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 Rules

BILL:	CS/CS/CS/SB 1632
INTRODUCER:	Rules Committee; Appropriations Committee; Transportation Committee; and Senator Latvala
SUBJECT:	Transportation
DATE:	April 9, 2013
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	**Fav/CS**
2.	Carey	Hansen	AP	**Fav/CS**
3.	Price	Phelps	RC	**Fav/CS**
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

CS/CS/CS/SB 1632 revises the definition of "public agency" for purposes of the Florida Interlocal Cooperation Act; revises provisions relating to the Florida Department of Transportation's (FDOT) disposal and lease of real and personal property and revises a number of provisions relating to outdoor advertising.

The bill has an indeterminate fiscal impact on State Transportation Trust Fund. In addition, a positive impact to local revenue is expected as properties formerly owned by FDOT are returned to the ad valorem tax roll. See Section V.

Primarily, the bill:

- Includes a public transit provider as defined in s. 341.031, F.S., in the definition of "public agency" for purposes of the Florida Interlocal Cooperation Act of 1969.
- Authorizes the FDOT to contract for auction services used in the conveyance of real or personal property or of leasehold interests.

- Revises the terms and conditions under which the FDOT may sell or lease properties acquired for transportation rights-of-way.
- Provides that a public information system located on water management district property that is subject to the Highway Beautification Act of 1965 must be approved by the FDOT and the Federal Highway Administration, if such approval is required by federal law.
- Authorizes the FDOT, when it determines property is not needed for a transportation facility, to dispose of the property through negotiations, sealed competitive bids, auctions, or any other means the FDOT deems to be in its best interest and after due advertisement if the property is valued at greater than $10,000.
- Prohibits a sale at a price less than the FDOT's current estimate of value, except under certain conditions.
- Authorizes the FDOT to enter into a lease through negotiations, sealed competitive bids, auctions, or any other means the FDOT deems to be in its best interest; and prohibits the FDOT from entering into a lease at a price less than the FDOT's current estimate of value.
- Requires the FDOT's estimate of value to be prepared in accordance with the FDOT procedures, guidelines, and rules for valuation of real property; and requires, if the value of the property exceeds $50,000 as determined by the FDOT's estimate, the sale or lease must be at a negotiated price not less than the estimate of value as determined by an independent appraisal prepared in accordance with the FDOT procedures, guidelines, and rules, the cost of which must be paid by the party seeking the purchase or lease of the property.
- Relocates, revises, and repeals various definitions, and revises various duties of the FDOT with respect to administration and enforcement of state and federal outdoor advertising provisions.
- Provides that the 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 the FDOT to notify a sign applicant in writing if the 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 the FDOT to notify the local government that the applicant has requested a hearing.
- Provides that if the FDOT determines that the parcel does not meet sign permit requirements, the applicant must remove the sign within 30 days after the date of the order and is responsible for all sign removal costs; and provides for a reduction in transportation funding to a local government if a local government fails to comply.
- Revises various fees; revises provisions relating to signs visible from 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; revises provisions relating to vegetation management and revises provisions relating to relocated or reconstruction of signs situated upon right-of-way acquired by the 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; and 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.
- Repeals a pilot program authorized in 2012 for signs for tourist-oriented commerce signs, which is replaced by authority to erect such signs without a permit under certain conditions.
- Requires the FDOT to submit for legislative approval in the next regular legislative session a program that allows participation in the maintenance of highway roadside rights-of-way through monetary contributions in exchange for the placement of organic corporate emblems in view of passing motorists in recognition of services provided, if the Federal Government approves such a program.
- Provides an effective date.

This bill substantially amends the following sections of the Florida Statutes: 337.25, 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 section 479.024, Florida Statutes.

The bill repeals section 76 of chapter 2012-174, Laws of Florida.

II. Present Situation:

Pinellas Suncoast Transit Authority (PSTA)

The Pinellas Suncoast Transit Authority, formerly known as Central Pinellas Transit Authority (CPTA), was created by the "Pinellas Suncoast Transit Authority Law"[1] by special act of the Legislature in 1970. Service began in 1973. In 1982 the Central Pinellas Transit Authority was renamed Pinellas Suncoast Transit Authority (PSTA) to more clearly describe the area served. In 1984 PSTA expanded the service area by merging with the St. Petersburg Municipal Transit System. PSTA serves most of the unincorporated area and 21 of the county's 24 municipalities, covering 98 percent of the county's population and 97 percent of its land area. The service area is defined in law.

