

STORAGE NAME: h0715.teda.doc
DATE: February 12, 2002

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
TRANSPORTATION & ECONOMIC DEVELOPMENT COMMITTEE
ANALYSIS**

BILL #: HB 715
RELATING TO: Transportation
SPONSOR(S): Representative(s) Bense, Haridopolos and Johnson

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) TRANSPORTATION YEAS 11 NAYS 0
 - (2) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS
 - (3) COUNCIL FOR READY INFRASTRUCTURE
 - (4)
 - (5)
-

I. SUMMARY:

HB 715 addresses several transportation-related issues.

The bill:

- Amends s. 163.3180, F.S., to change the concurrency time frames from three years to five years for projects affecting the Florida Intrastate Highway System (FIHS).
- Amends s. 344.044(5), F.S., to include "scenic roads" among the topics for which the Department of Transportation (DOT) can purchase promotional materials, and to delegate storm water permitting to a water management district or other entity, provided that the permit is based on requirements, as determined by the agency, that protect transportation facilities being affected by the runoff.
- Amends s. 479.15, F.S., to provide a definition for the term "federal-aid primary highway system."
- Creates s. 479.25, F.S., to specify governmental entities may enter into agreements with billboard owners allowing a lawfully erected billboard to be raised when a sound barrier, visibility screen, or other highway improvement blocks the billboard from being seen.

HB 715 has no apparent fiscal impact on state agencies.

It takes effect upon becoming a law.

(NOTE: The House Transportation Committee on February 6, 2002, adopted a strike-everything-after-the-enacting clause amendment to HB 715 that made a number of technical and conforming changes to the bill, and made it more similar to its Senate companion. The amendment is traveling separately with the bill. See "VI. AMENDMENT OR COMMITTEE SUBSTITUTE CHANGES" below for details.)

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Transportation Concurrency

Florida has one of the most detailed growth-management laws in the nation. Among its requirements is "concurrency." Concurrency requires that adequate infrastructure, such as schools, roads, and sanitary sewer systems, must be made available to serve the growth that comes with development. Section 163.3180, F.S., requires transportation facilities that serve new development must be in place or under actual construction no later than three years after the local government has issued a certificate of completion for the development.

In addition, s. 339.135, F.S., provides guidelines for the development of DOT's 5-Year Work Program. This document is a statewide project specific list of projects and project phases planned for the next five years. Current law provides that the first three years of the work program are a commitment to local governments from the state to undertake transportation projects, which allow local governments to plan for future development.

DOT's wide-ranging responsibilities

The powers and duties of DOT are listed in s. 334.044, F.S. Among its varied responsibilities is the ability to purchase, lease, or otherwise acquire promotional or educational materials on traffic and train safety awareness, commercial motor vehicle safety, and alternatives to single-occupant vehicle travel. DOT is not authorized to purchase materials to promote Florida's scenic roads.

The section further authorizes DOT to regulate and prescribe conditions for the transfer of stormwater to state right-of-way because of development of, or other manmade changes to, adjacent properties. Pursuant to s. 334.044(15), F.S., DOT is authorized to adopt rules for issuing stormwater management permits. However, the section also directs DOT to accept stormwater permits from the water management districts, the Department of Environmental Protection, or local governments, provided those permits are based on requirements equal to, or even more stringent than, DOT's requirements.

According to DOT, situations have arisen in recent years where a water management district's permit criteria were not equal to or more stringent than DOT's criteria, yet still would have accomplished the goal of protecting the state's transportation infrastructure.

Outdoor advertising

Chapter 479, F.S., governs billboards and other forms of outdoor advertising. Advertising companies and other owners of outdoor signs must be licensed by DOT and obtain permits, regulating height, size and other characteristics of the billboards. The majority of the provisions specify DOT's duties and authority as they relate to permitting, removing, and otherwise regulating billboards along the interstate highway system and the federal-aid primary highway system, which includes state roads.

Because federal dollars helped build or helps maintain these roads, DOT must adhere to federal guidelines, as first expressed in the Highway Beautification Act of 1965. However, local governments regulate the placement and removal of billboards along county and municipal roads.

Another provision in chapter 479, F.S., addresses ways to accommodate billboard owners whose signs are affected by highway beautification projects, such as planting of vegetation. For example, vegetation may be removed, cut, or trimmed to ensure billboard visibility for a legal billboard, only after obtaining a permit from DOT. However, the chapter does not address the issue of other types of obstructions, such as concrete sound barriers along highways and roads, intended to reduce the noise level in nearby neighborhoods.

