

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/CS/HB 1371 Traffic and Pedestrian Safety

SPONSOR(S): State Affairs Committee, Transportation & Tourism Appropriations Subcommittee, Transportation & Infrastructure Subcommittee, Fine, Caruso and others

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1000

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	13 Y, 0 N, As CS	Roth	Vickers
2) Transportation & Tourism Appropriations Subcommittee	11 Y, 0 N, As CS	Hicks	Davis
3) State Affairs Committee	20 Y, 0 N, As CS	Roth	Williamson

SUMMARY ANALYSIS

Florida law provides the driver of a vehicle must stop for a pedestrian who is walking in the crosswalk at the instruction of a traffic control signal or where signage indicates the driver must stop. If there are no traffic control signals or signage in place at a crosswalk, the driver of a vehicle must yield to a pedestrian who is on the half of the roadway on which the vehicle is traveling. If traffic control signals are in operation, pedestrians may not cross at any place except in a marked crosswalk. If there is no crosswalk, pedestrians crossing a roadway must yield to vehicles.

The Department of Transportation (DOT) and local governments utilize various types of equipment or signals to indicate when pedestrians may safely cross midblock crosswalks (crosswalks that are not at an intersection). One type of signal commonly used is a rectangular rapid flash beacon (RRFB). The RRFB consists of two rapidly and alternately flashing yellow rectangular LED lights that function as a warning beacon. Pedestrians press the call button to activate the yellow flashing lights, but should wait for motorists to stop before they cross.

The bill creates the "Sophia Nelson Pedestrian Safety Act." The bill provides that only a pedestrian crosswalk that is located on a public highway, street, or road that has no more than two lanes with a speed limit of 35 miles per hour or less may be controlled by yellow RRFB traffic control devices. Yellow RRFB traffic control devices located on a pedestrian crosswalk on a public highway, street, or road with more than two lanes and a speed limit of more than 35 miles per hour must be removed from the crosswalk by October 1, 2024, and the entity with jurisdiction over such crosswalk must remove the crosswalk or retrofit the crosswalk with legally acceptable equipment.

The bill requires DOT to request, by October 1, 2020, that the federal government allow existing yellow RRFB traffic control devices at crosswalks on public highways, streets, or roads to be replaced by red RRFB traffic control devices. If the federal government grants the request, all yellow RRFBs at crosswalks located on a public highway, street, or road that has no more than two lanes with a speed limit of 35 miles per hour or less must be replaced by red RRFBs within 12 months after the date of federal authorization. All other pedestrian crosswalks with yellow RRFBs must either be converted to red RRFBs within 12 months after the date of federal authorization, or be removed or retrofitted with legally acceptable equipment by October 1, 2024.

The bill provides a statement that the Legislature finds that this bill fulfills an important state interest.

The bill will likely have a significant, negative fiscal impact to state and local governments. See Fiscal Analysis for details.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Unless directed otherwise by a law enforcement officer, pedestrians are required to obey the instructions of official traffic control devices that are specifically applicable to pedestrians.¹ If a sidewalk is provided, and no circumstances prevent a pedestrian's use of the sidewalk, a pedestrian is prohibited from walking on a roadway that is paved for vehicular traffic.² If a sidewalk is not provided, a pedestrian, when practicable, must walk only on the shoulder on the left side of the roadway in relation to the pedestrian's direction of travel, facing traffic that may approach from the opposite direction.³

The driver of a vehicle must stop for a pedestrian who is walking in the crosswalk at the instruction of a traffic control signal or where signage indicates the driver to stop. If there are no traffic control signals or signage in place at a crosswalk, the driver of a vehicle must yield to a pedestrian who is on the half of the roadway on which the vehicle is traveling.⁴ If traffic control signals are in operation, pedestrians cannot cross at any place except in a marked crosswalk.⁵ If there are no crosswalks, pedestrians crossing a roadway must yield to vehicles.⁶

When pedestrian traffic control signals or signage is installed, such indicators must conform to the requirements of the most recent Manual on Uniform Traffic Control Devices (MUTCD).⁷ The MUTCD defines the standards used by road managers nationwide to install and maintain traffic control devices on all public streets, highways, bikeways, and private roads open to public travel. The Federal Highway Administration (FHWA) maintains the MUTCD.⁸

