

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/CS/HB 1299 Transportation

**SPONSOR(S):** Economic Affairs Committee; Transportation & Economic Development Appropriations Subcommittee; Transportation & Highway Safety Subcommittee; Goodson

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1632

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee	13 Y, 1 N, As CS	Johnson	Miller
2) Transportation & Economic Development Appropriations Subcommittee	13 Y, 0 N, As CS	Davis	Davis
3) Economic Affairs Committee	17 Y, 0 N, As CS	Johnson	Creamer

### SUMMARY ANALYSIS

The bill contains a rewrite of ch. 479, F.S., which is the primary statute related to outdoor advertising. Specifically, the bill:

- Revises various definitions.
- Clarifies DOT's duties as they relate to outdoor advertising.
- Clarifies that outdoor advertising signs may only be permitted on parcels of land that are in commercial or industrial zones; and creates a process for resolving compliance issues.
- Revises DOT's authority to enter private land to remove illegal signs.
- Clarifies that a license is not required of a business that solely constructs signs.
- Clarifies disciplinary action for delinquent accounts, and effects of license suspension.
- Clarifies permit requirements to insure compliance with federal regulation.
- Increases the maximum fee for multiple transfers of permits in a single transaction.
- Clarifies that DOT may deny or revoke any permit requested or granted if the application contains false or misleading information.
- Clarifies DOT's authority to remove signs with cancelled permits in addition to those with revoked permits.
- Clarifies that notification and permitting processes for signs in violation of permit requirements.
- Clarifies the vegetation management permit process.
- Removes the fine of \$75 against an owner who has been assessed the costs of removing a sign.
- Allows permitted signs to be relocated rather than acquired when the relocation results from a transportation project.
- Allows for the clarification and expansion of commerce and local control exemptions unless DOT is notified by the federal government that the exemptions will adversely affect federal funds, and provides for the removal of the signs if the signs are not allowed.
- Clarifies compensation for signs acquired by DOT includes both conforming and nonconforming signs.
- Clarifies the process for allowing sign heights to be increased when constructing sound walls.
- Allows the logo sign program on all limited access roads.
- Ensures DOT's authority to remove cancelled signs.
- Repeals a 2012 provision allowing DOT to request permission from the Federal Government for a tourist-oriented sign program.

The bill appears to have an indeterminate, likely positive fiscal impact on state revenues related to various outdoor advertising permits.

The bill has an effective date of July 1, 2013.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

The bill is a comprehensive bill related to outdoor advertising. For ease of understanding, this analysis is arranged by topic.

#### **Current Situation**

Since the passage of the Highway Beautification Act (HBA) in 1965,<sup>1</sup> 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 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 National Highway System.
- States have the discretion to remove legal nonconforming signs<sup>2</sup> 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.

The HBA mandates state compliance and the development of standards for certain signs as well as the removal of nonconforming signs. While the states are not directly forced to control signs, failure to impose the required controls can result in a substantial penalty.

Under the provisions of a 1972 agreement<sup>3</sup> between the State of Florida and the U.S. Department of Transportation (USDOT) incorporating the HBA's required controls, DOT 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. The agreement embodies the federally-required "effective control of the erection and maintenance of outdoor advertising signs, displays, and devices."

DOT has conducted a review of ch. 479, F.S., the primary statute for the Outdoor Advertising Regulatory program, and has proposed comprehensive revisions to the chapter. This chapter has undergone a number of "minor fixes" over the years. This rewrite allows for better continuity and clearer understanding of the provisions of law, which is critical to DOT because the 1972 Agreement provides that failure by the State to maintain control shall result in reduced amounts equal to 10 percent of federal funds apportioned to the State until the State provides for effective control. The 10 percent correlates today to approximately \$160 million annually.

#### **Proposed Changes**

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<sup>1</sup> 23 U.S.C. 131

<sup>2</sup> A "legal nonconforming sign" is a sign that was legally erected according to the applicable laws or regulations of the time, but which does not meet current laws or regulations.

<sup>3</sup> A copy of the 1972 agreement is available at <http://www.dot.state.fl.us/rightofway/Documents.shtm> (Last visited January 24, 2013).

## Definitions

The bill amends the definition of “business of outdoor advertising” to remove the terms constructing, erecting, and using.

The bill revises the definition of “federal-aid primary highway system” to mean the federal–aid primary highway system in existence on June 1, 1991, and any highway that was not a part of such system as of that date but that is or becomes after June 1, 1991, a part of the National Highway System but are unbuilt or unopened. This is identical to a definition for “federal-aid primary highway system” that was previously in s. 479.15, F.S.