Hillsborough Area Regional Transit Authority (HART)

The Hillsborough Transit Authority, operating and also known as Hillsborough Area Regional Transit Authority, or HART, was created as a body politic and corporate under Chapter 163, Part V, Sections 163.567, et seq., F.S., on October 3, 1979.[2,3] HART was chartered for the

[1] Chapters 70-907, 82-368, 82-416, 90-449, 91-338, 94-433, 94-438, 99-440, 00-424, and 02-341, L.O.F.

[2] Sections 163.565 – 163.572, F.S., the Regional Transportation Authority Law, authorize the creation of regional transportation authorities by any two or more contiguous counties, cities or other political subdivisions. This law was created in the early 1970's to create the HART (Hillsborough Area Regional Transit) line transit agency in Hillsborough County and has not been used to create any other agency. The law provides for a charter committee to be formed consisting of representatives of the affected local governments (by population formula) to develop a charter defining the powers and duties of the transportation authority and submit the charter to the Department of State. Once the charter is filed the Governor must appoint two members to the board of directors of the transportation authority. The remaining membership of the board of directors is made up of representatives of the local governments. The authority is authorized to incur debt, levy taxes (up to 3

purpose of providing mass transit service to its two charter members, the City of Tampa and the unincorporated areas of Hillsborough County. The Authority may admit to membership any county or municipality contiguous to one of its members upon application and after approval by a majority vote of the Board of Directors. The City of Temple Terrace has been admitted as a member of the Authority.

House Bill 599 (2012)

In 2012, the Legislature passed HB 599[4] providing legislative intent to encourage and facilitate a review by PSTA and HART in order to search for possible improvements in regional transit connectivity and implementation of operational efficiencies and service enhancements that are consistent with the regional approach to transit identified in the Tampa Bay Area Regional Transportation Authority's (TBARTA) Regional Transportation Master Plan.[5] The Legislature found that improvements and efficiencies can best be achieved through a joint review, evaluation, and recommendations by PSTA and HART.

HB 599 required the governing bodies or a designated subcommittee of both PSTA and HART to hold joint meetings in order to consider and identify opportunities for greater efficiency and service improvements, including specific methods for increasing service connectivity between jurisdictions of each agency. The elements to be reviewed must also include:

- governance structure, including governing board membership, terms, responsibilities, officers, powers, duties, and responsibilities;
- funding options and implementation;
- facilities ownership and management;
- current financial obligations and resources; and
- actions to be taken that are consistent with TBARTA's master plan.

The bill required PSTA and HART jointly submit a report to the Speaker of the House of Representatives and the President of the Senate by February 1, 2013, on the elements described above. The report was required to include proposed legislation to implement each recommendation and specific recommendations concerning the reorganization of each agency, the organizational merger of both agencies, or the consolidation of functions within and between each agency. The report was submitted on or about January 28, 2013.

One of the scenarios presented in the report was the establishment of a joint powers agency.[6] Attached to the report, required by HB 599, was a legal opinion from the General Counsels of PSTA and HART discussing legal issues arising out of the consolidation study. One conclusion

mills ad valorem tax, with county commission approval and by a majority of voters in the affected area), and has limited eminent domain powers.

[3] This should not be confused with the statutory language in ch. 343, F.S., which creates other regional transportation authorities including TBARTA.

[4] Ch 2012-174, L.O.F.

[5] A copy of TBARTA's Master Plan is available athttp://www.tbarta.com/update (last visited March 28, 2013).

[6] PSTA/HART Consolidation Study (on file with the Senate Transportation Committee).

of the memorandum was transit authorities do not have the statutory authority to enter into joint power agreements.[7]

Florida Interlocal Cooperation Act

The Florida Interlocal Cooperation Act[8] authorizes public agencies "of this state to exercise jointly with public agency of the state, of any other state or the United States government any power, privilege or authority which such agencies share in common and which might each exercise separately."[9] The joint exercise of power is to be made by contract in the form of an interlocal agreement. Pursuant to the statute, the agreements may address numerous terms and conditions including the agreement's purpose and duration, personnel and financial issues, purchasing and contracting powers, accountability measures, and dispute resolution processes.[10]

"Public agency" is currently defined by law as a political subdivision, agency, or officer of this state or of any state of the United States, including, but not limited to, state government, county, city, school district, single and multipurpose special district, single and multipurpose public authority, metropolitan or consolidated government, a separate legal entity or administrative entity to administer or execute the agreement, an independently elected county officer, any agency of the United States Government, a federally recognized Native American tribe, and any similar entity of any other state of the United States.[11]

