

CHAPTER 2014-169

Committee Substitute for Committee Substitute for Committee Substitute for Senate Bill No. 218

An act relating to transportation; amending s. 125.42, F.S.; requiring utility and television lines to be removed from county roads and highways at no cost to the county if the county finds the lines to be unreasonably interfering with the widening, repair, or reconstruction of any such road; providing certain exceptions; amending s. 316.2397, F.S.; expanding the types of vehicles that may show or display an amber light; amending s. 335.06, F.S.; authorizing the Department of Transportation to improve and maintain roads that provide access to property within the state park system if they are part of a county road system or city street system; requiring that the appropriate county or municipality maintain such a road if the department does not maintain it; amending s. 335.065, F.S.; authorizing the department to use appropriated funds for the establishment of a statewide system of interconnected multiuse trails; prioritizing projects for funding; requiring funded projects to be included in the department's work program; providing that the department is not responsible for or obligated to provide funds for the operation and maintenance of any such project; amending s. 337.403, F.S.; providing an exception for payment of certain utility work necessitated by a project on the State Highway System for municipally owned utilities or county-owned utilities located in rural areas of critical economic concern; authorizing the Department of Transportation to pay for such costs under certain circumstances; revising certain exceptions; providing an exception for certain rail service projects; creating s. 339.041, F.S.; providing legislative intent; describing the types of department property eligible for factoring future revenues received by the department from leases for communication facilities on department property; authorizing the department to enter into agreements with investors to purchase the revenue streams from department leases of wireless communication facilities on such property pursuant to an invitation to negotiate; prohibiting the department from pledging state credit; allowing the department to make certain covenants; providing for the appropriation and payment of moneys received from such agreements to investors; requiring the proceeds from such leases to be used for capital expenditures; amending s. 339.2818, F.S.; subject to the appropriation of specified additional funding, authorizing a municipality within a rural area of critical economic concern or a rural area of critical economic concern community to compete for certain funding; providing criteria; amending ss. 348.53 and 348.54, F.S.; revising the powers of the Tampa-Hillsborough County Expressway Authority; creating s. 341.103, F.S.; authorizing the director of a transportation system or his or her designee to dispose of personal property found on a public transportation system; providing procedures for disposal; amending s. 479.16, F.S.; exempting certain signs from the provisions of ch. 479, F.S.; exempting from permitting certain

signs placed by tourist-oriented businesses, certain farm signs placed during harvest seasons, certain acknowledgment signs on publicly funded school premises, and certain displays on specific sports facilities; providing that certain provisions relating to the regulation of signs may not be implemented or continued if such actions will adversely impact the allocation of federal funds to the Department of Transportation; directing the department to notify a sign owner that the sign must be removed within a certain timeframe if federal funds are adversely impacted; authorizing the department to remove the sign and assess costs against the sign owner under certain circumstances; amending s. 479.262, F.S.; clarifying provisions relating to the tourist-oriented directional sign program; limiting the placement of such signs to intersections on certain rural roads; prohibiting such signs in urban areas or at interchanges on freeways or expressways; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (5) of section 125.42, Florida Statutes, is amended to read:

125.42 Water, sewage, gas, power, telephone, other utility, and television lines along county roads and highways.—

(5) In the event of widening, repair, or reconstruction of any such road, the licensee shall move or remove such water, sewage, gas, power, telephone, and other utility lines and television lines at no cost to the county should they be found by the county to be unreasonably interfering, except as provided in s. 337.403(1)(d)-(i) ~~s. 337.403(1)(e)~~.

Section 2. Subsection (4) of section 316.2397, Florida Statutes, is amended to read:

316.2397 Certain lights prohibited; exceptions.—

(4) Road or street maintenance equipment, road or street maintenance vehicles, road service vehicles, refuse collection vehicles, petroleum tankers, and mail carrier vehicles may show or display amber lights when in operation or a hazard exists. A commercial motor vehicle or trailer designed to transport unprocessed logs or pulpwood may show or display an amber light affixed to the rearmost point of the vehicle or trailer.

Section 3. Section 335.06, Florida Statutes, is amended to read:

335.06 Access roads to the state park system.—Any road that ~~which~~ provides access to property within the state park system shall be maintained by the department if the road is a part of the State Highway System; however, if such road is part of a county road system or city street system, the department may improve and maintain it. If the department does not maintain a county or city road that provides access to the state park system,

~~the road or shall be maintained by the appropriate county or municipality if the road is a part of the county road system or the city street system.~~

Section 4. Subsections (4) and (5) are added to section 335.065, Florida Statutes, to read:

335.065 Bicycle and pedestrian ways along state roads and transportation facilities.—

(4) The department may use appropriated funds to support the establishment of a statewide system of interconnected multiuse trails and to pay the cost of planning, land acquisition, design, and construction of such trails and related facilities. The department shall give funding priority to projects that:

(a) Are identified by the Florida Greenways and Trails Council as a priority within the Florida Greenways and Trails System under chapter 260.