The bill revises the definition of “remove” to mean to disassemble all sign materials above ground level and transport them from the site.

The bill amends the definition of “sign face” to include an automatic changeable face.<sup>4</sup>

The bill revises the definition of “state highway system” to provide that it has the same meaning as defined in s. 334.03, F.S.<sup>5</sup>

The bill deletes the definition of “commercial or industrial zone and “unzoned commercial or industrial area” due to the creation of s. 479.025, F.S., relating to commercial and industrial parcels.

## Duties of the Department

The bill amends s. 479.02, F.S., clarifying that DOT’s duties as they relate to outdoor advertising. Specifically, the bill gives DOT authority over nonconforming signs, clarifies use of the term “commercial or industrial area,” and expands the use of an information panel program from only interstates to all limited access highways, which expands commerce opportunities.

The bill updates language relating to sign inventory including removing the requirement that DOT adopt rules regarding what information is to be collected and preserved to implement the purposes of ch. 479, F.S.

## Commercial and Industrial Parcels

The bill creates s. 479.024, F.S., relating to commercial and industrial parcels. It provides that signs shall only be permitted by DOT in commercial or industrial zones, as determined by the local government, in conformance with ch. 163, F.S.<sup>6</sup> unless otherwise provided by ch. 479, F.S. The term “parcel” means the property where the sign is located or is proposed to be located.

The determination as to zoning by the local government for the parcel must meet the following factors:

- The parcel is comprehensively zoned and includes commercial or industrial use as allowable uses.
- The parcel can reasonably accommodate a commercial or industrial use under the future land use map of the comprehensive plan and land use development regulations as follows:
  - Sufficient utilities are available to support commercial development. For purposes of this section “utilities” includes all privately, publically, or cooperatively owned lines, facilities, and systems for producing, transmitting or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste and storm water not connected with highway drainage, and other similar commodities.
  - The size and configuration, and public access of the parcel is sufficient to accommodate a commercial or industrial use given requirements in the comprehensive plan and land development regulations for vehicular access, on-site circulation, building setbacks,

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<sup>4</sup> Section 479.01(2), F.S., defines “automatic changeable facing” as “a facing that is capable of delivering two or more advertising messages through an automated or remotely controlled process.

<sup>5</sup> Section 334.03(24), F.S., defines “state highway system” as “the interstate system and all other roads within the state which were under the jurisdiction of the state on June 10, 1995, and roads constructed by an agency of the state for the State Highway System, plus roads transferred to the state’s jurisdiction after that date by mutual consent with another governmental entity, but not including roads so transferred from the state’s jurisdiction. These facilities shall be facilities to which access is regulated.”

<sup>6</sup> Chapter 163, F.S., relates to intergovernmental programs.

buffering, parking, and other applicable standards, or the parcel consists of railroad tracks or minor siding abutting commercial or industrial property that meets the factors of this subsection.

- The parcel is not being used exclusively for non-commercial or non-industrial uses.

In the event a local government has not designated zoning through land development regulations, in conformance with ch. 163, F.S., but has designated the parcel under the Future Land Use of the Comprehensive Plan for uses that include commercial or industrial uses, the parcel will be considered an unzoned commercial or industrial area. For a permit to be issued for a sign in an unzoned commercial or industrial area, there must be three or more distinct commercial or industrial activities within 1,600 feet of each other, with at least one of the commercial or industrial activities being located on the same side of the highway as the sign location within 800 feet of the sign location. Multiple commercial or industrial activities enclosed in one building will be considered one use when all uses only have shared building entrances.

For purposes of s. 479.024, F.S., certain uses and activities, including but not limited to the following, may not be independently recognized as commercial or industrial:

- Signs.
- Agricultural, forestry, ranching, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands.
- Transient or temporary activities.
- Activities not visible from the main-traveled way, unless a DOT transportation facility is the only cause for the activity not being visible.
- Activities conducted more than 660 feet from the nearest edge of the right-of-way.
- Activities conducted in a building principally used as a residence.
- Railroad tracks and minor sidings, unless such use is immediately abutted by commercial or industrial property which meets the factors above.
- Communication towers.
- Government uses, unless those government uses would be industrial in nature if privately owned and operated. Such industrial uses must be present and actual use, not merely among the allowed uses.

If the local government has indicated the proposed sign location is on a parcel that is a commercial or industrial zone, but DOT finds that it is not, DOT shall notify the sign applicant in writing.