Disposal and Lease of Real and Personal Property

The FDOT is authorized to purchase, lease, exchange, or otherwise acquire any land, property interests, buildings or other improvements necessary for rights-of-way for existing or anticipated transportation facilities on the State Highway System, on the State Park Road System, or in an FDOT designated rail or transportation corridor. The FDOT may also accept donations of land, building, or other improvements for transportation rights-of-way and may compensate an entity by providing replacement facilities when the land, building, or other improvements are needed for transportation purposes but are held by a federal, state, or local governmental entity and used for public purposes other than transportation.[12]

The FDOT is required to conduct a complete inventory of all real or personal property immediately upon acquisition, including an itemized listing of all appliances, fixtures, and other severable items, a statement of the location or site of each piece of realty, structure, or severable item; and the serial number assigned to each.[13] The FDOT must evaluate the inventory of real property which has been owned for at least 10 years and which is not within a transportation corridor or the right-of-way of a transportation facility. If the property is not located within a transportation corridor or is not needed for a transportation facility, FDOT is authorized to

[7] November 16, 2012, Report of General Counsels regarding Legal Issues Arising out of Consolidation Study (on file with the Senate Transportation Committee).
[8] Section 163.01, F.S.
[9] Section 163.01(4), F.S.
[10] Section 163.01(5), F.S.
[11] Section 163.01(3)(b), F.S.
[12] Section 337.25(1), F.S.
[13] Section 337.25(2), F.S.

dispose of the property.[14] According to the FDOT, 85 percent of its currently-owned surplus property is valued at under $50,000.

Sale of Property

The FDOT is authorized to sell any land, building, or other real or personal property it acquired if the FDOT determines the property is not needed for a transportation facility.[15] The FDOT is required to first offer the property ("first right of refusal") to the local government in whose jurisdiction the property is located, with the exception of the following parcels:

- The FDOT may negotiate the sale of property, at no less than fair market value as determined by an independent appraisal, to the owner holding title to abutting property, if in the FDOT's discretion public sale would be inequitable.[16]
- The FDOT may sell property acquired for use as a borrow pit, at no less than fair market value, to the owner of abutting land from which the pit was originally acquired, if the pit is no longer needed.[17]
- The FDOT may convey to a county without consideration any property acquired by a county or by the FDOT using constitutional gas tax funds for a right-of-way or borrow pit for a road on the State Highway System, State Park Road System, or county road system if the property is no longer used or needed by the FDOT; and the county may sell the property on receipt of competitive bids.[18]
- A governmental entity may authorize re-conveyance to the original donor of property donated to the state for transportation purposes if the facility has not been constructed for at least five years, no plans have been prepared for construction of the facility, and the property is not located within a transportation corridor.[19]
- The FDOT may negotiate the sale of property as replacement housing if the property was originally acquired for persons displaced by transportation projects and if the state receives no less than its investment in such properties or fair market value, whichever is lower. This benefit extends only to persons actually displaced by a project, and dispositions to any other person must be for fair market value. [20]

Once the FDOT determines the property is not needed for a transportation facility and has extended and received rejection of required first rights of refusal, FDOT is also authorized to:

- Negotiate the sale of property if its value is $10,000 or less as determined by FDOT estimate;[21]
- Sell the property to the highest bidder through "due advertisement" of receipt of sealed competitive bids or by public auction if its value exceeds $10,000 as determined by the FDOT estimate;[22]

[14] Section 337.25(3), F.S.
[15] Section 337.25(4), F.S.
[16] Section 337.25(4)(c), F.S.
[17] Section 337.25(4)(d), F.S.
[18] Section 337.25(4)(f), F.S.
[19] Section 337.25(4)(g), F.S.
[20] Section 337.25(4)(i), F.S.
[21] Section 337.25(4)(a), F.S.

- Determine the fair market value of property through appraisal conducted by an FDOT appraiser, if the FDOT begins the process for disposing of property on its own initiative, either by authorized negotiation or by authorized receipt of sealed competitive bids or public auction;[23]
- Convey the property without consideration to a governmental entity if the property is to be used for a public purpose;[24]and
- Use the projected maintenance costs of the property over the next five years to offset the market value in establishing a value for disposal of the property, even if that value is zero, if the FDOT determines that the property will require significant costs to be incurred or that continued ownership of the property exposes the FDOT to significant liability risks.[25]

Lease of Property

The FDOT is further authorized to convey a leasehold interest for commercial or other purposes to any acquired land, building, or other property, real or personal, subject to the following:[26]