The Department of Transportation (DOT) and local governments utilize various types of MUTCD approved signals to indicate when pedestrians may safely cross midblock crosswalks.⁹ Two types of signals commonly used by DOT and local governments are a rectangular rapid flash beacon (RRFB) and a pedestrian hybrid beacon.¹⁰ The RRFB consists of two rapidly and alternately flashing yellow rectangular LED lights that function as a warning beacon.¹¹ Pedestrians press the call button to activate the flashing lights, but should wait for motorists to stop before they cross.¹² The pedestrian hybrid beacon consists of three signal sections with a circular yellow signal indication centered below two horizontally aligned circular red signal indications.¹³ The pedestrian hybrid beacon is not illuminated until a pedestrian activates it and triggers the warning flashing yellow lens facing the street.¹⁴ After a set amount of time, the indication changes to a solid yellow light to inform drivers to prepare to stop.¹⁵ The beacon then displays a dual solid red light to drivers on the street and a walking person symbol to pedestrians on the crosswalk.¹⁶ At the conclusion of the walk phase, the beacon displays an alternating

¹ Section 316.130(1), F.S.

² Section 316.130(3), F.S.

³ Section 316.130(4), F.S.

⁴ Section 316.130(7), F.S.

⁵ Section 316.130(11), F.S.

⁶ Section 316.130(10), F.S.

⁷ Section 316.0755, F.S.

⁸ U.S. Department of Transportation, *Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD)*, (updated December 11, 2019), available at <https://mutcd.fhwa.dot.gov/> (last visited January 23, 2020).

⁹ DOT, *Pedestrian Facilities*, available at <https://www.fdot.gov/roadway/bikeped/bikepedpf.shtm> (last visited January 23, 2020).

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ U.S. Department of Transportation, *Safety Effectiveness of the HAWK Pedestrian Crossing Treatment* (July 2010), available at <https://www.fhwa.dot.gov/publications/research/safety/10045/index.cfm> (last visited January 23, 2020).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

flashing red light, and pedestrians are shown an upraised hand symbol with a countdown display informing them of the time remaining to cross the street.¹⁷

In July 2008, the MUTCD was updated to provide interim approval via a memorandum¹⁸ to RRFBs for optional use in limited circumstances. The interim approval allows for the usage of RRFBs as a warning beacon to supplement standard pedestrian crossing warning signs and markings at either a pedestrian or school crossing.¹⁹ The cost is approximately \$10,000 to \$15,000 for purchase and installation of two RRFB units (one on either side of a street).²⁰ The FHWA will grant interim approval for the optional use of the RRFB as a warning beacon in addition to standard pedestrian crossing or school crossing signs at crosswalks to any jurisdiction that submits a written request to the Office of Transportation Operations.²¹ A state may request interim approval for all jurisdictions in that state.²²

As of October 2019, DOT reported approximately 191 midblock crosswalks with RRFBs on the state highway system.²³ Of the 191 midblock crosswalks, 113 crosswalks are on roads with more than two lanes and with speed limits of 35 miles per hour or greater and 78 crosswalks are on roads with two lanes or less and speed limits of 35 miles per hour or less.²⁴ It is unknown how many midblock crosswalks with RRFBs are in use statewide on county and city roads.²⁵

Pedestrians who cross the street at midblock crosswalks are more susceptible to injury from contact with a motor vehicle than crosswalks at an intersection. The table below displays the number of pedestrians and bicyclists that were struck at midblock crossings during the past three years.

Injury or Death to Non-Motorists at Midblock Crossings²⁶

Injury Level	2017	2018	2019
Midblock - Marked Crosswalk	263	262	247
Pedestrian	164	157	157
Fatal (within 30 days)	12	6	5
Incapacitating	30	22	16
Non-incapacitating	61	57	78
Possible	56	65	50
None	5	7	8
Bicyclist	99	105	90
Fatal (within 30 days)	0	2	0
Incapacitating	15	12	9
Non-incapacitating	33	44	40
Possible	45	39	36
None	6	8	5
As of 01/24/2020. 2019 statistics is preliminary and may change.			

