance with Title I of the Highway Beautification Act of 1965 and Title 23 of the United States Code and federal regulations.² This chapter also specifies FDOT's duties and authority as they relate to permitting, removing, and otherwise regulating outdoor advertising signs along the interstate highway system and the federal-aid primary highway system, which includes state roads.³ The chapter also addresses ways to accommodate sign owners of non-conforming signs, which are effected by highway beautification projects, such as planting of vegetation, and highway widening or other improvements.⁴ This chapter also specifies beautification projects shall not be located in an area, which will screen from view legally erected and permitted outdoor advertising signs, which have been permitted prior to the date of the beautification project.⁵

Since federal dollars are used to build and maintain these federal and state roads in Florida, FDOT must adhere to federal laws and regulations concerning nonconforming outdoor advertising signs. Title I of the Highway Beautification Act of 1965 and 23 U.S.C. 750.707 sets the following guidelines for nonconforming outdoor advertising signs:

- To be able to remain, nonconforming signs must remain substantially the same as they were on the effective date of the state law or regulations that made them nonconforming.
- Reasonable repair and maintenance of the sign, including a change of advertising message, is allowable.
- Nonconforming signs may continue as long as they are not destroyed, abandoned, or discontinued. States may pass laws for exceptions to be made for nonconforming signs destroyed due to vandalism and other criminal or tortious acts.
- Each state must develop its own criteria to determine when customary maintenance ceases and a substantial change has occurred which would terminate nonconforming rights. When nonconforming rights are terminated under state law, the sign must be removed as an illegal sign without compensation.
- However, lawfully erected signs, even if they are now nonconforming, cannot be removed by a state without payment of just compensation.⁶

¹ Section 479.04, F.S.

² Section 479.02(1), F.S.

³ Sections 479.015, F.S., 479.07, F.S., 479.107, F.S., and 479.111, F.S.

⁴ Section 479.27 (3) (b), F.S.

⁵ Section 479.106 (6), F.S.

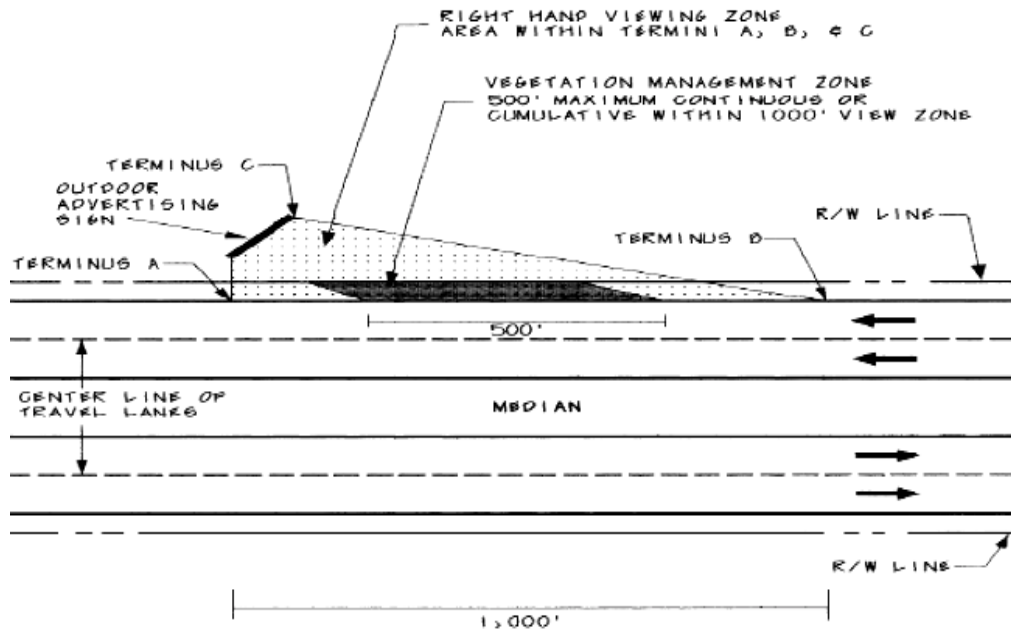
⁶ See http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/cfr_2003/aprqrtr/pdf/23cfr750.707.pdf

Section 479.25, F.S., clarifies nothing within chapter 479 prevents FDOT or other governmental entities from entering into an agreement with a sign owner to increase the height of a lawfully erected sign at its permitted location if a noise-attenuation barrier, visibility screen, or other highway improvement is erected in such a way as to screen or block the sign’s visibility. Under such agreements, the affected sign’s height can be increased only as much as is necessary to achieve the same degree of visibility from the road as it had previously. If the affected sign is non-conforming and it is located along a federal-aid primary highway system the FHWA must approve the agreement.⁷