- The FDOT may negotiate such a lease at the prevailing market value with the owner from whom the property was acquired; with the holders of leasehold estates existing at the time of the FDOT's acquisition; or, if public bidding would be inequitable, with the owner of privately owned abutting property, after reasonable notice to all other abutting property owners.[27]
- All other leases must be by competitive bid.[28]
- Such leases are limited to five years in duration, but the FDOT may renegotiate a lease for an additional five-year term without rebidding.[29]
- Each lease must require that any improvements made to the property during the lease term be removed at the lessee's expense.[30]
- If property is to be used for a public purpose, including a fair, art show, or other educational, cultural, or fundraising activity, the property may be leased without consideration to a governmental entity or school board.[31]
- No lease may be used by the lessee to establish the four years' standing required by eminent domain law if the business had not been established for four years on the date title passed to the FDOT.[32]
- The FDOT may enter into a long-term lease without compensation with certain public ports for rail corridors used for the operation of a short-line railroad to the port.[33]

[22] Section 337.25(4)(b), F.S.
[23] Section 337.25(4)(e), F.S.
[24] Section 337.25(4)(h), F.S.
[25] Section 337.25(4)(j), F.S.
[26] Section 337.25(5), F.S.
[27] Section 337.25(5)(a), F.S.
[28] Section 337.25(5)(b), F.S.
[29] Section 337.25(5)(c), F.S.
[30] Section 337.25(5)(d), F.S.
[31] Section 337.25(5)(e), F.S.
[32] Section 337.25(5)(g), F.S.
[33] Section 337.25(5)(h), F.S.

The appraisals currently required under s. 337.25(4)(c) and (d), F.S., must be prepared in accordance with the FDOT guidelines and rules by an independent appraiser certified by the FDOT.[34] When "due advertisement" is required, an advertisement in a newspaper of general circulation in the area of the improvements of not less than 14 calendar days prior to the date of the receipt of bids or the date on which a public auction is to be held satisfies the requirement.[35]

Public Information Systems

Pursuant to s. 373.618, F.S., public information systems may be located on WMD property, provided certain terms and conditions are met. The systems must display messages to the general public concerning water management services, activities, events, watering restrictions, severe weather reports, amber alerts, and other essential public information. The law prohibits the use of WMDs funds to acquire, develop, construct, operate, or manage a public information system. Commercial messages are to be paid for by private sponsors.[36]

Section 479.02, F.S., requires the FDOT to regulate the size, height, lighting, and spacing of signs on the interstate highway system in accordance with state and federal regulations. A permit and annual fee are required by any individual that proposes to erect, operate, use, or maintain any sign on the State Highway System outside an urban area or on any portion of the interstate or federal-aid primary highway system. Certain signs do not require a permit as long as the signs are in compliance with the provisions in s. 479.11(4)-(8), F.S.[37]

Section 479.16, F.S, specifies that signs owned by a municipality or county that contain messages related to any commercial enterprise, a commercial sponsor of an event, personal messages, or political messages, are not considered information regarding government services. The FDOT may potentially be subject to an annual loss of 10 percent of federal highway funding if these signs are located within a "controlled area."[38]

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:

[34] Section 337.25(7), F.S.
[35] Section 337.25(8), F.S.
[36] *See* s. 373.918, F.S.
[37] See s. 479.11(4)-(8), F.S.
[38] "Controlled area" means 660 feet or less from the nearest edge of the right-of-way of any portion of the State Highway System, interstate, or federal-aid primary system and beyond 660 feet of the nearest edge of the right-of-way of any portion of the State Highway System, interstate, or federal-aid primary system outside an urban area. *See* s. 479.01, F.S.

- 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[39] 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.[40]

Under the provisions of a 1972 agreement between the State of Florida and the U.S. Department of Transportation (USDOT)[41] incorporating the HBA's required controls, 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. 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 the 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

[39] 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.)
[40] 23 U.S.C. § 131(b)
[41] Copy on file in the Senate Transportation Committee.

permitted there provided three or more separate commercial or industrial activities take place.[42] 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 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.[43]

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 the FDOT's jurisdiction.[44] Employees, agents, or independent contractors working for the 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, the FDOT is authorized to enter upon any intervening privately-owned lands for the purpose of removal of illegal signs, provided the FDOT has determined that no other legal or economically feasible means of entry to the sign site are reasonably available. The FDOT is responsible for the repair or replacement in like manner of any physical damage or destruction of the private property.

[42] Section 479.01(26), F.S.
[43] Id.
[44] Section 479.03, F.S.

