

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Transportation Committee

BILL: SB 1570

INTRODUCER: Senator Evers

SUBJECT: Billboard Regulation

DATE: March 14, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Eichin	Spalla	TR	Pre-meeting
2.	_____	_____	CM	_____
3.	_____	_____	CA	_____
4.	_____	_____	BC	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Senate Bill 1570 revises the definitions of “Commercial or industrial zone” and “Unzoned commercial or industrial area” as they apply to the permissible location of outdoor advertising.

This bill substantially amends the following section of the Florida Statutes: 479.01

II. Present Situation:

Control of Outdoor Advertising

Since the passage of the Highway Beautification Act (HBA) in 1965, the Federal Highway Administration (FHWA) has established controls for outdoor advertising along Federal-Aid Primary, Interstate and National Highway System (NHS) roads. The HBA allows the location of billboards in commercial and industrial areas, mandates a state compliance program, requires the development of state standards, promotes the expeditious removal of illegal signs, and requires just compensation for takings.

The HBA mandates state compliance and the development of standards for certain signs as well as the removal of nonconforming signs. Expeditious removal of illegal signs is required by federal regulations. While the states are not forced directly to control signs, failure to impose the required controls can result in a substantial penalty. The penalty for noncompliance with the HBA is a 10 percent reduction of the state's annual federal-aid highway apportionment.

The primary features of the Highway Beautification Act include:

- Billboards are allowed, by statute, in commercial and industrial areas consistent with size, lighting and spacing provisions as agreed to by the state and federal governments. Billboard controls apply to all Interstates, Federal-Aid Primaries, and other highways that are part of the NHS. The FAP routes were highways noted by state DOTs to be of significant service value and importance.
- States have the discretion to remove legal nonconforming signs along highways. However, the payment of just (monetary) compensation is required for the removal of any lawfully erected billboard along the Federal-Aid Primary, Interstate and National Highway System roads.
- States and localities may enact stricter laws than stipulated in the HBA.
- No new signs can be erected along the scenic portions of state designated scenic byways of the Interstate and federal-aid primary highways, but billboards are allowed in segmented areas deemed un-scenic on those routes.

Under the provisions of a 1972 federal-state agreement incorporating the HBA, the FDOT requires commercial signs to meet certain requirements when they are within 660 feet of interstate and federal-aid primary highways in urban areas, or visible at any distance from the same roadways when outside of urban areas.

Commercial and Industrial Areas

Florida's outdoor advertising laws are based on federal law and regulations, and are found in ch. 479, F.S., which with the agreement between the State of Florida and the U.S. Department of Transportation, allow outdoor advertising signs to be located in commercial or industrial areas. Section 479.01(4), F.S., defines "commercial or industrial zone" as a parcel of land designated for commercial or industrial use under both the Future Land Use Map (FLUM) of the local comprehensive plan and the land development regulations adopted pursuant to Chapter 163, F.S. This allows FDOT to consider both land development regulations and future land use maps in determining commercial and industrial land use areas.

Unzoned Commercial and Industrial Areas

If a parcel is located in an area designated for multiple uses on the FLUM, and the land development regulations do not clearly designate the parcel for a specific use, the area will be considered an unzoned commercial or industrial area and outdoor advertising signs may be permitted there provided three or more separate commercial or industrial activities take place. However, the following criteria must be met:

- One of the commercial or industrial activities must be located within 800 feet of the sign and on the same side of the highway,
- The commercial or industrial activity must be within 660 feet of the right-of-way, and
- The commercial or industrial activity must be within 1600 feet of each other.

Regardless of whether the criteria above are met, the following activities are specifically excluded from being recognized as commercial or industrial activities and therefore cannot be considered in determining whether a parcel is an unzoned commercial or industrial area:

- Signs
- Agriculture, forestry, ranching, grazing, and farming
- Transient or temporary activities
- Activities not visible from the traveled way
- Activities taking place more than 660 feet from the right of way
- Activities in a building principally used as a residence
- Railroad tracks and sidings
- Communication Towers

III. Effect of Proposed Changes:

The bill amends s. 479.01(4), F.S., regarding the definition of “Commercial or industrial zone.” The revision clarifies the definition, providing for the legal location of outdoor advertising on parcels of land that are designated *predominantly* for commercial or industrial use.

The bill amends s. 479.01(26), F.S., regarding the definition of “Unzoned commercial or industrial zone.” The revision broadens the application of the term to include an *area* of land, rather than a *parcel* of land in which multiple commercial or industrial activities take place but for which the land development regulations do not specify.

The subsection is further amended to limit the number of criteria by which the determination of whether an area may be considered an “Unzoned commercial or industrial zone.”

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Owners of certain parcels of land affected by the definitional revisions may benefit from the expansion of allowed land uses to include the installation of outdoor advertising.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

Line 29: By inserting the word “only”, the bill introduces the question of how many criteria must be met in order for a parcel of land to be considered an “unzoned commercial or industrial area.” Although, the insertion seemingly applies only to the three criteria in paragraph (a), it may construe an implied voiding of the activities listed in (b) which under current law, may not be recognized as commercial or industrial activities.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.