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 Committee on Transportation

BILL:	SB 1632
INTRODUCER:	Senator Latvala
SUBJECT:	Transportation
DATE:	March 8, 2013
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	**Pre-meeting**
2.			AP	
3.			RC	
4.				
5.				
6.				

I. Summary:

SB 1632 is the result of the Florida Department of Transportation's (FDOT) review of the provisions contained in chapter 479, F.S., relating to outdoor advertising, following its consideration of written statements and comments submitted to it by affected stakeholders. Among the items, the bill:

- relocates, revises, and repeals various definitions;
- revises various duties of the FDOT with respect to administration and enforcement of state and federal outdoor advertising provisions;
- provides that FDOT shall permit signs only in commercial or industrial zones, as determined by the local government, as specified;
- provides criteria required for local government determinations as to zoning for a parcel and provides certain uses and activities that may not be independently recognized as commercial or industrial, the bulk of which is relocated from existing law;
- requires FDOT to notify a sign applicant in writing if FDOT disagrees with a local government determination that a proposed sign location is on a parcel that is in a commercial or industrial zone, authorizes an applicant whose application for a permit is denied to request an administrative hearing, and requires FDOT to notify the local government that the applicant has requested a hearing;
- provides that if FDOT determines that the parcel does not meet permitting conditions, the applicant shall remove the sign within 30 days after the date of the order and is responsible for all sign removal costs;
- provides for a reduction in transportation funding to a local government if a local government fails to be compliant;

- revises FDOT authority to enter upon privately owned lands;
- eliminates a requirement to obtain a license to engage in the business of outdoor advertising solely to erect or construct outdoor advertising signs or structures;
- provides FDOT authority to suspend any license, in addition to denying or revoking any license;
- streamlines requirements for documentation in an application; revises various fees; and revises requirements for permit tags and replacement tags;
- revises provisions relating to signs visible to more than one highway;
- makes permanent a pilot program in specified locations under which the distance between certain permitted signs may be reduced to 1,000 feet under specified conditions and removes FDOT's duty to maintain statistics on the pilot program;
- revises provisions governing FDOT placement of notices of violation;
- revises provisions relating to vegetation management and revises provisions relating to relocated or reconstruction of signs situated upon right-of-way acquired by FDOT;
- provides for additional signs that can be erected without a permit, but prohibits implementation or continuation of the authorized signs as specified;
- revises provisions relating to increasing the height of a sign at its permitted location if a noise-attenuation barrier is permitted or erected by any governmental entity, as specified;
- expands the logo sign program to the right-of-way of the limited-access system;
- makes various grammatical changes to aid readability, provides various technical corrections, and conforms terminology to changes made in the act; and
- provides an effective date.

This bill amends the following sections of the Florida Statutes: 479.01, 479.02, 479.03, 479.04, 479.05, 479.07, 479.08, 479.10, 479.105, 479.106, 479.107, 479.111, 479.15, 479.1546, 479.16, 479.24, 479.25, 479.261, and 479.313.

This bill creates the following section of the Florida Statutes: 479.024.

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 roads. The HBA allows the location of billboards in commercial or 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[1] along highways. However, the payment of just compensation is required for the removal of any lawfully erected billboard along the specified roads.
- States and localities may enact stricter laws than stipulated in the HBA.

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. The penalty for noncompliance with the HBA is a 10 percent reduction of the state's annual federal-aid highway apportionment.[2]

Under the provisions of a 1972 agreement between the State of Florida and the U.S. Department of Transportation (USDOT)[3] incorporating the HBA's required controls, 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. The agreement embodies the federally-required "effective control of the erection and maintenance of outdoor advertising signs, displays, and devices." Absent this effective control, the non-compliance penalty of 10 percent of federal highway funds may be imposed.

Florida's outdoor advertising laws are found in ch. 479, F.S., and are based on federal law and regulations, and the 1972 agreement.

Commercial and Industrial Areas
Outdoor advertising signs may legally be located in commercial or industrial areas. In conformance with the 1972 agreement, s. 479.01(4), F.S., currently 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 ch. 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 and issuing permits for sign locations in such 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.[4] 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,

[1] A legal "nonconforming sign" is a sign that was legally erected according to the applicable laws and regulations of the time, but which does not meet current laws or regulations. (s. 479.01(17), F.S.)
[2] 23 U.S.C. § 131(b)
[3] Copy on file in the Senate Transportation Committee.
[4] Section 479.01(26), F.S.

