

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 959 Motor Vehicle Safety
SPONSOR(S): Roberson
TIED BILLS: **IDEN./SIM. BILLS:** SB 1022

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Transportation Committee	_____	Pugh	Miller
2) Local Government Council	_____	_____	_____
3) Transportation & Economic Development Appropriations Committee	_____	_____	_____
4) State Infrastructure Council	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

Public and private research on guard rails, cable barriers, clay berms, and other types of structural highway barriers indicates that, if properly placed and maintained, these systems improve the safety of public roads. The Federal Highway Administration, with assistance from the American Association of State Highway and Transportation Officials (AASHTO), other engineering associations, and state transportation agencies, continues to research and modify existing requirements for barrier systems.

The need for well-engineered guardrail and other highway barrier structures varies from state-to-state, as well as by the type of road, a road's speed limit, and the road's surrounding topographic features. One such feature common to Florida is the location of natural water bodies, canals, or drainage ditches adjacent to highways.

National and statewide statistics for traffic fatalities caused by, or related to, the absence or failure of highway barrier systems and involving water are not readily available. However, the Florida Department of Transportation (FDOT) was able to collect specific data on traffic fatalities on the State Highway System involving vehicles submerged in water. In 2004, 28 fatal crashes met the criteria and 36 people died, including 20 whose deaths may have been caused by being submerged in water.

HB 959 requires that guardrails, cable systems, or other types of roadway barriers be installed along each public road, street, and highway in Florida that is adjacent to a canal or other body of water. Public roadways in existence on July 1, 2006, and which are adjacent to water bodies, must have a barrier system installed by December 31, 2008. The barrier system must be installed and maintained by the appropriate governmental entity in compliance with FDOT standards established in rule. These standards must be designed to limit the loss of life by safely preventing an out-of-control motor vehicle from entering a canal or water body, based on a number of criteria. FDOT is directed to adopt rules to implement the provisions of this bill.

HB 959 has an estimated \$268 million fiscal impact on the State Transportation Trust Fund, according to FDOT. The fiscal impact to county and municipal governments is indeterminate, according to local government advocates, although FDOT estimated a fiscal impact of \$1.75 billion. The bill appears to create an unfunded mandate to local governments.

The bill, however, does not raise any constitutional or other legal issues. It takes effect July 1, 2006.

(NOTE: The sponsor will offer a strike-all amendment to limit HB 959's impact to state roads in Miami-Dade County. An explanation is in "III. C. Drafting Issues and Other Comments" below.)

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes: HB 959 does not create a tax or fee. But its requirement that all state, county, and municipal roads, as well as any private roads that are maintained by a public entity, which are adjacent to water must have guardrails or other barrier systems likely means some local governments would raise revenues to pay for this cost.

B. EFFECT OF PROPOSED CHANGES:

Background

Federal Highway Administration research reports dating back to 1987 indicate the value of guardrail and other barrier systems in preventing traffic accidents and fatalities. These barrier systems can take many forms – metal guardrails, thick metal cables, concrete barricades, and earthen berms – and to be effective must be engineered to address a highway's particular features and the type of traffic that comprises the majority of users. AASHTO has developed for federal and state transportation agencies a number of nationally accepted standards for barrier systems, and these standards are continually being tested and updated.

FDOT has an active highway-barrier installation program, having installed more than 2,645.5 miles of guardrails along state highways and the Florida Turnpike, and another 552 miles of barrier walls. The Turnpike has committed that by 2007, guardrails will run the Turnpike's entire length, from Wildwood to Homestead. Typically the guardrails or cable systems are installed as part of a construction or maintenance project.

One type of highway accident more common to Florida than to other states is out-of-control vehicles veering off a highway into an adjacent canal, drainage ditch, or natural water body. National and statewide statistics for traffic fatalities caused by, or related to, the absence or failure of highway barrier systems and involving water are not readily available. However, FDOT was able to compile statistics on 2003 and 2004 traffic accident data involving vehicles running off state roads and into water bodies. FDOT staff verified the data by pulling the written reports and reading the narrative description of the accident. FDOT's review indicated that:

- In 2004, there were 28 fatal crashes on the State Highway System where the vehicles ran off the road and into an adjacent body of water. These crashes resulted in 36 fatalities, of which 20 were possibly caused or influenced by the vehicle being submerged.
- In 2003, there were 34 crashes that met the criteria with 49 fatalities, of which 28 were possibly caused or influenced by the vehicle being submerged.