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 the 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.[45]

Denial or Revocation of License

The FDOT may deny or revoke any license requested or granted under ch. 479, F.S., in any case in which the 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 the FDOT notice. Any person aggrieved by any FDOT action in denying or revoking a license is authorized to apply to the FDOT for an administrative hearing within 30 days from the receipt of the notice.[46]

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

The FDOT is required to establish by rule an annual permit fee for each sign facing[47] in an amount sufficient to offset the total cost to the FDOT for the program, but shall not exceed $100.[48] The current fee is $71, with some exceptions for small signs. The 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 the FDOT for the program. No application fee to cover the FDOT's administrative costs in processing applications is currently required.

[45] Section 479.04, F.S.
[46] Section 479.05, F.S.
[47] 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.)
[48] Section 479.07(3)(c), F.S.

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.[49] The maximum transfer fee for any multiple transfer between two outdoor advertisers in a single transaction is $100. The 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.[50] 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, the 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 the FDOT for all actual costs resulting from the permit cancellation or nonrenewal. The 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

The 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.[51]

That section also provides for the 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 the FDOT specifications that the FDOT shall adopt by rule at the time it establishes the service fee for replacement tags.[52]

Signs Visible From More than One Highway

If a sign is visible from the controlled area of more than one highway subject to the FDOT jurisdiction, the sign must meet the permitting requirements of, and be permitted to, the highway having the more stringent permitting requirements.[53]

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

[49] Section 479.07(6), F.S
[50] Section 479.07(8), F.S.
[51] Section 479.07(5), F.S.
[52] Rule 14-10.004(5), F.A.C.
[53] Section 479.07(9)(a), F.S.

the same side of an interstate highway may be reduced to 1,000 fee under the specified conditions and directs the FDOT to maintain statistics tracking the use of the provisions of the pilot program based on notifications received by the FDOT from local governments.[54]

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, the FDOT is required to remove the sign without further notice and without incurring any liability.[55] Further, all costs incurred by the 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.[56]

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 federal-aid primary highway system without the required the FDOT permit must be removed. Prior to removal, the 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, the 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 the FDOT within 30 days after the date of the written notice. If after notice the sign owner does not remove the sign, the FDOT is required to do so.[57]

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;
- The FDOT has not initiated a notice of violation or taken other action to remove the sign during the initial seven-year period; and
- The FDOT determines that the sign is not located on state right-of-way and is not a safety hazard.

The 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

[54] Section 479.07(9)(c), F.S.
[55] Section 479.10, F.S.
[56] Section 479.313, F.S.
[57] Section 479.105(1)(a) and (b), F.S.

required by ch. 479, F.S., including annual permit renewal fees payable since the date of the erection of the sign.[58]

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.[59]

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 the 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 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, the 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,[60] the 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

The 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.[61] Further, any person who

[58] Section 479.105(1)(e), F.S.
[59] Section 479.106(8), F.S.
[60] The date of enactment of s. 479.106, F.S.
[61] Section 479.106(4), F.S.

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.[62]

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 the FDOT or an independent contractor, shall be assessed by the FDOT against the owner of the sign. In addition, the FDOT is directed to assess a fine of $75 against the sign owner for any sign which violates the requirements of that section. The FDOT advises assessment is infrequent and collection is rare.

Relocation or Reconstruction of a Publicly Acquired Sign

When the FDOT acquires land with a lawful nonconforming sign, the sign may, at the election of its owner and the FDOT and subject to the 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.[63] 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.[64]

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 the FDOT that implementation will adversely affect the allocation of federal funds to the FDOT.

[62] Section 479.106(7), F.S.
[63] Section 479.15(3), F.S.
[64] Section 479.15(4), F.S.

Compensation for Removal of Signs

The 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.[65]

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, the 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 the FDOT.

When notice has been received from the local government or jurisdiction prior to erection of the noise-attenuation barrier, the 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
- 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 interest in the real property.

The 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.

The 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

[65] Section 479.24, F.S.

indicated approval. When approved, the 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.[66]

Logo Program

The 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.[67] As indicated, the program is limited to the interstate highway system, but under the Manual on Uniform Traffic Control Devices,[68] 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. 163.01(3)(b), F.S., to include a public transit provider as defined in s. 341.031, F.S., in the definition of "public agency" for purposes of the Florida Interlocal Cooperation Act of 1969. This change will allow all public transit providers to enter into interlocal agreements.

