

**HOUSE OF REPRESENTATIVES  
FINAL BILL ANALYSIS**

<b>BILL #:</b>	HB 1153	<b>FINAL HOUSE FLOOR ACTION:</b>		
<b>SUBJECT/SHORT TITLE</b>	Broward County	117	Y's 0	N's
<b>SPONSOR(S):</b>	Moskowitz and others	<b>GOVERNOR'S ACTION:</b>		Approved
<b>COMPANION BILLS:</b>	N/A			

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**SUMMARY ANALYSIS**

HB 1153 passed the House on April 28, 2017, and subsequently passed the Senate on May 4, 2017.

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 Federal Highway Administration establishes controls for outdoor advertising on interstate highways, and requires states to maintain compliance with certain standards. Florida law also addresses outdoor advertising and provides maximum heights for certain outdoor 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 authorizes the Department of Transportation to promulgate any rules or forms needed to implement provisions of the bill.

The bill was approved by the Governor on June 6, 2017, ch. 2017-211, L.O.F., and became effective on that date.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### Current Situation

Since the passage of the Highway Beautification Act (HBA) in 1965,<sup>1</sup> the Federal Highway Administration 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 are as follows:

- 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 NHS.
- States have the discretion to remove legal nonconforming signs<sup>2</sup> along highways. However, the payment of just (monetary) compensation is required for the removal of any lawfully erected billboard along the Federal-Aid Primary, Interstate, and NHS roads.
- States and localities may enact stricter laws than stipulated by 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.<sup>3</sup>

Under the provisions of a 1972 agreement<sup>4</sup> between the State of Florida and the United States Department of Transportation incorporating the HBA's required controls, the Florida Department of Transportation (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., addresses 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.<sup>5</sup>

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<sup>1</sup> 23 U.S.C. §131.

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

<sup>3</sup> 23 U.S.C. §131(b).

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

<sup>5</sup> 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 Interstate<sup>6</sup> 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 Ordinance defines 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.<sup>7</sup>

The height of a sign is measured as follows:<sup>8</sup>

- 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:<sup>9</sup>

- 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.<sup>10</sup>

### **Effect of the Bill**

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

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

<sup>7</sup> Broward County Code of Ordinances, art. VI, s. 39-51.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at s. 39-54.

<sup>10</sup> *Id.*

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 rules or forms necessary to implement the provisions in the bill.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. ECONOMIC IMPACT STATEMENT FILED?      Yes  No

D. 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.

E. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?