- The commercial or industrial activity must be within 660 feet of the right-of-way, and
- The commercial or industrial activities must be within 1,600 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 when determining whether a parcel is an unzoned commercial or industrial area:

- Signs.
- Agricultural, forestry, ranching, grazing, farming, and related activities.
- Transient or temporary activities.
- Activities not visible from the main-traveled way.
- Activities conducted more than 660 feet from the right-of-way.
- Activities conducted in a building principally used as a residence.
- Railroad tracks and minor sidings.
- Communications towers.[5]

With the exception of communication towers, the exclusion of these activities is specifically required by the 1972 agreement between the State and the United States Department of Transportation (USDOT).

Entry Upon Privately Owned Lands
For the purposes of ch. 479, F.S., all of the state is deemed as the territory under FDOT's jurisdiction.[6] Employees, agents, or independent contractors working for FDOT are authorized to enter upon any land upon which a sign is displayed, is proposed to be erected, or is being erected and to make sign inspections, surveys, and removals. After receiving consent by the landowner, operator, or person in charge, or appropriate inspection warrant issued by an appropriate judge, that the removal of an illegal outdoor advertising sign is necessary, FDOT is authorized to enter upon any intervening privately-owned lands for the purpose of removal of illegal signs, provided FDOT has determined that no other legal or economically feasible means of entry to the sign site are reasonably available. FDOT is responsible for the repair or replacement in like manner of any physical damage or destruction of the private property.

License to Engage in the Business of Outdoor Advertising
A person is prohibited from engaging in the business of outdoor advertising without first obtaining a license from FDOT. A person is not required to obtain the license to erect outdoor advertising signs or structures as an incidental part of a building construction contract.[7]

Denial or Revocation of License
FDOT may deny or revoke any license requested or granted under ch. 479, F.S., in any case in which FDOT determines that the application for the license contains knowingly false or misleading information, or that the licensee has violated any of the provisions of that chapter, unless such licensee corrects such false or misleading information or complies with the provisions of that chapter within 30 days after the receipt of FDOT notice. Any person

[5] Id.
[6] Section 479.03, F.S.
[7] Section 479.04, F.S.

aggrieved by any FDOT action in denying or revoking a license is authorized to apply to FDOT for an administrative hearing within 30 days from the receipt of the notice.[8]

Permit Application Documentation
Section 479.07(1), F.S., except as otherwise specified, provides that a person may not erect, operate, use, or maintain, or cause to be erected, operated, used, or maintained, any sign on the State Highway System outside an urban area, as defined in s. 334.03(31), F.S., or on any portion of the interstate or federal-aid primary highway system without first obtaining a permit for the sign from FDOT and paying the required annual fee. Subsection (2) prohibits a person from applying for a permit unless the person has first obtained the written permission of the owner or other person in lawful possession or control of the site designated as the location of the sign in the application for the permit. As a part of the application, the applicant or authorized representative must certify in a notarized signed statement that he or she has obtained the written permission of the owner or other person in lawful possession of the site designated as the location of the sign in the permit application.

Outdoor Advertising Annual Permit Fee/Multiple Transfer Fee/Permit Reinstatement Fee
FDOT is required to establish by rule an annual permit fee for each sign facing[9] in an amount sufficient to offset the total cost to FDOT for the program, but shall not exceed $100.[10] The current fee is $71, with some exception for small signs. FDOT advises it has no immediate plans to increase the fee but notes the data base currently used for the program was written in 1999. While the system is in need of an upgrade, the upgrade is well down the list of priorities. However, when upgraded, the annual permit fee will need to be increased to offset the total cost to FDOT for the program. No application fee to cover FDOT's administrative costs in processing applications is currently required.

The transfer of valid permits from one sign owner to another is currently authorized upon written acknowledgement from the current permittee and submittal of a transfer fee of $5 for each permit to be transferred.[11] The maximum transfer fee for any multiple transfer between two outdoor advertisers in a single transaction is $100. FDOT advises the $100 fee is insufficient to cover its administrative costs in frequent cases of bulk transfers between two outdoor advertisers in a single transaction.

Current law provides a process for sign removal if a permittee has not submitted all license and permit renewal fees by the expiration date of the license or permit.[12] With respect to sign permits, if at any time before removal of the sign, the permittee demonstrates that a good faith error on the part of the permittee resulted in cancellation or nonrenewal of the permit, FDOT is authorized to reinstate the permit if the permit reinstatement fee of up to $300 based on the size of the sign is paid; all other permit renewal and delinquent permit fees due as of the reinstatement date are paid; and the permittee reimburses FDOT for all actual costs resulting

[8] Section 479.05, F.S.
[9] A "sign facing" includes all sign faces and automatic changeable faces displayed at the same location and facing the same direction. A "sign face" means the part of the sign, including trim and background, which contains the message or informative contents. (s. 479.01(22) and (23), F.S.0
[10] Section 479.07(3)(c), F.S.
[11] Section 479.07(6), F.S
[12] Section 479.07(8), F.S.

from the permit cancellation or nonrenewal. FDOT advises its administrative costs associated with reviewing reinstatement requests are the same regardless of the size of the sign.