Some of these accidents were caused by drunken, medicated, speeding, or careless drivers, according to the accident reports. Also, in some accidents the vehicle went over, under, or through guardrails or fences before going into the water.

Effect of Proposed Changes

HB 959 requires that guardrails, cable systems, or other types of roadway barriers be installed along each public road, street, and highway in Florida that is adjacent to a canal or other body of water. Public roadways in existence on July 1, 2006, and which are adjacent to water bodies, must have a barrier system installed by December 31, 2008. The barrier system must be installed and maintained by the appropriate governmental entity in compliance with FDOT standards established in rule. These standards must be designed to limit the loss of life by safely preventing an out-of-control motor vehicle from entering a canal or water body, based on a number of criteria. FDOT is directed to adopt rules to implement the provisions of this bill. .

FDOT has estimated that the bill will require the agency to install about 461.5 miles of guardrails or other barriers on state highways, and that counties will have to install nearly 2,400 miles of guardrails and municipalities nearly 614 miles.

The bill will have a significant fiscal impact on the state and particularly on local governments, according to FDOT's estimates. A discussion of these costs in the "II. FISCAL ANALYSIS AND ECONOMIC IMPACT STATEMENT" below.

HB 959 takes effect July 1, 2006.

C. SECTION DIRECTORY:

Section 1: Requires guardrail and other barriers on all public highways near canals and other water bodies. Specifies requirements that must be met. Specifies deadline for completing installation. Defines "highway."

Section 2: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

HB 959 has an estimated \$268 million fiscal impact on the State Transportation Trust Fund, according to FDOT.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

According to FDOT, HB 959's fiscal impact to county governments could be \$1.39 billion, while municipalities may have to pay \$356 million for the required guard rails and other barrier systems.

No information was available from the Florida Association of Counties. Several municipalities responded to a survey by the Florida League of Cities asking for cost estimates. Sample responses follow:

- the City of Fort Pierce indicated the cost could be \$449,328 for 3.77 miles of guardrails;
- the City of Clearwater indicated the cost would be \$5.85 million for guardrails along 234,225 feet (or about 44 miles) of roadway; and
- the city of North Port indicated the cost would be \$1.29 million for guardrails along 16 miles of roadway.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill does not create a funding source to pay for the required improvements. As such, it appears to be an unfunded mandate on local governments.

FDOT says it likely cannot meet the December 31, 2008, deadline in the bill because more time than that would be needed to design, bid, and install the projects. Meeting the 30-month deadline also would require FDOT to divert funds from existing projects to pay for the guardrail projects, which would delay projects in the Five-Year Work Program.

However, some portion of the guardrails required under the bill will at some point be installed by FDOT as part of its ongoing highway improvement programs.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision appears to apply to HB 959 because this bill requires county and municipal governments to install hundreds of miles of guardrails and other barrier systems in fewer than 3 years – without providing a funding source. The bill does not appear to qualify for an exemption or exception. It appears to impose a Type A mandate, as defined in article VII, section 18(a) of the state constitution, because it requires local governments to spend funds or to take action requiring the expenditure of funds.

Accordingly, the bill needs to include a statement that the required activity is an important state interest and must pass by a two-thirds vote of the House and the Senate.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

HB 959 directs FDOT to adopt rules to implement the bill's provisions.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill's sponsor plans to file a strike-all amendment that creates a pilot program for the installation of guardrails on limited access state roads in Miami-Dade County. FDOT estimates this proposal will cost about \$5.386 million, which already is programmed into the 2006-2011 Work Program budgets of the Turnpike and FDOT District 6 to install guardrails where needed.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES