

By the Committees on Judiciary; Community Affairs; and
Senators Haridopolos, Crist and King

590-1901-06

1 A bill to be entitled
2 An act relating to outdoor advertising;
3 amending s. 479.106, F.S.; revising provisions
4 relating to the proximity of vegetation and
5 beautification projects to outdoor advertising
6 signs; specifying distances that constitute a
7 view zone on interstates, expressways,
8 federal-aid primary highways, and the State
9 Highway System for outdoor advertising signs;
10 authorizing the Department of Transportation
11 and owners of outdoor advertising signs to
12 enter into agreements identifying view zone
13 locations; providing for notice and a period
14 for curing violations; providing for a sign
15 owner to file a claim for compensation in
16 circuit court; providing an exemption from
17 certain Department of Transportation permit
18 requirements; providing immunity from legal
19 liability for entities that provide design
20 services; providing for applicability; amending
21 s. 479.25, F.S.; allowing permitted,
22 conforming, lawfully erected outdoor
23 advertising signs to be increased in height if
24 visibility is blocked due to construction of
25 specified noise-attenuation barriers; requiring
26 that sign reconstruction meet the requirements
27 of the Florida Building Code; requiring the
28 Department of Transportation to notify a
29 governmental entity before erecting a
30 noise-attenuation barrier if its construction
31 will screen a lawfully permitted sign;

1 requiring a governmental entity to notify the
2 department if increasing the height of a sign
3 will violate an ordinance or land development
4 regulation of the governmental entity;
5 requiring the department to conduct a survey
6 and to conduct a public hearing; providing
7 procedures and notice; prohibiting department
8 to erect a noise-attenuation barrier to the
9 extent that the barrier screens or blocks
10 visibility of the sign until after the public
11 hearing and survey are completed; requiring the
12 governmental entity to issue a variance for the
13 reconstruction of a sign, allow the relocation
14 of a sign to an alternative location, or refuse
15 to issue the required permits for
16 reconstruction and pay fair market value of the
17 sign and its associated interest in the real
18 property to the owner of the sign; providing
19 for applicability; providing an effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Subsection (6) of section 479.106, Florida
24 Statutes, is amended to read:

25 479.106 Vegetation management.--

26 (6) Beautification projects, trees, or other
27 vegetation shall not be planted or located in the view zone of
28 ~~an area which will screen from view~~ legally erected and
29 permitted outdoor advertising signs that ~~which~~ have been
30 permitted prior to the date of the beautification project or
31 other planting, where such planting will, at the time of

1 planting or after future growth, screen such sign from view.
2 View zones are established along the public rights-of-way of
3 interstates, expressways, federal-aid primary highways, and
4 the State Highway System in the state, excluding privately or
5 other publicly owned property, as follows: a view zone of 350
6 linear feet for posted speed limits of 35 m.p.h. or less; and
7 a view zone of 500 linear feet for posted speed limits of over
8 35 m.p.h. The established view zone shall be within the first
9 1,000 feet measured along the edge of the pavement in the
10 direction of approaching traffic from a point on the edge of
11 the pavement perpendicular to the edge of the sign facing
12 nearest the highway and shall be continuous unless interrupted
13 by existing naturally occurring vegetation. The department and
14 the sign owner may enter into an agreement identifying the
15 specific location of the view zone for each sign facing. In
16 the absence of such agreement, the established view zone shall
17 be measured from the sign along the edge of the pavement in
18 the direction of approaching traffic as provided in this
19 section. If a sign owner alleges a governmental entity or
20 other party has violated this subsection, the sign owner must
21 give the governmental entity or other party allegedly
22 violating this subsection written notice of the alleged
23 violation. If the alleged violation is not cured by the
24 governmental entity or other party within 90 days after
25 receiving the written notice, the sign owner may file a claim
26 in the circuit court in the county where the sign is located.
27 A copy of the complaint must be served contemporaneously upon
28 the governmental entity or other party. If the circuit court
29 finds that the governmental entity or other party has violated
30 this subsection, the court shall award a claim for
31 compensation equal to the lesser of the revenue from the sign