Section 2 amends s. 337.25, F.S., relating to the FDOT acquisition, lease, and disposal of real and personal property, to:

- Authorize the FDOT to contract for auction services used in the conveyance of real or personal property or leasehold interests and to authorize such contracts to allow the contractor to retain a portion of the proceeds as compensation.
- Make "plain language" revisions to the provisions requiring an inventory upon the FDOT possession or acquisition of real or personal property to remove the required itemized listing in the inventory and replaces it with including a statement of the location or site of each piece of realty, structure, or severable item.
- Replace the FDOT authority to "sell" any land, building, or other real or personal property when the FDOT determines the property isn't needed for a transportation facility with authority to "convey" the same; authorizes the FDOT, when it determines the property is not needed for a transportation facility, to dispose of property through negotiations, sealed competitive bids, auctions, or any other means the FDOT deems to be in its best interest.

[66] Section 479.25, F.S.
[67] Section 479.261, F.S.
[68] Adopted by FDOT pursuant to s. 316.0745, F.S.

- Requires due advertisement of properties valued at more than $10,000.
- Prohibits a sale at a price less than the FDOT's current estimate of value.
- Authorize (rather than require) the FDOT to afford a right of first refusal to a political subdivision (in addition to a local government) in which the parcel is located, except in conveyances transacted under revised paragraphs (4)(a), (c), and (e).
- Revise the paragraphs of current subsection (4) as follows:
  - Removes the FDOT authority to negotiate the sale of property valued at $10,000 or less as determined by the FDOT's estimate and relocates from paragraph (g) to paragraph (a) the authority of a governmental entity to authorize re-conveyance to the original donor of property donated to the state for transportation purposes under the specified conditions.
  - Relocates from paragraph (h) to paragraph (b) the FDOT's authority to convey property without consideration to a governmental entity if the property is to be used for a public purpose.
  - Removes the FDOT authority to negotiate the sale of property, at no less than fair market value, to the owner holding title to abutting property, if in the FDOT's discretion public sale would be inequitable and relocates revised authority from paragraph (c) to paragraph (e); relocates from paragraph (i) to paragraph (c) the FDOT's authority to negotiate the sale of property as replacement housing if the property was originally acquired for persons displaced by transportation projects and if the state receives no less than its investment in such properties or the FDOT's current estimate of value (rather than fair market value), whichever is lower; and also replaces fair market value dispositions to any other persons with dispositions for no less than the FDOT's current estimate of value.
  - Removes the FDOT authority to sell property acquired for use as a borrow pit, at no less than fair market value, to the owner of abutting land from which the pit was originally acquired, if the pit is no longer needed; and relocates from paragraph (j) to paragraph (d) the FDOT's authority to use the projected maintenance costs of the property over the next ten (rather than five) years to offset the market value in establishing a value for disposal of the property, even if that value is zero, if the FDOT determines that the property will require significant costs to be incurred or that continued ownership of the property exposes the FDOT to significant liability risks.
  - Relocates the FDOT authority to sell property to an abutting property owner currently in paragraph (c) to paragraph (e) and revises the authority to provide that if, in the FDOT's discretion, a sale to anyone other than an abutting property owner would be inequitable, the property may be sold to the abutting owner for the FDOT's current estimate of value (rather than no less than fair market value as determined by an independent appraisal).
  - Deletes current paragraph (f) authorizing the FDOT to convey to a county without consideration any property acquired by a county or by the FDOT using constitutional gas tax funds for a right-of-way or borrow pit;
  - Deletes current paragraphs (g), (h), and (i), which language is relocated as already described.
- Prohibit the FDOT from conveying a leasehold interest at a price less than the FDOT's current estimate of value, except as provided in revised paragraphs (4)(a)-(d).
- Revise the paragraphs of current subsection (5) as follows:
  - Removes the FDOT authority to negotiate a lease at the prevailing market value with the owner from whom the property was acquired and with the holders of leasehold estates existing at the time of the FDOT's acquisition and relocates revised authority from paragraph (a) to paragraph (b).

