

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 728  
 SPONSOR: Transportation Committee and Senator Latvala  
 SUBJECT: Transportation  
 DATE: January 24, 2002      REVISED: 02/05/02 \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McAuliffe</u>	<u>Meyer</u>	<u>TR</u>	<u>Favorable/CS</u>
2.	<u>Bowman</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/3 amendments</u>
3.	_____	_____	<u>AGG</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

## I. Summary:

This CS amends s. 163.3180, F.S., to change the concurrency timeframes from three years to five years for projects affecting the Florida Intrastate Highway System (FIHS). Section 339.135, F.S., is amended to provide the first five years (currently 3 years) of the adopted work program for projects on the Florida Intrastate Highway System is a commitment to local governments from the state to undertake transportation projects to allow local governments to plan for future development.

The CS amends s. 344.044(5), F.S., to include “scenic roads” among the topics for which the Florida Department of Transportation (FDOT) 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 FDOT, that ensure the safety and integrity of transportation facilities being affected by the runoff.

The CS amends s. 479.15, F.S., to provide a definition for the term “federal-aid primary highway system,” and 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.

This CS substantially amends sections 163.3180, 334.044, 339.135, 479.15, and creates section 479.25 of the Florida Statutes.

## II. Present Situation:

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. The provision of roads is one of the services subject to concurrency. In order to implement concurrency, the local government must adopt level of service standards by which to evaluate whether adequate transportation infrastructure is necessary to support new development is available concurrent with the impacts of such development. Section 163.3180(2)(c), 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.

Section 339.135, F.S., provides guidelines for the development of the State Transportation 5-Year Work Program. This document is a statewide specific list of projects and project phases which are planned for the next five years. The section provides the first three years of the work program are a commitment to local governments from the state to undertake transportation projects to allow local governments to plan for future development.

FDOT's powers and duties are listed in s. 334.044, F.S. Among its 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. FDOT is not currently authorized to purchase materials to promote Florida's scenic roads.

The section further authorizes FDOT to regulate and prescribe conditions for the transfer of storm water to state right-of-way because of development of, or other manmade changes to, adjacent properties. Pursuant to s. 334.044(15), F.S., FDOT is authorized to adopt rules for issuing storm water management permits. However, the section also directs FDOT to accept storm water 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, FDOT's requirements. Situations have arisen where a water management district's permit criteria were not equal to or more stringent than FDOT's criteria, yet still would have accomplished the goal of protection of state right-of-way.

Chapter 479, F.S., addresses ways to accommodate billboard owners whose signs are affected by highway beautification projects, such as planting of vegetation (s.479.106, F.S.). For example, vegetation may be removed, cut, or trimmed to ensure billboard visibility for a legal billboard, only after obtaining a permit from FDOT. 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, F.S., provides, as used in the chapter, the term "Federal-aid primary highway system" means 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 FDOT.

### **III. Effect of Proposed Changes:**

Section 163.3180, F.S., is amended to change the concurrency timeframes from three years to five years for certain transportation projects. Roads, bridges and other transportation facilities designated as part of the FIHS that are needed to serve new development must 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 needed to serve new development, the deadline remains at three years. Section 339.135, F.S., is also amended to provide the first five years (currently 3 years) of the adopted work program for projects on the FIHS is a commitment to local governments from the state to undertake transportation projects to allow local governments to plan for future development.

Section 344.044(5), F.S., is amended to include “scenic roads” among the topics for which FDOT can purchase promotional materials. Also, subsection (15) is amended to allow FDOT to delegate storm water permitting to a water management district or other entity, provided the permit is based on requirements, as determined by FDOT, that ensure the safety and integrity of transportation facilities being affected by the runoff.

Amends s. 479.15, F.S., to provide the term, for the purposes of subsection (2), “federal-aid primary highway system” means the federal-aid primary highway 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.

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. According to information provided by the Department of Transportation, there is no recognized property right, which gives the owner of an outdoor advertising sign the right to be “viewed” from the state or federal highway system, or to be compensated for the loss of such “view.” Accordingly, a government entity owning the right of way where the sound barrier or visibility screen is erected is under no obligation to enter into such an agreement with billboard owners.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

This CS authorizes billboard owners to enter into agreements with governmental entities allowing their lawfully erected billboards to be raised when a sound barrier, visibility screen, or other highway improvement blocks the billboard from being seen thereby allowing the billboards to retain their value.

Developments which impact the FIHS would have two more years (from 3 years to 5 years) to satisfy concurrency requirements.

**C. Government Sector Impact:**

According to FDOT, this CS will have no fiscal impact on the department.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

#1 by Comprehensive Planning, Local and Military Affairs:

Amends s. 316.189, F.S., regarding municipal speed limits and county road speed limits, to allow municipalities and counties to lower speed limits set by FDOT on non-limited access state highways or connecting links located within the municipality or county by not more than 5 miles per hour. The speed limit may not be reduced below 45 miles per hour and the local government must reimburse FDOT for the cost of replacing speed limit signs to conform to the lower speed limit. (WITH TITLE AMENDMENT)

#2 by Comprehensive Planning, Local and Military Affairs:

Deletes a reference to the "the department," in reference to the party with whom a governmental entity is authorized to enter into an agreement allowing the height of certain signs to be raised when blocked by noise attenuation barriers.

#3 by Comprehensive Planning, Local and Military Affairs:

Corrects a date that is relevant to when a highway becomes part of the National Highway System from after July 1, 2002 to after June 1, 1991.