1 lost during the time of screening or the fair market value of
2 the sign. The governmental entity or other party shall pay the
3 award of compensation subject to available appeal. Any
4 modifications or removal of material within a beautification
5 project or other planting by the governmental entity or other
6 party to cure an alleged violation does not require the
7 issuance of a permit from the Department of Transportation if
8 not less than 48 hours' notice of the modification or removal
9 of the material is provided to the department. A natural
10 person, private corporation, or private partnership licensed
11 under part II of chapter 481 which provides design services
12 for beautification or other projects is not subject to a claim
13 for compensation under this subsection if the initial project
14 design meets the requirements of this subsection. This
15 subsection does not apply to any existing written agreement
16 executed between a local government and the owner of an
17 outdoor advertising sign before July 1, 2006.

18 Section 2. Section 479.25, Florida Statutes, is
19 amended to read:

20 479.25 Application of chapter.--

21 (1) The owner of a lawfully erected sign that is
22 governed by and conforms to state and federal requirements for
23 land use, size, height, and spacing may increase the height
24 above ground level of such sign ~~This chapter does not prevent~~
25 ~~a governmental entity from entering into an agreement allowing~~
26 ~~the height above ground level of a lawfully erected sign to be~~
27 ~~increased~~ at its permitted location if a noise-attenuation
28 barrier, ~~visibility screen, or other highway improvement is~~
29 permitted by or erected by any governmental entity in such a
30 way as to screen or block visibility of the sign. ~~However, if~~
31 ~~a nonconforming sign is located on the federal aid primary~~

1 ~~highway system, as such system existed on June 1, 1991, or on~~
2 ~~any highway that was not a part of such system as of that date~~
3 ~~but that is or becomes after June 1, 1991, a part of the~~
4 ~~National Highway System, the agreement must be approved by the~~
5 ~~Federal Highway Administration.~~ Any increase in height
6 permitted under this section may only be the increase in
7 height which is required to achieve the same degree of
8 visibility from the right-of-way which the sign had prior to
9 the construction of the noise-attenuation barrier,
10 notwithstanding the restrictions contained in s. 479.07(9)(b).
11 A sign reconstructed under this section shall comply with the
12 building standards and wind load requirements set forth in the
13 Florida Building Code.

14 (2) If construction of a proposed noise-attenuation
15 barrier will screen a sign lawfully permitted under this
16 chapter, the department must give notice to the governmental
17 entity within which the sign is located before erecting the
18 noise-attenuation barrier. If the governmental entity finds
19 that an increase in the height of a sign as permitted under
20 this section will violate an ordinance or land development
21 regulation of the governmental entity, the governmental entity
22 must so notify the department. If the department receives
23 notice of a possible violation of an ordinance or land
24 development regulation from the governmental entity before the
25 noise-attenuation barrier is erected, the department shall:

26 (a) Conduct a written survey of all property owners
27 identified as impacted by the highway noise and who may
28 benefit from the proposed noise-attenuation barrier. The
29 survey must specifically advise the impacted property owners
30 that:
31

1 1. Erecting the noise-attenuation barrier may block
2 the visibility of an existing outdoor advertising sign;

3 2. By increasing the height of the existing outdoor
4 advertising sign in order to make it visible over the barrier,
5 the increased height will violate an ordinance or land
6 development regulation of the governmental entity; and

7 3. If a majority of the impacted property owners vote
8 for construction of the noise-attenuation barrier, the
9 governmental entity must allow an increase in the height of
10 the sign in violation of an ordinance or land development
11 regulation, allow the sign to be relocated or reconstructed at
12 another location if the sign owner agrees, or pay the fair
13 market value of the sign and its associated interest in the
14 real property.

15
16 The written survey must inform the property owners of the
17 location, date, and time of the public hearing set forth in
18 paragraph (b).