  - Removes the requirement that all other leases be by competitive bid; relocates the FDOT authority to sell property to an abutting property owner currently in paragraph (a) to paragraph (b); and revises the authority to provide that if, in the FDOT's discretion, a lease to a person other than an abutting property owner or tenant with a leasehold interest in the abutting property would be inequitable, the FDOT may lease the property to the abutting owner or tenant for no less than the FDOT's current estimate of value (rather than at the prevailing market value).
  - Retains the five-year limitation on the duration of leases entered into through the general authority granted to the FDOT to enter into a lease through negotiations, sealed competitive bids, auctions, or any other means the FDOT deems to be in its best interest; removes that limitation from the revised the FDOT authority to lease property to an abutting owner or tenant if a lease to another would be inequitable; and authorizes the FDOT, in addition to its authority to renegotiate a lease, to extend a lease for an additional five years as the FDOT deems appropriate (rather than without rebidding).
  - Revises the requirement that each lease contain a provision requiring any improvements made to the property during the term of lease to be removed at the lessee's expense by adding, "unless otherwise directed by the lessor."
  - Deletes the identified public purposes (a fair, art show, or other educational, cultural, or fundraising activity) for which the FDOT may lease property without consideration; removes a school board as an entity to which the FDOT may grant such a lease; and provides that a lease for a public purpose is exempt from the five-year, renegotiation or extension limits.
- Remove direction that appraisals required by current paragraphs (4)(c) [sale of property to an abutting owner if public sale would be inequitable] and (4)(d) [sale of borrow pit to abutting owner from which originally required] be prepared in accordance with the FDOT guidelines and rules by an FDOT certified independent appraiser; remove direction that if federal funds were used in the acquisition of the property, the appraisal shall also be subject to the approval of the Federal Highway Administration; require the FDOT's estimate of value required by revised subsections (4) [conveyance of any land, building, or other real or personal property] and (5) [lease of any land, building, or other real or personal property] be prepared in accordance with the FDOT procedures, guidelines, and rules for valuation of real property; and require, if the value of the property exceeds $50,000 as determined by the FDOT estimate, the sale or lease must be at a negotiated price not less than the estimate of value as determined by an appraisal prepared in accordance with the FDOT procedures, guidelines, and rules for valuation of property, the cost of which shall be paid by the party seeking the purchase or lease of the property.
- Provide that this section does not modify the eminent domain requirements of s. 73.013, F.S.

Section 3 amends s. 373.618, F.S., to require FDOT and Federal Highway Administration approval of a public information system that is located on water management district property and that is subject to the Highway Beautification Act, if such approval is required by federal law and regulation under the agreement between the state and the U.S. Department of Transportation and federal regulations.

Section 4 requires the FDOT to submit for legislative approval in the next regular legislative session a program that allows participation in the maintenance of highway roadside rights-of-way through monetary contributions in exchange for the placement of organic corporate

emblems in view of passing motorists in recognition of services provided, if the Federal Government approves such a program.

Section 5 amends s. 479.01, F.S., definitions as used in ch. 479, F.S., as follows:

- 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.
- Revises the definition of "remove," to mean to disassemble all sign materials above ground level and transport them from the sign site. 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, F.S..
- 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 provisions related to specified activities that may not be recognized as commercial or industrial activities.

Section 6 amends s. 479.02, F.S., duties of the FDOT, as follows:

- In the duty to administer and enforce the provisions of ch. 479, F.S., the agreement between the 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 the 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 for proper 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 the FDOT direction to adopt rules regarding what information is to be collected and preserved in the inventory.

Section 7 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 the 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; and
    - 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 that 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; and
  - 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 the 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 the 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 the FDOT to notify the local government that the applicant has requested a hearing, as specified.
- Provides that if the 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 the FDOT due to a local government's failure to be compliant, the must FDOT reduce apportioned transportation funding to the local government by an equivalent amount.

Section 8 amends s. 479.03, F.S., to revise the 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 9 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 10 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 the 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 the FDOT for outdoor advertising purposes, or that the licensee has violated any of the provisions of s. 479, F.S., unless such licensee, within 30 days after receipt of the FDOT notice, corrects such false or misleading information, pays the outstanding amounts, or complies with the provisions of s. 479, F.S.

Section 11 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:

- 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.
- Removes 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 the 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 the 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 the 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 the FDOT's duty to maintain statistics on the pilot program.
- Deletes obsolete language.

Section 12 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 13 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 14 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 the 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;
- Remove 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;
- Provide that the written notice state that a hearing may be requested as specified;
- Include the advertiser displayed on the sign or the owner of the property along with the owner in the FDOT's duty to remove the sign if not removed by the sign owner; and,
- Relocate and clarify existing provisions for the FDOT issuance of permits for conforming and nonconforming signs erected or maintained without the required permit.

Section 15 amends s. 479.106, F.S., relating to vegetation management and sign visibility, to:

- 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 16 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 17 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 18 amends s. 479.15, F.S., providing for harmony of state and local regulations, to:

- Strike the definition of "federal-aid primary highway system," also defined in s. 479.01, F.S.;
- Provide, subject to the FHWA approval and whenever public acquisition of land which has a lawful permitted (rather than nonconforming) sign occurs, the sign may, at the election of its owner and the 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, F.S., (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;
- Provide the face of a nonconforming sign may not be increased in size or height or structurally modified at the point of relocation as specified; and
- Provide a neighboring sign that is already permitted and that is within the spacing requirements of s. 479.07(9)(a), F.S., is not caused to become nonconforming.