Effect of Proposed Changes

¹⁷ *Id.*

¹⁸ See Memorandum of Interim Approval for Optional Use of Rectangular Rapid Flashing Beacons (IA-11) (July 16, 2008), available at https://mutcd.fhwa.dot.gov/resources/interim_approval/ia11/fhwamemo.htm (last visited January 23, 2020).

¹⁹ U.S. Department of Transportation, *Rectangular Rapid Flash Beacon (RRFB)*, available at https://safety.fhwa.dot.gov/intersection/conventional/unsignalized/tech_sum/fhwasa09009/ (last visited January 23, 2020).

²⁰ *Id.*

²¹ Memorandum of Interim Approval for Optional Use of Rectangular Rapid Flashing Beacons (IA-11), *supra*, at FN 18.

²² *Id.*

²³ DOT, Agency Analysis of 2020 House Bill 1371, p.5 (January 30, 2020).

²⁴ Email from John Kotyk, Deputy Legislative Affairs Director, DOT, RE: Updated Fiscal, (February 10, 2020).

²⁵ Email from Amanda Marsh, Legislative Specialist, DOT, RE: Midblock crosswalks, (October 18, 2019).

²⁶ Email from Kevin Jacobs, Deputy Legislative Affairs Director, Department of Highway Safety and Motor Vehicles, RE: non/motorists/midblock crosswalk stats, (January 24, 2020).

The bill creates the “Sophia Nelson Pedestrian Safety Act.”

The bill provides that only a pedestrian crosswalk that is located on a public highway, street, or road that has no more than two lanes with a speed limit of 35 miles per hour or less may be controlled by yellow RRFB traffic control devices. Yellow RRFB traffic control devices located on a pedestrian crosswalk on a public highway, street, or road with more than two lanes and a speed limit of more than 35 miles per hour must be removed from the crosswalk by October 1, 2024, and the entity with jurisdiction over the crosswalk must remove the crosswalk or retrofit the crosswalk with legally acceptable equipment.

The bill requires DOT to request, by October 1, 2020, that the federal government allow existing yellow RRFB traffic control devices at crosswalks on public highways, streets, or roads to be replaced by red RRFB traffic control devices. If the federal government grants the request, all yellow RRFBs at crosswalks located on a public highway, street, or road that has no more than two lanes with a speed limit of 35 miles per hour or less must be replaced by red RRFBs within 12 months after the date of federal authorization. All other pedestrian crosswalks with yellow RRFBs must either convert to red RRFBs within 12 months after the date of federal authorization, or be removed or retrofitted with legally acceptable equipment by October 1, 2024.

Lastly, the bill provides that the Legislature finds and declares that this act fulfills an important state interest.

B. SECTION DIRECTORY:

Section 1: Cites the act as the “Sophia Nelson Pedestrian Safety Act.”

Section 2: Creates s. 316.0756, F.S., relating to traffic control devices at crosswalks.

Section 3: Provides a declaration of important state interest.

Section 4: Provides an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill will likely have no impact on state government revenues.

2. Expenditures:

On the state highway system, DOT has identified 191 midblock crosswalks equipped with RRFBs, 78 of the RRFBs are on highways, streets, or roads that have two lanes or less and speed limits of 35 miles per hour or less.²⁷ Should the federal government grant the state’s request to replace these 78 yellow RRFBs with red RRFBs, the cost would be indeterminate, but likely insignificant and could be absorbed within existing resources.

Additionally, DOT has identified 113 midblock crosswalks with RRFBs located on the state highway system that have more than two lanes and where the speed limit is greater than 35 miles per hour. Should the federal government grant the state’s request to replace these 113 yellow RRFBs with red RRFBs, the cost would be indeterminate, but likely insignificant and could be absorbed within existing resources. However, if the federal government does not grant the state’s request, DOT reports a significant, negative fiscal impact of \$7.5 million to retrofit the 113 midblock crosswalks with legally acceptable equipment or to remove the crosswalk completely. An annual cost of \$74,000 is estimated for the maintenance of the additional required traffic signals and pedestrian

hybrid beacons. DOT efforts would be limited to midblock crosswalks located on the state highway system.²⁸