(b) Support the transportation needs of bicyclists and pedestrians.

(c) Have national, statewide, or regional importance.

(d) Facilitate an interconnected system of trails by completing gaps between existing trails.

(5) A project funded under subsection (4) shall:

(a) Be included in the department’s work program developed in accordance with s. 339.135.

(b) Be operated and maintained by an entity other than the department upon completion of construction. The department is not obligated to provide funds for the operation and maintenance of the project.

Section 5. Subsection (1) of section 337.403, Florida Statutes, is amended to read:

337.403 Interference caused by ~~relocation of~~ utility; expenses.—

(1) If a utility that is placed upon, under, over, or along any public road or publicly owned rail corridor is found by the authority to be unreasonably interfering in any way with the convenient, safe, or continuous use, or the maintenance, improvement, extension, or expansion, of such public road or publicly owned rail corridor, the utility owner shall, upon 30 days’ written notice to the utility or its agent by the authority, initiate the work necessary to alleviate the interference at its own expense except as provided in paragraphs ~~(a)-(i) (a)-(g)~~. The work must be completed within such reasonable time as stated in the notice or such time as agreed to by the authority and the utility owner.

(a) If the relocation of utility facilities, as referred to in s. 111 of the Federal-Aid Highway Act of 1956, Pub. L. No. ~~84-627 627~~ of the ~~84th Congress~~, is necessitated by the construction of a project on the federal-aid

interstate system, including extensions thereof within urban areas, and the cost of the project is eligible and approved for reimbursement by the Federal Government to the extent of 90 percent or more under the Federal Aid Highway Act, or any amendment thereof, then in that event the utility owning or operating such facilities shall perform any necessary work upon notice from the department, and the state shall pay the entire expense properly attributable to such work after deducting therefrom any increase in the value of a new facility and any salvage value derived from an old facility.

(b) When a joint agreement between the department and the utility is executed for utility work to be accomplished as part of a contract for construction of a transportation facility, the department may participate in those utility work costs that exceed the department's official estimate of the cost of the work by more than 10 percent. The amount of such participation is ~~shall be~~ limited to the difference between the official estimate of all the work in the joint agreement plus 10 percent and the amount awarded for this work in the construction contract for such work. The department may not participate in any utility work costs that occur as a result of changes or additions during the course of the contract.

(c) When an agreement between the department and utility is executed for utility work to be accomplished in advance of a contract for construction of a transportation facility, the department may participate in the cost of clearing and grubbing necessary to perform such work.

(d) If the utility facility was initially installed to exclusively serve the authority or its tenants, or both, the authority shall bear the costs of the utility work. However, the authority is not responsible for the cost of utility work related to any subsequent additions to that facility for the purpose of serving others. For a county or municipality, if such utility facility was installed in the right-of-way as a means to serve a county or municipal facility on a parcel of property adjacent to the right-of-way and if the intended use of the county or municipal facility is for a use other than transportation purposes, the obligation of the county or municipality to bear the costs of the utility work shall extend only to utility work on the parcel of property on which the facility of the county or municipality originally served by the utility facility is located.

(e) If, under an agreement between a utility and the authority entered into after July 1, 2009, the utility conveys, subordinates, or relinquishes a compensable property right to the authority for the purpose of accommodating the acquisition or use of the right-of-way by the authority, without the agreement expressly addressing future responsibility for the cost of necessary utility work, the authority shall bear the cost of removal or relocation. This paragraph does not impair or restrict, and may not be used to interpret, the terms of any such agreement entered into before July 1, 2009.

(f) If the utility is an electric facility being relocated underground in order to enhance vehicular, bicycle, and pedestrian safety and in which ownership of the electric facility to be placed underground has been transferred from a

private to a public utility within the past 5 years, the department shall incur all costs of the necessary utility work.

(g) An authority may bear the costs of utility work required to eliminate an unreasonable interference when the utility is not able to establish that it has a compensable property right in the particular property where the utility is located if:

1. The utility was physically located on the particular property before the authority acquired rights in the property;

2. The utility demonstrates that it has a compensable property right in ~~all~~ adjacent properties along the alignment of the utility or, after due diligence, certifies that the utility does not have evidence to prove or disprove that it has a compensable property right in the particular property where the utility is located; and

3. The information available to the authority does not establish the relative priorities of the authority's and the utility's interests in the particular property.