Section 19 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 20 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 the 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;
- Remove a provision rendering the small business sign authorization inapplicable to charter counties and strikes relocated language;
- Authorize local tourist-oriented business signs within rural areas of critical economic concern under specified conditions;
- Authorize temporary harvest season signs under specified conditions; and
- Authorize "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 21 amends s. 479.24, F.S., to require the FDOT to pay just compensation for acquisition (rather than *removal*) of a lawful *conforming or* nonconforming sign.

Section 22 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 23 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 24 amends s. 479.313, F.S., relating to sign removal, to include *cancellation*, along with revocation, in the direction that all costs incurred by the FDOT in connection with the removal of a sign be assessed against and collected from the permittee.

Section 25 repeals section 76 of chapter 2012-174, Laws of Florida, which was a pilot program for tourist-oriented commerce outdoor advertising signs in rural areas of critical economic concern, which is replaced by authority to erect such signs without a permit under certain conditions.

Section 26 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 analyzed the fiscal impact of this bill.

B. Private Sector Impact:

Section 9

The bill 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 the FDOT staff. The fee is intended to cover the FDOT's administrative costs for reviewing applications and to encourage applicants to provide more complete information without multiple submissions.

The maximum transfer fee for any multiple transfer between two outdoor advertisers in a single transaction is increased from $100 to $1,000. The 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 the FDOT's actual costs to transfer the permits.

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

Section 13

The bill clarifies that the administrative penalty for vegetation management violations is up to $1,000 per sign facing. The 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 1

After entering into interlocal agreements, public transit providers may see a reduction in expenditures due to efficiencies or service improvements. However, any reduction would depend upon the specific interlocal agreement.

Section 2

The fiscal impact of the modified terms and conditions governing the FDOT's sale or lease of surplus property is indeterminate. However, according to the FDOT, a net positive impact to local revenue is expected as properties are returned to the ad valorem

tax roll. In addition, an indeterminate savings to the state is expected as a result of reduced appraisal expenses, especially in cases when such costs approach and even exceed the price received by the FDOT.

Section 3

The revisions requiring approval of water management district public information systems avoids a potential annual loss of 10 percent of federal highway construction funds.

Section 9

The FDOT expects to recoup its administrative expenses associated with: (a) processing applications for outdoor advertising sign permits as a result of the nonrefundable application fee, and (b) 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.

Section 13

The FDOT expects no impact from the clarification that the penalty of up to $1,000 is per sign facing.

VI. Technical Deficiencies:

None.

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.)

CS/CS/CS by Rules on April 9, 2013:
The committee substitute:

- Includes a public transit provider as defined in s. 341.031, F.S., in the definition of "public agency" for purposes of the Florida Interlocal Cooperation Act of 1969.
- Provides that a water management district public information system subject to the Highway Beautification Act of 1965 must be approved by FDOT and the Federal Highway Administration if such approval is required by federal law and regulation under the agreement between the state and the U.S. Department of Transportation and by federal regulations relating to outdoor advertising control enforced by FDOT.

CS/CS by Appropriations on April 3, 2013:
The committee substitute:

- Requires due advertisement by FDOT when conveying or selling property which is valued at more than $10,000.
- Prohibits the lease of any property at less than the property's current estimate of value.
- Restores definition of "due advertisement" to current law.
- Restores the cap on annual permit fee for each sign facing to $100 to current law.
- Restores vegetation management application fee to current law.
- Revises the list of non-permitted signs that are required to be removed, at the owner's expense, if the FDOT is notified by the Federal Government of an adverse effect on the allocation of federal funds to the department.
- Clarifies sports facilities meet permitting exceptions if the display is related to the facility's activities or the presence of the products or services exist at the facility.

CS by Transportation on March 14, 2013:
The committee substitute:

- Revises the terms and conditions under which the FDOT may sell or lease properties acquired for right-of-way but which are no longer needed for transportation purposes;
- Restores the definition of "new highway" contained in current law;
- Restores to current law language rendering inapplicable to certain municipal jurisdictions provisions regarding relocation of and compensation for signs on land acquired by the FDOT; and
- Repeals a pilot program authorized in 2012 for tourist-oriented commerce signs in rural areas of critical economic concern, which is replaced by authority to erect such signs without a permit under certain conditions.

B. Amendments:

None.