In developing the estimated cost, the department assumes 20 percent of the RRFB locations will warrant a traffic signal or pedestrian hybrid beacon and 80 percent of the crosswalks will be removed. The cost to add a traffic signal or pedestrian hybrid beacon at a midblock crosswalk is approximately \$300,000 per location, and the cost to remove a midblock crosswalk is approximately \$7,000. If a traffic signal is installed, the annual maintenance cost is approximately \$3,200.²⁹

The fiscal impact is contained within the confines of the DOT Work Program. Due to the fluid and dynamic nature of the Work Program, the fiscal impact may be partially mitigated by normal changes that may occur with projects throughout the year. The bill also specifies a full implementation date of October 1, 2024. This would effectively spread the fiscal impact over a four-year period before required compliance.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill will likely have no impact on local government revenues.

2. Expenditures:

The fiscal impact to cities and counties is indeterminate, but is likely significant. It is unknown how many midblock crosswalks are in use statewide on county and city roads.³⁰ The cost to add a traffic signal or pedestrian hybrid beacon at a midblock crosswalk is approximately \$300,000, and the cost to remove a midblock crosswalk is approximately \$7,000. If a traffic signal or pedestrian hybrid beacon is installed, the annual maintenance cost is approximately \$3,200.³¹

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will likely have no fiscal impact on the private sector.

D. FISCAL COMMENTS:

According to DOT, because existing RRFBs were likely installed as a safety improvement using federal funds, their removal may result in non-compliance with MUTCD standards and impact federal funding eligibility.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, s. 18 of the Florida Constitution may apply because this bill requires counties and municipalities to spend funds relating to specified traffic and pedestrian signals; however, an exception may apply because similarly situated persons are all required to comply and the bill includes a Legislative determination that it fulfills an important state interest.

2. Other:

None.

²⁸ Email from John Kotyk, Deputy Legislative Affairs Director, DOT, RE: Updated Fiscal, (February 10, 2020).

²⁹ *Id.*

³⁰ Email from Amanda Marsh, Legislative Specialist, DOT, RE: Midblock crosswalks, (October 18, 2019).

³¹ Email from John Kotyk, *supra* at FN 28.

B. RULE-MAKING AUTHORITY:

The bill does not provide a grant of rulemaking authority, nor does it require rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 28, 2020, the Transportation & Infrastructure Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment:

- Specified that traffic control signal devices and pedestrian control signals must conform to the requirements provided in chapters 4D and 4E of the Manual on Uniform Traffic Control Devices.
- Provided that the Legislature finds and declares that the installation of specified traffic and pedestrian signals on roadways fulfills an important state interest.

On February 10, 2020, the Transportation & Tourism Appropriations Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment:

- Removed the provisions from the bill providing that an entity with jurisdiction over a public highway, street, or road must install pedestrian hybrid beacons at any midblock crosswalks or must remove the midblock crosswalk in its entirety by October 1, 2024.
- Added provisions to allow RRFBs under certain conditions, required the Legislature to request that the federal government allow red RRFBs at certain crosswalks, and required the entity with jurisdiction over a public highway, street, or road with a crosswalk that does not meet the requirements of s. 316.0756, F.S., to replace RRFB traffic control devices with legally acceptable equipment by October 1, 2024 or alternatively remove the crosswalk completely.

On February 20, 2020, The State Affairs Committee adopted two amendments and reported the bill favorably as a committee substitute. The amendments:

- Named the act as the "Sophia Nelson Pedestrian Safety Act."
- Provided that DOT, not the Legislature, is responsible for submitting a request to the federal government for the replacement of yellow RRFBs with red RRFBs.
- Provided a date by which DOT must submit the request to the federal government.
- Clarified that if the federal government grants the state's request, entities with jurisdiction over crosswalks on roads with more than two lanes and speed limits greater than 35 miles per hour must replace yellow RRFBs with red RRFBs within 12 months after the federal authorization, remove the crosswalk, or retrofit the crosswalk with legally acceptable equipment.

This analysis is drafted to the committee substitute as approved by the State Affairs Committee.