Permit Tag Placement/Replacement Tags
FDOT is currently required to furnish to a permittee a serially numbered permanent metal permit tag which the permittee is required to securely attach to the sign facing or, if there is no facing, on the pole nearest the highway. Further, effective July 1, 2012, the tag must be securely attached to the upper 50 percent of the pole nearest the highway and must be attached in such a manner as to be plainly visible from the main traveled way. In addition, the permit becomes void unless the permit tag is properly and permanently displayed at the permitted site within 30 days after the date of permit issuance.13

That section also provides for FDOT issuance of a replacement tag in the event a permit tag is lost, stolen, or destroyed and, alternatively, authorizes a permittee to provide its own replacement tag pursuant to FDOT specifications that FDOT shall adopt by rule at the time it establishes the service fee for replacement tags.14

Signs Visible From More than One Highway
If a sign is visible from the controlled area of more than one highway subject to FDOT jurisdiction, the sign must meet the permitting requirements of, and be permitted to, the highway having the more stringent permitting requirements.15

Pilot Program/Reduction of Distance Between Permitted Signs
Current law establishes a pilot program in Orange, Hillsborough, and Osceola Counties, and within the boundaries of the City of Miami, under which the distance between permitted signs on the same side of an interstate highway may be reduced to 1,000 fee under the specified conditions and directs FDOT to maintain statistics tracking the use of the provisions of the pilot program based on notifications received by FDOT from local governments.16

Sign Removal Following Permit Revocation
A sign permittee is currently required to remove a sign within 30 days after the date of revocation of the permit for the sign and, if the permittee fails to do so, FDOT is required to remove the sign without further notice and without incurring any liability.17 Further, all costs incurred by FDOT in connection with the removal of a sign located within a controlled area adjacent to the State Highway System, interstate highway system, or federal-aid primary highway system following the revocation of the sign permit shall be assessed and collected from the permittee.18

Notices of Violation/Signs Erected or Maintained Without Required Permit
Any sign located adjacent to the right-of-way of any highway on the State Highway System outside an incorporated area or adjacent to the right-of-way on any portion of the interstate or

[13] Section 479.07(5), F.S.
[14] Rule 14-10.004(5), F.A.C.
[15] Section 479.07(9)(a), F.S.
[16] Section 479.07(9)(c), F.S.
[17] Section 479.10, F.S.
[18] Section 479.313, F.S.

federal-aid primary highway system without the required FDOT permit must be removed. Prior to removal, FDOT is required to prominently post on the sign face a notice that the sign is illegal and must be removed within 30 days after the date on which the notice was posted. If the sign bears the name of the licensee or the name and address of the non-licensed sign owner, concurrently with and in addition to posting the notice, FDOT must provide a written notice to the owner stating that the sign is illegal and must be permanently removed within the 30-day period; and that the sign owner has a right to request a hearing, which request must be filed with FDOT within 30 days after the date of the written notice. If after notice the sign owner does not remove the sign, FDOT is required to do so.[19]

Issuance of Permits for Conforming or Nonconforming Signs
If a sign owner demonstrates to FDOT that:

- a given sign has been unpermitted, structurally unchanged, and continuously maintained at the same location for a period of seven years or more;
- the sign would have met the criteria established in ch. 479, F.S., for issuance of a permit at any time during the period in which the sign has been erected;
- FDOT has not initiated a notice of violation or taken other action to remove the sign during the initial seven-year period; and
- FDOT determines that the sign is not located on state right-of-way and is not a safety hazard,

FDOT is authorized to consider the sign a conforming or nonconforming sign and to issue a permit for the sign upon application and payment of a penalty fee of $300 and all pertinent fees required by ch. 479, F.S., including annual permit renewal fees payable since the date of the erection of the sign.[20]

Vegetation Management and View Zones for Outdoor Advertising
Section 479.106, F.S., addresses vegetation management and establishes "view zones" for lawfully permitted outdoor advertising signs on interstates, expressways, federal-aid primary highways, and the State Highway System, excluding privately or other publicly owned property. The intent of the section is to create partnering relationships which will have the effect of improving the appearance of Florida's highways and creating a net increase in the vegetative habitat along the roads.[21]

The section requires anyone desiring to remove, cut, or trim trees or vegetation on public right-of-way to improve the visibility of a sign or future sign to obtain written permission from FDOT. To receive a permit to remove vegetation, the applicant must provide a plan for the removal and for the management of any vegetation planted as the result of a mitigation plan. Rule 14-10.057, F.A.C., requires mitigation where:

- Cutting, trimming, or damaging vegetation permanently detracts from the appearance or health of trees, shrubs, or herbaceous plants, or where such activity is not done in

[19] Section 479.105(1)(a) and (b), F.S.
[20] Section 479.105(1)(e), F.S.
[21] Section 479.106(8), F.S.

accordance with published standard practices. This does not apply to invasive exotic and other noxious plants;
- Trees taller than the surrounding shrubs and herbaceous plants are permanently damaged or destroyed;
- Species of trees or shrubs not likely to grow to interfere with visibility are damaged or removed;
- Trees or shrubs that are likely to interfere with visibility are trimmed improperly, permanently damaged, or removed; or
- Herbaceous plants are permanently damaged.

When the installation of a new sign requires the removal, cutting, or trimming of existing trees or vegetation on public right-of-way, FDOT may only grant a permit for the new sign when the sign owner has removed at least two non-conforming signs of comparable size and surrendered those signs' permits for cancellation. For signs originally permitted after July 1, 1996,[22] FDOT is prohibited from granting any permit where such trees or vegetation are part of a beautification project implemented before the date of the original sign permit application, as specified.

Vegetation Management Application Fee/Multiple Site Fee/Administrative Penalty
FDOT is currently authorized to establish an application fee not to exceed $25 for each individual application to defer the costs of processing such application and a fee not to exceed $200 to defer the costs of processing an application for multiple sites.[23] Further, any person who violates or benefits from a violation of ch. 479, F.S., is subject to an administrative penalty of up to $1,000 and is required to mitigate for the unauthorized removal, cutting, or trimming of trees or vegetation.[24]

Cost of Sign Removal/Additional Fine for Violations
Section 479.107(5), F.S., requires that the cost of removing a specified sign, whether by FDOT or an independent contractor, shall be assessed by FDOT against the owner of the sign. In addition, FDOT is directed to assess a fine of $75 against the sign owner for any sign which violates the requirements of that section. FDOT advises assessment is infrequent and collection is rare.

Relocation or Reconstruction of a Publicly Acquired Sign
When FDOT acquires land with a lawful nonconforming sign, the sign may, at the election of its owner and FDOT and subject to FHWA approval, be relocated or reconstructed adjacent to the new right-of-way along the roadway within 100 feet of the current location, provided the nonconforming sign is not relocated on a parcel zoned residential, and provided further that such relocation is subject to applicable setback requirements.[25] The relocation is required to be adjacent to the current site, and the face of the sign may not be increased in size or height or structurally modified at the point of relocation in conflict with the building codes of the jurisdiction in which the sign is located.[26]

[22] The date of enactment of s. 479.106, F.S.
[23] Section 479.106(4), F.S.
[24] Section 479.106(7), F.S.
[25] Section 479.15(3), F.S.
[26] Section 479.15(4), F.S.

Permits Not Required for Certain Signs
Section 479.16, F.S., currently identifies a number of signs for which permits are not required, including without limitation:

- On-premise signs (signs on property stating only the name of the owner, lessee, or occupant of the premises and not exceeding 8 square feet in area;
- Signs that are not in excess of 8 square feet that are owned by and relate to the facilities or activities of churches, civic organizations, fraternal organizations, charitable organizations, or units or agencies of government;
- Signs place on benches, transit shelters, and waste receptacles; and
- Signs not in excess of 16 square feet placed at a road junction with the State Highway System denoting only the distance or direction of a residence or farm operation, or, in a rural area where a hardship is created because a small business is not visible from the road junction, one sign not in excess of 16 square feet, denoting only the name of, and the distance and direction to, the business. This provision does not apply to charter counties and may not be implemented if the federal government notifies FDOT that implementation will adversely affect the allocation of federal funds to FDOT.

Compensation for Removal of Signs
FDOT is currently required to pay just compensation upon its removal of a lawful nonconforming sign along any portion of the interstate or federal-aid primary highway system.[27]

Noise-Attenuation Barriers Blocking View of Signs
The owner of a lawfully erected sign is authorized to increase the height above ground level of such sign at its permitted location if any governmental entity permits or erects a noise-attenuation barrier in such a way as to block visibility of the sign. If construction of a proposed noise-attenuation barrier will screen a lawfully permitted sign, FDOT is required to provide notice to the local government or jurisdiction in which the sign is located before erection of the noise attenuation barrier. If it is determined that the increase in height will violate a local ordinance or land development regulation, the local government or jurisdiction is required to notify FDOT.