Section 479.01(7), F.S., also defines the term "federal-aid primary highway system" as the "existing, unbuilt, or unopened system of highways or portions thereof, which include the National Highway System, designated as the federal-aid primary highway system by the department." This definition applies to every section in chapter 479, F.S.

C. EFFECT OF PROPOSED CHANGES:

HB 715 proposes to:

- ❑ Amend s.163.3180, F.S., to change the concurrency time frames for certain transportation projects. Roads, bridges and other transportation facilities designated as part of the Florida Intrastate Highway System that are needed to serve new development shall be in place, or under actual construction, no more than five years after the relevant local government has issued a certificate of completion to a development. For all other transportation projects, the deadline remains at three years.
- ❑ Amend s. 344.044(5), F.S., to include "scenic roads" among the topics for which DOT can purchase promotional materials.
- ❑ Amend s. 344.044(15), F.S., to allow DOT to delegate storm water permitting to a water management district or other entity, provided that the permit is based on requirements, as determined by DOT, that ensure the safety and integrity of transportation facilities being affected by the runoff.
- ❑ Amend s. 479.15(2), F.S., to define "federal aid primary highway system" for the purposes of clarifying when local governments have to pay just compensation for removing, or causing the removal of, lawfully erected billboards. For the purposes of this subsection, the term is defined as the "system in existence on June 1, 1991, and any highway which was not on such system but which is, or hereafter becomes, a part of the National Highway System."
- ❑ Create s. 479.25, F.S., to specify that governmental entities may enter into agreements with sign owners allowing a lawfully erected billboard to be raised when a sound barrier, visibility screen, or other highway improvement blocks the billboard from being seen. If the now-

obstructed billboard is located along a "federal aid primary highway system" (also defined here as the "system in existence on June 1, 1991, and any highway which was not on such system but which is, or hereafter becomes, a part of the National Highway System"), the billboard may be raised to achieve only the same level of visibility it had prior to the obstruction.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s. 163.3180(2), F.S., to provide that transportation improvements to the Florida Intrastate Highway System required in order to meet local concurrency requirements must at least be under construction within 5 years after issuance by the local government of a certificate of occupancy or its equivalent.

Section 2: Amends s. 334.044, F.S., to allow DOT to promote scenic highways. Also allows DOT to delegate its relevant permitting functions to an environmental agency, as long as the permit issuance is based on requirements that DOT determines are acceptable.

Section 3: Amends s. 479.15, F.S., to define "federal-aid primary highway system."

Section 4. Creates s. 479.25, F.S., to specify that nothing in Chapter 479, F.S., shall prevent a governmental entity from entering into an agreement allowing height adjustments to billboards affected by the erection of noise barriers, visibility screens, or other highway improvements, except that along the federal-aid primary highway system, such billboards shall be elevated only to achieve the same degree of visibility that existed prior to erection of the barrier.

Section 5: Specifies this act shall take effect upon becoming a law.

III. 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. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

HB 715 is likely to have positive economic impacts on the private sector.

Pursuant to Section 1 of the bill, developments that impact the FIHS would have two additional years to satisfy concurrency requirements.

Pursuant to Section 4 of the bill, billboard owners whose signs are being blocked by noise-mitigation barriers, vision screens, or other transportation-related obstructions along local roads would have the opportunity to work out compromises with the appropriate local governments to raise their signs above the obstructions. Thus, these billboards would retain their advertising value.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The mandates provision is not applicable to an analysis of HB 715 because the bill does not require cities or counties to expend funds, or to take actions requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

HB 715 does not reduce the revenue-raising authority of counties or municipalities, in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

HB 715 does not reduce the state tax revenues shared with counties or municipalities, in the aggregate.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

HB 715 raises no constitutional issues.

B. RULE-MAKING AUTHORITY:

DOT has adequate rulemaking authority to implement the provisions of HB 715.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

At its February 6, 2002, meeting, the House Transportation Committee adopted a strike-everything-after-the-enacting-clause amendment to HB 715. The amendment conformed dates in the bill to June 1, 1991, and made some technical or conforming changes to the bill so that it is nearly identical to its Senate companion. Besides the date change, done at the request of the Department of Transportation, there were no substantive changes in the strike-everything amendment.

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After adopting the amendment without objection, the committee voted 11-0 in favor of the bill. At the sponsor's request, the committee did not make the bill a committee substitute, so the amendment is traveling separately.

VII. SIGNATURES:

COMMITTEE ON TRANSPORTATION :

Prepared by:

Joyce Pugh

Staff Director:

Phillip B. Miller

AS REVISED BY THE COMMITTEE ON TRANSPORTATION & ECONOMIC DEVELOPMENT
COMMITTEE:

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