

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1153 Broward County
SPONSOR(S): Moskowitz
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	8 Y, 0 N	Renner	Miller
2) Transportation & Infrastructure Subcommittee	13 Y, 0 N	Johnson	Vickers
3) Government Accountability Committee			

SUMMARY ANALYSIS

The Federal Highway Administration (FHWA) establishes controls for outdoor advertising on interstate highways, and requires states to maintain compliance with certain standards. Chapter 479, F.S., provides the state's statutes regarding outdoor advertising and provides maximum heights for these signs.

The bill provides legislative findings regarding Broward County's growth and the increased difficulty in viewing some permitted signs along the interstate.

The bill provides that if a properly permitted sign in Broward County on an interstate highway is subsequently obstructed, the allowable height for the sign is measured from the top of the visual obstruction. However, the height of the sign may not exceed 100 feet above the crown of the main traveled way.

The bill authorizes the Department of Transportation (DOT) to promulgate any rules or forms needed to implement provisions of the bill.

The bill takes effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Since the passage of the Highway Beautification Act (HBA) in 1965,¹ the Federal Highway Administration (FHWA) has established controls for outdoor advertising along Federal-Aid Primary, Interstate and National Highway System (NHS) roads. The HBA allows the location of billboards in commercial and industrial areas, mandates a state compliance program, requires the development of state standards, promotes the expeditious removal of illegal signs, and requires just compensation for takings.

The primary features of the HBA 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 signs² along highways. However, the payment of just (monetary) compensation is required for the removal of any lawfully erected billboard along the Federal-Aid Primary, Interstate, and National Highway System roads.
- States and localities may enact stricter laws than stipulated in the HBA.
- No new signs can be erected along the scenic portions of state designated scenic byways of the Interstate and Federal-Aid Primary highways, but billboards are allowed in segmented areas deemed un-scenic on those routes.

The HBA mandates state compliance and the development of standards for certain signs as well as the removal of nonconforming signs. While the states are not directly forced to control signs, failure to impose the required controls can result in a substantial penalty. The penalty for noncompliance with the HBA is a 10 percent reduction of the state's annual federal-aid highway apportionment.³

Under the provisions of a 1972 agreement⁴ between the State of Florida and USDOT incorporating the HBA's required controls, the DOT requires commercial signs to meet certain requirements when they are within 660 feet of Interstate and Federal-Aid Primary highways in urban areas, or visible at any distance from the same roadways when outside of urban areas. The agreement embodies the federally-required "effective control of the erection and maintenance of outdoor advertising signs, displays, and devices." However, the Federal-State Agreement does not address the issue of the height of signs.

Chapter 479, F.S., contains Florida's statutory provisions related to outdoor advertising. A "sign" is defined as any combination of structure and message in the form of an outdoor sign, display, device, figure, painting, drawing, message, placard, poster, billboard, advertising structure, advertisement, logo, symbol, or other form, whether placed individually or on a V-type, back-to-back, side-to-side, stacked, or double-faced display or automatic changeable facing, designed, intended, or used to advertise or inform, any part of the advertising message or informative contents of which is visible from any place on the main-traveled way.⁵

¹ 23 U.S.C. §131

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

³ 23 U.S.C. §131(b)

⁴ A copy of the 1972 agreement is available at <http://www.fdot.gov/rightofway/documents.shtm> (Last visited March 7, 2017)).

⁵ Section 479.01(19), F.S.

Section 479.07, F.S., relates to sign permits. Section 479.07(9)(b), F.S., prohibits a permit from being granted for a sign located on any portion of the Interstate⁶ or Federal-Aid Primary highway system, which sign:

- Exceeds 50 feet in sign structure height above the crown of the main-traveled way to which the sign is permitted, if outside an incorporated area;
- Exceeds 65 feet in sign structure height above the crown of the main-traveled way to which the sign is permitted, if inside an incorporated area; or
- Exceeds 950 square feet of sign facing including all embellishments.

Broward County

Broward County's Ordinances define a "billboard sign" as a sign which directs attention to a business, commodity, service, product, activity or ideology not conducted, sold, offered, available or propounded on the premises where the sign is located and the copy of which is intended to be changed periodically.⁷

The height of a sign is measured as follows:⁸

- Billboard signs: the top of any billboard, excluding authorized embellishments, must not be higher than 35 feet above the crown of the right-of-way along the property frontage which the sign serves.
- All other free-standing signs: height must be measured from the elevation of the sidewalk adjacent to the sign location to the top of the sign. In the event no sidewalk exists, height must be measured from the crown of the right-of-way at its closest point to the sign location.

Permanent signs must be issued a permit before being placed or altered on any plot, except for the following exempt signs:⁹

- Building identification signs;
- On-premises directional signs;
- Flags;
- Garage sale signs;
- General information signs;
- Hanging signs;
- Interior signs;
- Model signs;
- Nameplate signs;
- Real estate signs;
- Religious signs;
- Use-related informational signs; and
- Window signs.

All sign permits, except billboard signs, must be renewed annually no later than the date of initial permit issuance. Billboard signs must be renewed in January of each year.¹⁰

Effect of Proposed Changes

⁶ Section 479.01(11), F.S., defines "interstate highway system" as means the existing, unbuilt, or unopened system of highways or portions thereof designated as the national system of interstate and defense highways by the department.

⁷ Broward County Code of Ordinances, art. VI, s. 39-51

⁸ *Id.*

⁹ *Id.* at s. 39-54

¹⁰ *Id.*

The bill finds that over the last five years, Broward County has undergone a significant expansion of its interstate system. This expansion occurred in fully developed areas in which relocating permitted signs is difficult, the placement of new ramps, bridges, and other construction within the interstate right-of-way can hinder the public's ability to view existing permitted signs, and allowing a minimal height increase based upon the height of the obstruction is reasonable.

The bill provides that notwithstanding general law to the contrary, in the event a properly permitted sign on an interstate highway within Broward County is subsequently obstructed by the construction of a ramp, braided bridge, or other permanent visual obstruction within the interstate right of way, then the allowable height of the permitted sign will be measured from the top of the visual obstruction. In no event, will the height of the sign exceed 100 feet above the crown of the main traveled way of the road to which the sign is permitted regardless of the visual obstruction.

The bill authorizes DOT to promulgate any rules or forms necessary to implement the provisions in the bill.

B. SECTION DIRECTORY:

Section 1 Provides legislative findings.

Section 2 Authorizes certain signs in Broward County.

Section 3 Authorizes the Department of Transportation to adopt rules.

Section 4 Provides that the bill is effective upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 29, 2017

WHERE? *Sun-Sentinel*, a daily newspaper published in Broward, Palm Beach and Miami-Dade County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes DOT to promulgate any rules or forms necessary to implement the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

In order to clarify the type of sign being discussed in the bill, the bill may need to be amended to clarify that it is referring to a sign as defined in Ch. 479, F.S.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.