When notice has been received from the local government or jurisdiction prior to erection of the noise-attenuation barrier, FDOT is required to conduct a written survey of all property owners identified as impacted by highway noise and who may benefit from the proposed barrier. The written survey must, in addition to stating the date, time, and location of a required public hearing, specifically advise the impacted property owners that:

- Erection of the noise-attenuation barrier may block the visibility of an existing outdoor advertising sign;
- The local government or local jurisdiction may restrict or prohibit increasing the height of the existing outdoor advertising sign to make it visible over the barrier; and

[27] Section 479.24, F.S.

- If a majority of the impacted property owners vote for construction of the noise-attenuation barrier, the local government or local jurisdiction is required to:
  - allow an increase in the height of the sign in violation of a local ordinance or land development regulation;
  - allow the sign to be relocated or reconstructed at another location if the sign owner agrees; or
  - pay the fair market value of the sign and its associated interested in the real property.

FDOT must hold the public hearing and receive input on the proposed noise-attenuation barrier and its conflict with the local ordinance or land development regulations, and suggest or consider alternatives or modification to the proposed barrier to alleviate or minimize the conflict with the local ordinance or regulation or minimize any costs associated with relocating, reconstructing, or paying for the affected sign. Notice of the hearing, in addition to general provisions, must specifically state the same items specified for inclusion in the written survey above.

FDOT is prohibited from permitting erection of the noise-attenuation barrier to the extent that the barrier screens or blocks visibility of the sign until after the public hearing and until such time as the survey has been conducted and a majority of the impacted property owners have indicated approval. When approved, FDOT must notify the local governments or local jurisdictions, and the local government or jurisdiction must, notwithstanding any conflicting ordinance or regulation:

- Issue a permit by variance or otherwise for the reconstruction of a sign;
- Allow the relocation of a sign, or construction of another sign, at an alternative location that is permittable, if the sign owner agrees to relocate the sign or construct another sign; or
- Refuse to issue the required permits for reconstruction of a sign and pay fair market value of the sign and its associated interest in the real property to the sign owner.[28]

Logo Program
FDOT is required to establish a logo sign program for the rights-of-way of the interstate highway system to provide information to motorists about available gas, food, lodging, camping, attractions, and other services, as approved by the Federal Highway Administration, at interchanges through the use of business logos and may include additional interchanges under the program.[29] As indicated, the program is limited to the interstate highway system, but under the Manual on Uniform Traffic Control Devices,[30] the program may be extended to other limited-access facilities, thereby expanding opportunities for business participation in the program.

III. Effect of Proposed Changes:

Section 1: Amends s. 479.01, F.S., definitions as used in ch. 479, F.S., as follows:

[28] Section 479.25, F.S.
[29] Section 479.261, F.S.
[30] Adopted by FDOT pursuant to s. 316.0745, F.S.

- revises the definition of "business of outdoor advertising," to eliminate "constructing," "erecting," or "using," outdoor advertising structures, signs, or advertisements from activities requiring a license.
- repeals the definition of "commercial or industrial zone," and relocates provisions to a new s. 479.024, F.S., under which local governments are required to determine the location of commercial or industrial zones in accordance with ch. 163, F.S.
- revises the definition of "federal-aid primary highway system," to conform to federal terminology.
- deletes the definition of "new highway," expanding the potential areas for permitting new or existing unpermitted signs.
- revises the definition of "remove," to mean to disassemble all sign materials above ground level and transport them from the sign site, eliminating *disposal of sign materials by sale or destruction*.
- revises the definition of "sign face," to include an automatic changeable face.
- revises the definition of "State Highway System," by referencing the existing definition in s. 334.03.
- repeals the definition of "unzoned commercial or industrial area," and relocates the criteria for determination of such an area to a new s. 479.024, F.S. The bill also relocates and revises specified activities that may not be recognized as commercial or industrial activities.

Section 2: Amends s. 479.02, F.S., duties of FDOT, as follows:

- in the duty to administer and enforce the provisions of ch. 479, the agreement between FDOT and the USDOT, Title 23 USC, and federal regulations, inserts the year of the agreement, 1972, and expressly incorporates provisions of the referenced chapter, agreement, law and regulations pertaining to the maintenance, continuance, and removal of nonconforming signs.
- in the duty to regulate size, height, lighting, and spacing of permitted signs, revises language to distinguish between commercial and industrial *parcels* and unzoned commercial or industrial *areas*.
- directs FDOT to determine such parcels and areas in the manner provided in the new s. 479.024, F.S.
- in the duty to adopt rules necessary or proper for administration of ch. 479, F.S., including rules that identify activities that may not be recognized as industrial or commercial activities, revises language to distinguish between commercial and industrial *parcels* and unzoned commercial or industrial *areas* and requires the rules to provide for determination of such parcels and areas in the manner provided in the new s. 479.024, F.S.
- in the duty to inventory and determine the location of all signs, makes "plain language" revisions and repeals FDOT direction to adopt rules regarding what information is to be collected and preserved in the inventory.

