



735098

LEGISLATIVE ACTION

Senate

House

.  
. .  
. .  
. .  
. .

Floor: WD/2R

04/30/2013 01:15 PM

---

Senator Brandes moved the following:

1           **Senate Amendment to Amendment (740626) (with title**  
2 **amendment)**

3  
4           Between lines 953 and 954  
5 insert:

6           Section 19. Subsection (1) of section 337.408, Florida  
7 Statutes, is amended to read:

8           337.408 Regulation of bus stops, benches, transit shelters,  
9 street light poles, waste disposal receptacles, and modular news  
10 racks within rights-of-way.—

11           (1) (a) Benches or transit shelters, including advertising  
12 displayed on benches or transit shelters, may be installed  
13 within the right-of-way limits of any municipal, county, or



735098

14 state road, except a limited access highway, provided that such  
15 benches or transit shelters are for the comfort or convenience  
16 of the general public or are at designated stops on official bus  
17 routes and provided that written authorization has been given to  
18 a qualified private supplier of such service by the municipal  
19 government within whose incorporated limits such benches or  
20 transit shelters are installed or by the county government  
21 within whose unincorporated limits such benches or transit  
22 shelters are installed. A municipality or county may authorize  
23 the installation, without public bid, of benches and transit  
24 shelters together with advertising displayed thereon within the  
25 right-of-way limits of such roads. All installations shall be in  
26 compliance with all applicable laws and rules, including,  
27 without limitation, the Americans with Disabilities Act.  
28 Municipalities and counties that authorize or have authorized a  
29 bench or transit shelter to be installed within the right-of-way  
30 limits of any road on the State Highway System shall be  
31 responsible for ensuring that the bench or transit shelter  
32 complies with all applicable laws and rules, including, without  
33 limitation, the Americans with Disabilities Act, or shall remove  
34 the bench or transit shelter. The department shall have no  
35 liability for any claims, losses, costs, charges, expenses,  
36 damages, liabilities, attorney fees, or court costs relating to  
37 the installation, removal, or relocation of any benches or  
38 transit shelters authorized by a municipality or county.

39 (b) On and after July 1, 2012, through June 30, 2013, a  
40 municipality or county that authorizes a bench or transit  
41 shelter to be installed within the right-of-way limits of any  
42 road on the State Highway System must require the qualified



735098

43 private supplier, or any other person under contract to install  
44 the bench or transit shelter, to indemnify, defend, and hold  
45 harmless the department from any suits, actions, proceedings,  
46 claims, losses, costs, charges, expenses, damages, liabilities,  
47 attorney fees, and court costs relating to the installation,  
48 removal, or relocation of such installations, and shall annually  
49 certify to the department in a notarized signed statement that  
50 this requirement has been met. The certification shall include  
51 the name and address of each person responsible for indemnifying  
52 the department for an authorized installation.

53 (c) On and after July 1, 2013, no benches or transit  
54 shelters may be installed within the right-of-way limits of any  
55 road on the State Highway System without first obtaining a  
56 permit for the installation from the department. An application  
57 for a permit must be made on a form prescribed by the  
58 department. As part of the application, the applicant must  
59 certify in a notarized signed statement that all information  
60 provided in the application is true and correct and must agree  
61 to indemnify, defend, and hold harmless the department from any  
62 suits, actions, proceedings, claims, losses, costs, charges,  
63 expenses, damages, liabilities, attorney fees, and court costs  
64 relating to the installation, removal, or relocation of such  
65 installations. A permit is valid only for the location specified  
66 in the permit. Each permit will require the applicant to remove  
67 or relocate the installation at its cost within 30 days after  
68 written notice to the applicant by the department that the  
69 installation is unreasonably interfering in any way with the  
70 convenient, safe, or continuous use, or the maintenance,  
71 improvement, extension, or expansion of the State Highway System



735098

72 road. The department may adopt rules to implement this  
73 paragraph.

74 (d) Municipalities and counties that have authorized the  
75 installation of benches or transit shelters within the right-of-  
76 way limits of any road on the State Highway System must remove  
77 or relocate, or cause the removal or relocation of, the  
78 installation at no cost to the department within 60 days after  
79 written notice by the department that the installation is  
80 unreasonably interfering in any way with the convenient, safe,  
81 or continuous use of or the maintenance, improvement, extension,  
82 or expansion of the State Highway System road.

83 (e) On or before June 30, 2014, every owner of a bench or  
84 transit shelter installed at any location within the right-of-  
85 way limits of any road on the State Highway System before July  
86 1, 2013, shall provide the department a written inventory of the  
87 location of each such bench or transit shelter and shall certify  
88 to the department in a notarized signed statement that each  
89 installation is in compliance with all applicable laws and  
90 rules, including, without limitation, the Americans with  
91 Disabilities Act. Beginning July 1, 2014, the department may, but  
92 is not required to, remove any bench or transit shelter within  
93 the right-of-way limits of any road on the State Highway System  
94 that is not included in the required inventory and  
95 certification, and assess the cost of removal against the owner  
96 of the bench or transit shelter.

97 (f) If the department determines that any bench or transit  
98 shelter installation within the right-of-way limits of any road  
99 on the State Highway System does not comply with all applicable  
100 laws and rules, the owner of such bench or transit shelter shall



735098

101 either remove the bench or transit shelter or bring the bench or  
102 shelter installation into compliance within 60 days of notice by  
103 the department, following which the department may, but is not  
104 required to, remove the bench or transit shelter and assess the  
105 cost of removal against the owner of the bench or transit  
106 shelter.

107 (g) Any contract for the installation of benches or transit  
108 shelters or advertising on benches or transit shelters which was  
109 entered into before April 8, 1992, without public bidding is  
110 ratified and affirmed. Such benches or transit shelters may not  
111 interfere with right-of-way preservation and maintenance.

112 (h) Any bench or transit shelter located on a sidewalk  
113 within the right-of-way limits of any road on the State Highway  
114 System or the county road system shall be located so as to leave  
115 at least 36 inches of clearance for pedestrians and persons in  
116 wheelchairs. Such clearance shall be measured in a direction  
117 perpendicular to the centerline of the road.

118  
119 ===== T I T L E A M E N D M E N T =====

120 And the title is amended as follows:

121 Delete line 4487

122 and insert:

123 lease must meet; amending s. 337.408, F.S.; requiring  
124 a city or county that authorizes a bench or transit  
125 shelter installation within the right-of-way limits of  
126 any state road to indemnify and defend the department  
127 from any liabilities relating to the installation  
128 through June 30, 2013; prohibiting such installations  
129 on and after July 1, 2013, without first obtaining a



735098

130 permit; requiring an application on a form prescribed  
131 by the department; requiring an applicant to provide a  
132 notarized statement that all information in the  
133 application is true and correct; requiring the  
134 applicant to indemnify and defend the department from  
135 all liabilities; providing that a permit is valid only  
136 for the location specified; providing permit  
137 requirements; authorizing the department to adopt  
138 rules; amending s. 338.161, F.S.;

139