An applicant aggrieved by a denial of a permit application may, within 30 days from the receipt of the notification of intent to deny, request an administrative hearing<sup>7</sup> to determine whether the parcel is located in a commercial or industrial zone. DOT must notify the local government that the applicant has requested an administrative hearing.

If a final order determines that the parcel does not meet the permitting conditions outlined in this section and a sign structure exists, the applicant is responsible for all sign removal costs and the sign must be removed from the sign location within 30 days of the final order.

If the FHWA reduces amounts which would be apportioned to DOT due to a local government's failure to comply with these land use determination requirements, DOT will reduce the state's apportioned transportation funding within the jurisdiction of the local government entity in an equivalent amount.

### **Jurisdiction of DOT; Entry upon Privately Owned Lands**

The bill amends s. 479.03, F.S. providing that upon written notice to the landowner, operator, or person in charge of an intervening privately owned land that the removal of an illegal outdoor advertising sign is necessary and has been authorized by final order or uncontested notice to the sign owner, DOT is authorized to enter upon any intervening privately owned lands.

### **Business of Outdoor Advertising; License Requirement; Renewal; Fees**

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<sup>7</sup> Administrative hearings are pursuant to ch. 120, F.S.

The bill amends s. 479.04, F.S. clarifying that no person shall be required to obtain an outdoor advertising license solely to erect or construct an outdoor advertising sign.

### **Denial, Suspension, or Revocation of License**

The bill amends s. 479.05, F.S., clarifying disciplinary actions for delinquent accounts. The bill provides for the suspension of an outdoor advertising license when the licensee has provided misleading information of material consequence, failed to pay fees or costs owed to DOT, or has violated any of the provisions of ch. 479, F.S., until the licensee has resolved the matter that resulted in the suspension.

The bill also provides that a suspended license will not be granted permits or granted additional permits, but will be allowed to maintain existing sign permits.

### **Sign Permits**

The bill amends s. 479.07, F.S., relating to sign permits to clarify existing language and to clarify permit requirements to ensure compliance with federal regulations on all highways subject to DOT jurisdiction. Specifically the bill:

- Removes the requirement for a notarized permit application, which will allow for future on-line permit processing.
- Removes the authorization to prorate the permit fee to accommodate short term publicity features.
- Changes the tag posting placement requirement to the upper 50 percent of the sign structure from the upper 50 percent of the pole nearest the highway to accommodate various sign structure.
- Removes the authorization for a permittee to provide its own replacement tag and related rulemaking authority regarding replacement tags. This will ensure consistency in tags.
- Increases the maximum transfer fee for multiple permit transfers in a single transaction from \$100 to \$1,000.<sup>8</sup>
- Changes the permit restatement fee from up to \$300 based on the size of the sign to a flat fee of \$300, which is the current fee.
- Clarifies that if a sign is visible to more than one highway and within the controlled area of these highways it shall meet the permitting requirements of all highways.
- Clarifies that the height restriction of a sign is based on the main-traveled way to which the sign is permitted.

### **Denial or Revocation of Permit**

The bill amends s. 479.08, F.S., clarifying that DOT may deny or revoke any permit requested or granted if it determines that the application for the permit contains false or misleading information of material consequence.

### **Sign Removal - Permit Revocation or Cancellation**

The bill amends s. 479.10, F.S. clarifying DOT's authority for the removal of signs with cancelled permits in addition to those with revoked permits. This ensures DOT control over the roadway and eliminates unremoved signs with cancelled permits. It allows for the elimination of unpermitted signs that may create spacing conflicts for new permits. The bill also clarifies that the permittee is responsible for the cost of removing the sign.

### **Signs Erected or Maintained Without Permit - Removal**

The bill amends s. 479.105, F.S., clarifying the notification and permitting processes for signs in violation of permit requirements. The bill allows for notices of illegal sign violations to be posted as close to the sign as possible in locations where the sign is not easily accessible.

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<sup>8</sup> The transfer fee for each permit is \$5.

The bill also provides that a written notice of violation is to be sent either to the sign owner, the advertiser, or the owner of the property informing the party of the illegal sign and the party may request an administrative hearing.