Section 3: Creates s. 479.024, entitled "*Commercial and industrial parcels*," providing a framework for local government determinations as to zoning for a parcel, the bulk of which is taken from existing law. The bill:

- requires that FDOT permit signs only in commercial or industrial zones, as determined by the local government in compliance with ch. 163, F.S., unless otherwise provided in ch. 479, F.S.;
- defines "parcel" to mean the property where the sign is located or proposed to be located; and defines "utilities" to include all privately, publicly, 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 stormwater not connected with the highway drainage, and other similar commodities;
- requires the local government determination as to zoning for a parcel to meet the following criteria:
    - the parcel is comprehensively zoned and includes commercial or industrial uses 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 or industrial development.
        - The size, configuration, and public access of the parcel are sufficient to accommodate a commercial or industrial use, given requirements in the comp plan and land development regulations for vehicular access, on-site circulation, building setbacks, buffering, parking, and other applicable standards, or the parcel consists of railroad tracks or minor sidings abutting commercial or industrial property that meets the criteria of this subsection.
    - the parcel is not being used exclusively for noncommercial or nonindustrial uses;
- provides, if a local government has not designated zoning through land development regulations in compliance with ch. 163 but has designated the parcel under the future land use map of the comp plan for uses that include commercial or industrial uses, the parcel shall be considered an unzoned commercial or industrial area; provides 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 located on the same side of the highway as the sign location, and within 800 feet of the sign location; and requires multiple commercial or industrial activities enclosed in one building when all uses have only shared building entrances to be considered one use;
- modifies two of the existing uses and activities, and adds another, that may not be independently recognized as commercial or industrial, as follows:
    - Activities not visible from the main-traveled way, unless an FDOT facility is the only cause for the activity not being visible.
    - Railroad tracks and minor sidings, unless such use is immediately abutted by commercial or industrial property that meets specified criteria;

- Governmental uses, unless those uses would be industrial in nature if privately owned and operated. Such industrial uses must be the present and actual use, not merely be among the allowed uses.

- requires FDOT to notify a sign applicant in writing if the local government has indicated that a proposed sign location is on a parcel that is in a commercial or industrial zone and FDOT finds it is not;
- authorizes an applicant whose application is denied to request an administrative hearing for a determination of whether the parcel is located in a commercial or industrial zone and requires FDOT to notify the local government that the applicant has requested a hearing, as specified;
- provides that if FDOT in a final order determines that the parcel does not meet the specified permitting conditions and a sign structure exists on the parcel the applicant shall remove the sign within 30 days after the date of the order and is responsible for all sign removal costs;
- requires that if the FHWA reduces funds that would otherwise be apportioned to FDOT due to a local government's failure to be compliant, FDOT to reduce apportioned transportation funding to the local government by an equivalent amount.

Section 4: Amends s. 479.03, F.S., to revise FDOT's authority to enter upon privately owned lands to remove a sign by striking receipt of consent, inserting a specified written notice requirement, and expanding those to whom written notice must be alternatively given to include a person in charge of an intervening privately owned land;

Section 5: Amends s. 479.04, F.S., relating to the required license to engage in the business of outdoor advertising, to provide that a person is not required to obtain a license solely to erect or construct outdoor advertising signs or structures, to conform to the revised definition of "business of outdoor advertising."

Section 6: Amends s. 479.05, F.S., to authorize suspension of any license requested or granted under ch. 479, F.S., in addition to denial or revocation, in any case when FDOT determines the application for the license contains false or misleading information of material consequence, that the licensee has failed to pay fees or costs owed to FDOT for outdoor advertising purposes, or that the licensee has violated any of the provisions of 479, unless such licensee, within 30 days after receipt of FDOT notice, corrects such false or misleading information, pays the outstanding amounts, or complies with the provisions of 479.

Section 7: Amends s. 479.07, F.S., which prohibits any sign on the State Highway System outside an urban area or on any portion of the interstate or federal-aid primary highway system without first obtaining a permit, as follows:

- corrects a cross-reference, eliminates a cross-reference, and makes "plain language" editorial and grammatical revisions;
- streamlines processes by removing a requirement for a notarized affidavit in addition to certifying that all information contained in the application is true and correct and by removing an unnecessary certification of receipt of landowner written permission for the designated sign location;