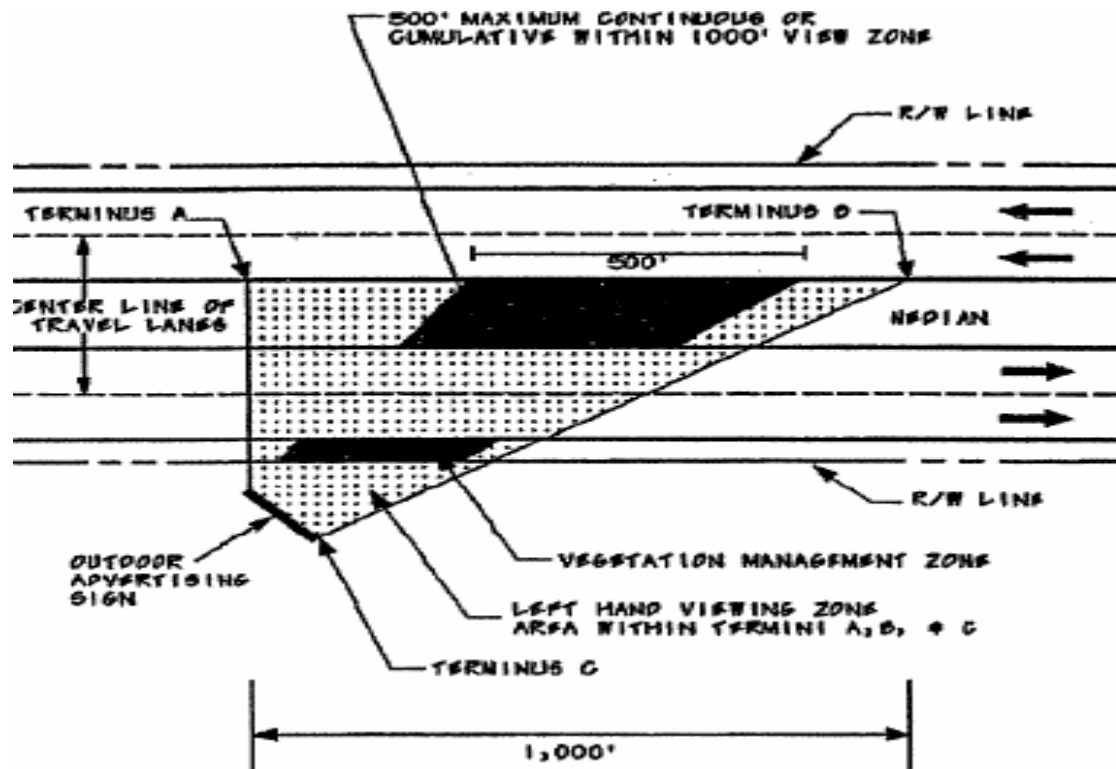
III. Effect of Proposed Changes:

Section 1. Amends s. 479.106, F.S., in the following ways:

- Codifies the FDOT policies concerning “viewing zones” of lawfully permitted outdoor advertising signs for the State Highway System and expressways. This section establishes in statute the measurements of a view zone: any 500 continuous linear feet within the first 1,000 feet as measured along the edge of the pavement in the direction of approaching traffic from a point on the edge of the pavement perpendicular to the sign’s edge facing the highway. The following illustrations taken from existing agency rule (Ch. 14-40.030, F.A.C.) depict the view zone for signs on either side of a roadway.



⁷ Section 479.25, F.S.



Additional requirements for outdoor advertising signs and highway beautification can be found in chapters 14-10 and 14-40, respectively, of the Florida Administrative Code.⁸

- Specifies an outdoor advertising sign's view zone shall be a continuous 500 feet unless interrupted by naturally occurring vegetation.
- Allows FDOT and sign owners to enter into agreements identifying the specific location of a outdoor advertising sign's view zone, and if no agreement is reached, then the view zone is the first continuous 500 linear feet as measured from the sign.
- Specifically prohibits trees and other vegetation, which are part of a "beautification project" or other planting from being planted in an outdoor advertising sign's view zone.
- Requires any governmental entity or other party violating the view zone provisions to pay the sign owner a penalty equal to the lesser of lost revenue resulting from the sign being blocked or the sign's fair market value.

Section 2. Amends s. 479.25, F.S., in the following ways:

- Provides the owners of a lawfully erected outdoor advertising sign which conforms to state and federal requirements for land-use, size, height, and spacing, may increase the sign's height at its permitted location if a noise wall permitted or erected by a governmental entity blocks visibility of the sign.
- Existing references to visibility screen or other highway improvement are deleted.
- Deletes references to FHWA approval before raising the height of a non-conforming billboard along a federal aid primary highway.

⁸ See <http://fac.dos.state.fl.us/faconline/chapter14.pdf>

- Specifies an outdoor advertising sign reconstructed under this section of law must comply with the Florida Building Code's construction standards and wind load requirements.
- Requires local governments to issue permits, if necessary, to reconstruct a sign pursuant to this section of law. Local governments which refuse to issue such permits shall pay just compensation to the sign's owner.

Section 3. Provides the bill becomes effective upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Local governments are required to issue permits to allow signs to be reconstructed at a higher height when obscured by highway noise walls despite any provision to the contrary in local ordinance, or if they refuse to issue such permits, the local government must pay just compensation to the sign's owner.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Any party violating the proposed view zone provisions in s. 479.106, F.S., by planting trees or other vegetation would be required to pay the sign owner a penalty equal to the lesser of the lost revenue from the screened or blocked billboard or the fair market value of the sign. Plantings on private property by private property owners may result in costs to the private property owners.

C. Government Sector Impact:

If the FDOT or a local governmental entity violates the proposed view zone provisions in s. 479.106, F.S., the FDOT or local government would be required to pay the sign owner a penalty equal to the lesser of the lost revenue from the screened or blocked billboard or the fair market value of the sign. The bill codifies view zone requirements in existing agency rule (Ch. 14-40.030, F.A.C.), so it is unlikely FDOT would bear any fiscal impact. Additionally, a local governmental entity which refuses to permit reconstruction of a conforming billboard to raise its height above a noise wall would be required to pay the sign owner just compensation.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

VIII. Summary of Amendments:

Barcode 694498 by Transportation: The amendment provides for a written notice to governmental entities or other parties who violate the provisions of the bill and allows a 90 day period to effect a cure before penalties would be assessed. The amendment also holds landscape architects harmless from penalty for designs initially meeting the provisions of the bill. (with title amendment)

Barcode 210518 by Transportation: The amendment deletes “and other parties” from the bill’s provisions, thereby limiting the assessment of penalties for violating the provisions of the subsection to governmental entities only. (with title amendment)

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