However, if the sign owner demonstrates to DOT one of the requirements below, the sign may be issued a permit by DOT and be considered a conforming or nonconforming sign:

- If the sign meets current requirements for a sign permit, the sign owner may submit the required application package to receive a permit as a conforming sign, upon payment of all applicable fees.
- If the sign does not meet the current requirements for a sign permit, and has never been exempt from the requirements that a permit be obtained, the sign owner may receive a permit as a nonconforming sign if DOT determines that the sign is not located on state right-of-way and is not a safety hazard and if the sign owner pays a penalty of \$300 and all pertinent fees, including annual permit renewal fees payable since the date of the erection of the sign. As part of the permit application package, the sign owner must provide documentation that:
  - The sign has been unpermitted, structurally unchanged, and continuously maintained at the same location for a period of seven years or more;
  - During the initial seven years in which the sign has been subject to DOT jurisdiction, the sign would have met the criteria established at that time for issuance of a permit; and
  - DOT has not initiated a notice of violation or taken other action to remove the sign during the initial seven-year period in which the sign has been subject to DOT jurisdiction.

The permitting of a sign under this process will not cause a neighboring sign that is already permitted and within the spacing requirements to become nonconforming.

### **Vegetation Management**

The bill amends s. 479.106, F.S., clarifying the vegetation management permit process. It clarifies that for signs originally permitted after July 1, 1996, the first vegetation permit application or application for a change in view zone requires the removal of two nonconforming signs in addition to a mitigation plan. The bill clarifies that the administrative penalty for illegal removal, cutting, or trimming of trees or vegetation is up to \$1,000 per sign facing.<sup>9</sup>

### **Signs on Highway Rights-of-Way; Removal**

The bill amends s. 479.107(5), F.S., removing the fine of \$75 against a sign owner who has been assessed the cost of removal for a sign which is in violation of the law.

### **Specified Signs Allowed within Controlled Portions of the Interstate and Federal-Aid Primary Highway System**

The bill amends s. 479.111(2), F.S., clarifying that this section is referring to the 1972 Agreement between the state and the United States Department of Transportation.

### **Harmony of Regulations**

The bill amends s. 479.15, F.S. allowing permitted signs to be relocated rather than acquired when the relocation is needed as a result of a transportation project. It also safeguards the status of conforming signs in the event state spacing requirements are not met as a result of sign relocation.

### **Wall Murals**

The bill amends s. 479.156, F.S., providing federal statutory references to the Highway Beautification Act of 1965, to clarify regulatory sources related to wall murals.

### **Signs for which Permits are not Required**

The bill amends s. 479.16, F.S. relating to signs where permits are not required. It increases from 8 to 16 square feet the maximum size of signs or notices erected or maintained upon property that display only the name of the owner, lessee, or occupant of the premises and signs owned by and related to the facilities and activities of churches, civic organizations, fraternal organizations, charitable organizations, or units or agencies of government.

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<sup>9</sup>Although not currently specified in statute, DOT currently assesses a penalty of up to \$1,000 per sign facing.

The bill also provides that signs on modular news racks, street light poles, and public pay telephones within the right-of-way are exempt from ch. 479, F.S.

The bill clarifies the already existing exemption of signs for rural business directional signs to make the provision applicable to signs located outside an incorporated area. The bill also removes the rural business exemption exception for charter counties.

The bill provides the following new exemptions with the caveat that they may not be implemented or continued if the Federal Government notifies DOT that the implementation or continuation will adversely affect the allocation of federal funds to DOT:

- Signs placed by a local tourist oriented business located within a Rural Area of Critical Economic Concern<sup>10</sup> which signs meet the following criteria:
  - Not more than eight square feet in size or more than four feet in height;
  - Located only in rural areas along non-limited access highways;
  - Located within two miles of the business location and not less than 500 feet apart;
  - Located only in two directions leading to the business;
  - Not located within the road right-of-way.

Businesses placing such signs must be a minimum of four miles from any other business utilizing this exemption and such business may not participate in any other DOT directional signage program.

- Signs not in excess of 32 square feet placed temporarily during harvest season of a farm operation for a period of no more than four months at a road jurisdiction with the State Highway System denoting only the distance or direction of the farm operation.
- Acknowledgement signs erected upon publicly funded school premises relating to a specific public school club, team or event placed no closer than 1,000 feet from another acknowledgement sign on the same side of the roadway. All sponsors on an acknowledgement sign may constitute no more than 100 square feet of the sign. The bill defines “acknowledgement sign” as signs that are intended to inform the traveling public that a public school club, team, or event has been sponsored by a person, firm, or entity.
- Displays erected upon a sports facility that displays content directly related to the facility’s activities or where a presence of the products or services offered on the property exists. Displays are to be mounted flush or flat to the surface of the sports facility and rely upon the building façade for structural support. The bill defines, “sports facility” as an athletic complex, athletic arena, or athletic stadium, including physically connected parking facilities, which is open to the public and has a permanent installed seating capacity of 15,000 or more.