- revises the cap on the annual permit fee FDOT may establish by rule for each sign facing to offset the total cost for the program from $100 to $200.
- strikes a prohibition against prorating a fee for a period less than the remainder of the permit year to accommodate short-term publicity features;
- provides for a non-refundable application fee of $25 to accompany each permit application;
- clarifies that FDOT must act on a permit application within 30 days after receipt of the application by granting, denying, or returning the incomplete application.
- revises requirements for placement of permit tags on sign structures; removes a provision rendering a permit void unless the permit tag is properly and permanently displayed as specified, removes permittee authorization to provide its own replacement tag; and removes FDOT authority to adopt by rule specifications for the replacement tags.
- increases the maximum transfer fee for any multiple transfers between two outdoor advertisers in a single transaction from $100 to $1,000.
- revises the permit reinstatement fee from up to $300 based on the size of the sign, to a static $300.
- makes "plain language" revisions to provisions relating to permitting signs visible to more than one highway subject to FDOT jurisdiction and within the controlled area of the highways;
- makes permanent a pilot program in specified locations under which the distance between permitted signs on the same side of an interstate highway may be reduced to 1,000 feet under specified and revised conditions and removes FDOT's duty to maintain statistics on the pilot program; and,
- deletes obsolete language.

Section 8: Amends s. 479.08, F.S., revising FDOT's authority to deny or revoke any permit when it determines that the application contains false or misleading information of material consequence, eliminating that the information is knowingly false or misleading.

Section 9: Amends s. 479.10, F.S., regarding sign removal, to require a permittee to remove a sign within 30 days after the date of cancellation (in addition to revocation) of the permit for the sign and specifies removal of the sign is at the permittee's expense if FDOT remove the sign because the permittee fails to do so;

Section 10: Amends s. 479.105, F.S., regarding signs erected or maintained without a required permit, to:

- revise provisions for placement of an FDOT notice of violation on a sign;
- require FDOT to concurrently with and in addition to posting the notice, provide a written notice to the owner of the sign, the advertiser displayed on the sign, or the owner of the property;
- removes the condition that notice be given concurrently to the owner only if the sign bears the name of the licensee or the name and address of the non-licensed sign owner;
- provides that the written notice state that a hearing may be requested as specified;

- includes the advertiser displayed on the sign or the owner of the property along with the owner in FDOT's duty to remove the sign if not removed by the sign owner; and,
- relocates and clarifies existing provisions for FDOT issuance of permits for conforming and nonconforming signs erected or maintained without the required permit.

Section 11: Amends s. 479.106, relating to vegetation management and sign visibility, to:

- remove a $25 cap on an individual application fee and a $200 cap on a fee to defer the costs of processing an application for multiple sites, and authorize FDOT to establish an application fee by rule to defer the costs of processing such application;
- require for signs originally permitted after July 1, 1996, the first application, or application for a change of view zone, for the removal, cutting, or trimming of trees or vegetation must require, in addition to mitigation or contribution to a plan of mitigation, the removal of two nonconforming signs; and,
- provide that the administrative penalty for engaging in removal, cutting, or trimming in violation of this section or benefiting from such actions is up to $1,000 per sign facing.

Section 12: Amends s. 479.107(5), F.S., to repeal a $75 fine against a sign owner who has been assessed the costs of removing a sign.

Section 13: Amends s. 479.111(2), F.S., to insert in a reference to the agreement between the state and the USDOT the year the agreement was entered into; i.e., 1972;

Section 14: Amends s. 479.15, providing for harmony of state and local regulations, to:

- strikes the definition of "federal-aid primary highway system," also defined in s. 479.01, F.S.;
- provides subject to FHWA approval and whenever public acquisition of land upon which is situated a lawful permitted (rather than nonconforming) sign occurs, the sign may, at the election of its owner and FDOT, be relocated or reconstructed adjacent to the new ROW and in close proximity to the current site (rather than along the roadway within 100 feet of the current location, provided the sign is not relocated in an area inconsistent with s. 479.024 (rather than on a parcel zoned residential) and provided further that such relocation shall be subject to requirements (rather than applicable setback requirements) in the 1972 agreement between the state and the USDOT;
- provides the face of a nonconforming sign may not be increased in size or height or structurally modified at the point of relocation as specified;
- provides a neighboring sign that is already permitted and that is within the spacing requirements of 479.07(9)(a) is not caused to become nonconforming; and,
- strikes obsolete language.

Section 15: Amends s. 479.156, F.S., relating to wall murals, to replace references to the "Highway Beautification Act" with references to its statutory placement in federal law, 23 U.S.C. s. 131, and to correct cross-references.