19 (b) Hold a public hearing within the boundaries of the
20 affected governmental entity to receive comments on the
21 proposed noise-attenuation barrier, the conflict with the
22 local ordinance or land development regulation, and any
23 suggested alternatives or modifications to the proposed
24 noise-attenuation barrier that would alleviate or minimize the
25 conflict with the local ordinance or land development
26 regulation or minimize any costs which may be associated with
27 relocating, reconstructing, or paying for the affected sign.
28 The public hearing may be held concurrent with other public
29 hearings scheduled for the project. The department shall
30 provide written notification to the governmental entity of the
31 date and time of the public hearing and shall provide general

1 notice of the public hearing in accordance with the notice
2 provisions of s. 335.02(1). Notice may not be placed in that
3 portion of the newspaper where legal notices and classified
4 advertisements appear. The notice shall specifically state
5 that:

6 1. Erecting the proposed noise-attenuation barrier may
7 block the visibility of an existing outdoor advertising sign;

8 2. By increasing the height of the existing outdoor
9 advertising sign in order to make it visible over the barrier,
10 the increased height will violate an ordinance or land
11 development regulation of the governmental entity; and

12 3. If a majority of the impacted property owners vote
13 for construction of the noise-attenuation barrier, the
14 governmental entity must allow an increase in the height of
15 the sign in violation of a local ordinance or land development
16 regulation, allow the sign to be relocated or reconstructed at
17 another location if the sign owner agrees, or pay the fair
18 market value of the sign and its associated interest in the
19 real property.

20 (3) The department may not erect a noise-attenuation
21 barrier to the extent the barrier screens or blocks visibility
22 of the sign until after the public hearing is held and until
23 such time as the survey has been conducted and a majority of
24 the impacted property owners have indicated approval to erect
25 the noise-attenuation barrier. If the impacted property owners
26 approve constructing a noise-attenuation barrier the
27 department shall notify the governmental entity.

28 Notwithstanding any conflicting ordinance or land development
29 regulation, the governmental entity shall issue a permit by
30 variance or otherwise for the reconstruction of a sign under
31 this section, allow the relocation of a sign, or construction

1 of another sign, at an alternative location which is
2 permissible under the provisions of this chapter if the sign
3 owner agrees to relocate the sign or construct another sign,
4 or refuse to issue the required permits for reconstruction of
5 a sign under this section and pay fair market value of the
6 sign and its associated interest in the real property to the
7 owner of the sign.

8 (4) This section does not apply to any existing
9 written agreement executed before July 1, 2006 between any
10 governmental entity and the owner of an outdoor advertising
11 sign ~~visibility screen, or other highway improvement.~~

12 Section 3. This act shall take effect upon becoming a
13 law.

1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 CS for Senate Bill 566

4 The committee substitute makes the following changes to the
5 underlying committee substitute:

- 6 -- Adds publicly owned property to language creating
7 exclusions from view zones established along public
8 rights-of-way;
- 9 -- Clarifies procedures associated with notice and claims
10 for compensation for obstruction of view zones;
- 11 -- Provides exception to applicability of the revisions
12 contained in the bill for existing written settlement
13 agreements;
- 14 -- Revises language relating to noise-attenuation barriers
15 to reflect current practices of the Department of
16 Transportation to protect federal funding of roadway
17 projects; and
- 18 -- Makes conforming changes throughout the bill. committee
19 substitute:
- 20 -- Adds publicly owned property to language creating
21 exclusions from view zones established along public
22 rights-of-way;
- 23 -- Clarifies procedures associated with notice and claims
24 for compensation for obstruction of view zones;
- 25 -- Provides exception to applicability of the revisions
26 contained in the bill for existing written settlement
27 agreements;
- 28 -- Revises language relating to noise-attenuation barriers
29 to reflect current practices of the Department of
30 Transportation to protect federal funding of roadway
31 projects; and
- Makes conforming changes throughout the bill.