The bill provides that if certain exemptions are not implemented or continued due to Federal Government notification that the allocation of federal funds to DOT will be adversely affected, DOT shall provide notice to the sign owner that the sign must be removed within 30 days. If the sign is not removed within 30 days, DOT is authorized to remove the sign and all costs associated with sign removal are to be assessed against and collected from the sign owner.

### **Compensation for signs; Eminent Domain, Exceptions**

The bill amends s. 479.24, F.S. providing that DOT shall pay just compensation for its acquisition of both conforming and nonconforming signs.

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<sup>10</sup> Sections 288.0656(2)(d) defines “rural area of critical economic concern” as “a rural community, or a region composed of rural communities, designated by the Governor, that has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster or that presents a unique economic development opportunity of regional impact.” Section 288.0656(2)(e), F.S., defines “rural community” as :

1. A county with a population of 75,000 or fewer.
2. A county with a population of 125,000 or fewer which is contiguous to a county with a population of 75,000 or fewer.
3. A municipality within a county described in subparagraph 1. or subparagraph 2.
4. An unincorporated federal enterprise community or an incorporated rural city with a population of 25,000 or fewer and an employment base focused on traditional agricultural or resource-based industries, located in a county not defined as rural, which has at least three or more of the economic distress factors identified in paragraph (c) and verified by the department.

For purposes of this paragraph, population shall be determined in accordance with the most recent official estimate pursuant to s. 186.901.

### **Erection of Noise-attenuation Barrier Blocking View of Sign**

The bill amends s. 479.25, F.S., clarifying that this section does not apply to nonconforming signs when constructing sound walls. It also establishes duties of the state to notify local governments, and of local governments to notify property owners, of a proposed sound barrier wall. The bill also clarifies that a local government variance or waiver may be provided to allow a sign's height to be increased

### **Logo Sign Program**

The bill amends s. 479.261, F.S., allowing the logo sign program on all limited access roads not just interstate highways. This will provide advertising opportunities for local commerce.

### **Permit Revocation and Cancellation; Cost of Removal**

The bill amends s. 479.313, F.S., providing DOT with authority to recover costs incurred to remove signs with cancelled permits.

### **Tourist-Oriented Commerce Sign/Permit Exemption**

#### Current Situation

In an effort to increase visibility and facilitate economic development for small businesses in rural areas of critical economic concern HB 599<sup>11</sup> was passed in 2012, authorizing DOT to seek approval from the Federal Highway Administration (FHWA) for a tourist-oriented commerce sign pilot program and to submit the pilot program for legislative approval in the next regular legislative session.

In continued discussions with the FHWA, DOT has been advised that approval of the pilot program is not expected. Instead, DOT was advised to proceed by obtaining permission to replace authorization to seek pilot program approval with an exemption from permitting requirements, as well as language identical to that under current s. 479.16(15), F.S., relating to an exemption for permitting rural hardship signs, that would protect against any adverse impact upon the allocation of federal funds to DOT.

#### Proposed Changes

The bill repeals s. 76 of ch. 2009-174, L.O.F., authorizing DOT to seek FHWA approval of a tourist oriented commerce sign program for small businesses in rural areas of critical economic concern. The tourist oriented commerce sign program is created elsewhere in the bill (see "Signs for which Permits are not Required" subheading.)

#### Effective Date

The bill has an effective date of July 1, 2013.

#### **B. SECTION DIRECTORY:**

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|-----------|--|
| Section 1 | Amends s. 479.01, F.S. relating to definitions used in ch. 479, F.S.   |
| Section 2 | Amends s. 479.02, F.S., relating to duties of the Department of Transportation.                              |
| Section 3 | Creates s. 479.024, F.S., relating to commercial and industrial parcels.                                     |
| Section 4 | Amends s. 479.03, F.S., relating to the jurisdiction of the department; entry upon privately owned lands.    |
| Section 5 | Amends s. 479.04, F.S., relating to the business of outdoor advertising; license requirement; renewal; fees. |
| Section 6 | Amends s. 479.05, F.S., relating to the denial, suspension, or revocation of license.                        |
| Section 7 | Amends s. 479.07, F.S., relating to sign permits.  |

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<sup>11</sup> s. 76, ch. 2012-174, L.O.F.  
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**DATE:** 4/18/2013