Section 16: Amends s. 479.16, F.S., relating to signs for which permits are not required, to:

- provide that specified provisions allowing certain signs without a permit may not be implemented or continued if the federal government notifies FDOT that implementation or continuation will adversely affect the allocation of federal funds to FDOT;
- increase the allowable size of certain signs from eight square feet to sixteen square feet;
- revise a list of items to conform to the title of a cross-referenced section of law;
- removes a provision rendering the small business sign authorization inapplicable to charter counties and strikes relocated language;
- authorizes local tourist-oriented business signs within rural areas of critical economic concern under specified conditions;
- authorizes temporary harvest season signs under specified conditions; and,
- authorizes "acknowledgement signs," intended to inform the traveling public that a public school club, team, or event has been sponsored by a person, firm, or other entity, erected upon publicly funded school premises and relating to a specific public school club, team, or event under specified conditions.

Section 17: Amends s. 479.24, F.S., to require FDOT to pay just compensation for acquisition (rather than *removal*) of a lawful *conforming or* nonconforming sign.

Section 18: Amends s. 479.25, F.S., relating to erection of noise-attenuation barriers blocking the view of a sign, to:

- make "plain language" and conforming changes;
- require, upon a determination that an increase in height as allowed will violate a provision contained in an ordinance or land development regulation, *prior to construction*, the local government or jurisdiction shall provide a variance or waiver to allow an increase in the height of the sign; and,
- strike an FDOT requirement to conduct a written survey of all property owners impacted by noise and who may benefit from the barrier.

Section 19: Amends s. 479.261, F.S., to expand the logo sign program to the entire limited-access highway system, rather than just the interstate highway system, as is already authorized under the Manual on Uniform Traffic Control Devices, thereby increasing opportunities for business participation.

Section 20: Amends s. 479.313, F.S., relating to sign removal, to include *cancellation*, along with revocation, in the direction that all costs incurred by FDOT in connection with the removal of a sign be assessed against and collected from the permittee.

Section 21: Provides the bill takes effect on July 1, 2013.

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:

The Revenue Estimating Conference has not yet analyzed the fiscal impact of this bill.

B. Private Sector Impact:

Section 7: The bill increases the cap on the annual permit fee for each outdoor advertising sign facing from $100 to $200. FDOT advises it has no immediate plans to increase the current annual permit fee and is seeking authorization in anticipation of the need to increase the fee in the future.

The bill also provides for a nonrefundable application fee of $25 to accompany each outdoor advertising sign permit application. FDOT advises that a significant number of applications must be returned for failure to provide complete information and that some applications are returned numerous times, even after extensive assistance from FDOT staff. The fee is intended to cover FDOT's administrative costs for reviewing applications and to encourage applicants to provide more complete information without multiple submissions.

Also increased in the bill from $100 to $1,000 is the maximum transfer fee for any multiple transfer between two outdoor advertisers in a single transaction. FDOT notes the transfer fee of $5 for each permit to be transferred is not changing; however, in many instances, the transfer requests are so numerous that the $100 fee is not covering FDOT's actual costs to transfer the permits.

From the permit reinstatement fee, the bill strikes "up to" and "based on the size of the sign," leaving the fee at a static $300. FDOT currently charges $300 for permit reinstatement, presenting no private sector fiscal impact.

Section 10: The $300 penalty to receive a permit as a nonconforming sign is the existing fee, relocated from existing paragraph (e) to the new paragraph (c), presenting no private sector fiscal impact.

Section 11: The bill deletes the capped $25 application fee and the $200 processing fee for vegetation management application and requires FDOT to establish the fee by rule. FDOT advises it has no immediate plans to increase the current fees and is seeking authorization in anticipation of the need to increase the fee in the future.

The bill also clarifies that the administrative penalty for vegetation management violations is up to $1,000 per sign facing. FDOT advises it has always interpreted the statute in that fashion and has assessed fines accordingly and, therefore, no private sector impact is expected.

C. Government Sector Impact:

Section 7: FDOT expects no fiscal impact from the increased cap on the annual permit fee, as it has no intent to increase the current fee at this time.

FDOT expects to recoup its administrative expenses associated with processing applications for outdoor advertising sign permits as a result of the nonrefundable application fee.

FDOT expects to recoup its administrative expenses associated with processing large requests for multiple transfers at the same fee of $5 per transfer, but with the increased cap of $1,000 for multiple transfers.

FDOT expects no fiscal impact as a result of the changed language regarding the $300 permit reinstatement fee.

Section 10: The $300 penalty is existing law. FDOT expects no fiscal impact.

Section 11: FDOT expects no fiscal impact from the increased cap on the annual permit fee, as it has no intent to increase the current fee at this time. Likewise, FDOT expects no impact from the clarification that the penalty of up to $1,000 is per sign facing.

VI. Technical Deficiencies:

Given that the definition of "new highway" in current s. 479.01(16), F.S., is being repealed, consideration of the repeal of s. 479.11(10), F.S., may be in order, as those subsections are the only two locations in ch. 479, F.S., where the term is present.

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.