- Section 8 Amends s. 479.08 F.S., relating to denial or revocation of permit.
- Section 9 Amend s. 479.10, F.S. relating to sign removal following permit revocation or cancellation.
- Section 10 Amends s. 479.105, F.S., relating to signs erected or maintained without required permit; removal.
- Section 11 Amends s. 479.106, F.S. relating to vegetation management.
- Section 12 Amends s. 479.107, F.S., relating to signs on highway rights-of-way; removal.
- Section 13 Amends s. 479.111, F.S. relating to specified signs allowed within controlled portions of the interstate and federal-aid primary highway system.
- Section 14 Amends s. 479.15, F.S., relating to harmony of regulation.
- Section 15 Amends s. 479.156, F.S., relating to wall murals.
- Section 16 Amends s. 479.16, F.S. relating to signs for which permits are not required.
- Section 17 Amends s. 479.24, F.S., relating to compensation for signs, eminent domain; exceptions.
- Section 18 Amends s. 479.25, F.S., relating to erection of noise-attenuation barrier blocking view of sign; procedures; application.
- Section 19 Amends s. 479.261, F.S., relating to the logo sign program.
- Section 20 Amends s. 479.313, F.S. relating to permit revocation and cancellation; cost of removal.
- Section 21 Repeals s. 76 of ch. 2012-174, L.O.F.
- Section 22 Provides an effective date.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

DOT may collect some additional revenues from the \$300 penalty and the payment of cumulative permits fees for signs that previously did not have a permit, but receives a permit as a nonconforming sign. However, this cannot be quantified and has an indeterminate positive impact on the State Transportation Trust Fund (STTF).

Allowing logo signs on all limited access highways has the potential to increase the state's revenue from the logo sign program, but this cannot be quantified and has an indeterminate positive impact on the STTF.

#### **2. Expenditures:**

None

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

#### **1. Revenues:**

Indeterminate. See fiscal comments.

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill expands the list of exemptions from permitting requirements for certain signs. To the extent a sign owner had been paying for permits for these signs in the past, this change will have a positive impact on the private sector. Such signs are also required to be removed at the owner's expense should the department find the sign must be removed due to federal notification. The net effect of these provisions on a sign owner is indeterminate.

Placing logo signs on additional limited access facilities could potentially increase revenue at those establishments that advertise on the logo signs. Any possible impact to the private sector is indeterminate.

D. FISCAL COMMENTS:

If the FHWA reduces funds which would be apportioned to DOT due to a local government's failure to comply with land use determination requirements, DOT will reduce the state's apportioned transportation funding within the jurisdiction of the local government entity in an equivalent amount. To the extent this situation arises, there would be an impact on a local government, but such impact is indeterminate at this time.

The bill removes the existing \$75 fine against a sign owner who has been assessed the cost of sign removal for a sign found in violation of the law. This provision will have a positive impact on advertisers and a corresponding negative impact on fine revenues for DOT. The fiscal impact of this provision is indeterminate.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

DOT will have to revise its rules relating to outdoor advertising to conform to the changes made in the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 20, 2013, the Transportation & Highway Safety subcommittee adopted eight amendments and reported the bill favorably as a committee substitute. The amendments:

- Restored the definition of "new highway"

- Removed the authorization for a permit fee increase and to increase a vegetation management fee by rule.
- Reverted language related to 1999 litigation back to current law.
- Revised provisions related to outdoor advertising on sports facilities.
- Provided for sign removal if the federal government indicates certain signs would hurt the allocation of federal funds.
- Repeals a pilot program for tourist-oriented commerce signs in rural areas of critical economic concern.
- Provided for the use of funds from the sale of naming right or sponsorship of the Florida Turnpike.
- Added language related to zoning of parcels to add a requirement that commercial or industrial use be the primary allowable use when making sign permitting determinations.

On April 9, 2013, the Transportation & Economic Development Appropriations subcommittee adopted four amendments and reported the bill favorably as a committee substitute. The amendments:

- Revised language related to zoning of parcels, removing a requirement that commercial or industrial use be the primary allowable use when making sign permitting determinations.
- Removed a new \$25 permit application fee.
- Reinstated a sign placement pilot program in specified counties, and maintains the keeping of statistics of the program.
- Removed a provision authorizing the sale of advertising or naming rights of the Florida Turnpike.

On April 16, 2013, the Economic Affairs Committee adopted one amendment and reported the bill favorably as a committee substitute. The amendment revises provision related to when a sign erected without a permit may obtain a permit.

This analysis is drafted to CS/CS/CS/HB 1299.