(h) If a municipally owned utility or county-owned utility is located in a rural area of critical economic concern, as defined in s. 288.0656(2), and the department determines that the utility is unable, and will not be able within the next 10 years, to pay for the cost of utility work necessitated by a department project on the State Highway System, the department may pay, in whole or in part, the cost of such utility work performed by the department or its contractor.

(i) If the relocation of utility facilities is necessitated by the construction of a commuter rail service project or an intercity passenger rail service project and the cost of the project is eligible and approved for reimbursement by the Federal Government, then in that event the utility owning or operating such facilities located by permit on a department-owned rail corridor shall perform any necessary utility relocation work upon notice from the department, and the department shall pay the expense properly attributable to such utility relocation work in the same proportion as federal funds are expended on the commuter rail service project or an intercity passenger rail service project after deducting therefrom any increase in the value of a new facility and any salvage value derived from an old facility. In no event shall the state be required to use state dollars for such utility relocation work. This paragraph does not apply to any phase of the Central Florida Commuter Rail project, known as SunRail.

Section 6. Section 339.041, Florida Statutes, is created to read:

339.041 Factoring of revenues from leases for wireless communication facilities.—

(1) The Legislature finds that efforts to increase funding for capital expenditures for the transportation system are necessary for the protection

of the public safety and general welfare and for the preservation of transportation facilities in this state. It is, therefore, the intent of the Legislature:

(a) To create a mechanism for factoring future revenues received by the department from leases for wireless communication facilities on department property on a nonrecourse basis;

(b) To fund fixed capital expenditures for the statewide transportation system from proceeds generated through this mechanism; and

(c) To maximize revenues from factoring by ensuring that such revenues are exempt from income taxation under federal law in order to increase funds available for capital expenditures.

(2) For the purposes of factoring revenues under this section, department property includes real property located within the department's limited access rights-of-way, property located outside the current operating right-of-way limits which is not needed to support current transportation facilities, other property owned by the Board of Trustees of the Internal Improvement Trust Fund and leased by the department, space on department telecommunications facilities, and space on department structures.

(3) The department may solicit investors willing to enter into agreements to purchase the revenue stream from one or more existing department leases for wireless communication facilities on property owned or controlled by the department through the issuance of an invitation to negotiate. Such agreements shall be structured as tax-exempt financings for federal income tax purposes in order to result in the largest possible payout.

(4) The department may not pledge the credit, the general revenues, or the taxing power of the state or of any political subdivision of the state. The obligations of the department and investors under the agreement do not constitute a general obligation of the state or a pledge of the full faith and credit or taxing power of the state. The agreement is payable from and secured solely by payments received from department leases for wireless communication facilities on property owned or controlled by the department, and neither the state nor any of its agencies has any liability beyond such payments.

(5) The department may make any covenant or representation necessary or desirable in connection with the agreement, including a commitment by the department to take whatever actions are necessary on behalf of investors to enforce the department's rights to payments on property leased for wireless communications facilities. However, the department may not guarantee that revenues actually received in a future year will be those anticipated in its leases for wireless communication facilities. The department may agree to use its best efforts to ensure that anticipated future-year revenues are protected. Any risk that actual revenues received from

department leases for wireless communications facilities will be lower than anticipated shall be borne exclusively by investors.

(6) Subject to annual appropriation, the investors shall collect the lease payments on a schedule and in a manner established in the agreements entered into pursuant to this section between the department and the investors. The agreements may provide for lease payments to be made directly to investors by lessees if the lease agreements entered into by the department and the lessees pursuant to s. 365.172(12)(f) allow direct payment.

(7) Proceeds received by the department from leases for wireless communication facilities shall be deposited in the State Transportation Trust Fund created under s. 206.46 and used for fixed capital expenditures for the statewide transportation system.

Section 7. Subsection (7) is added to section 339.2818, Florida Statutes, to read:

339.2818 Small County Outreach Program.—

(7) Subject to a specific appropriation in addition to funds annually appropriated for projects under this section, a municipality within a rural area of critical economic concern or a rural area of critical economic concern community designated under s. 288.0656(7)(a) may compete for the additional project funding using the criteria listed in subsection (4) at up to 100 percent of project costs, excluding capacity improvement projects.

Section 8. Section 348.53, Florida Statutes, is amended to read:

348.53 Purposes of the authority.—The authority is created for the purposes and shall have power to construct, reconstruct, improve, extend, repair, maintain and operate the expressway system. It is hereby found and declared that such purposes are in all respects for the benefit of the people of the State of Florida, ~~the~~ City of Tampa, and the County of Hillsborough, for the increase of their pleasure, convenience, and welfare; ~~for the improvement of their health; and,~~ to facilitate transportation, including managed lanes and other transit supporting facilities, for their recreation and commerce and for the common defense. The authority ~~is~~ shall be performing a public purpose and a governmental function in carrying out its corporate purpose and in exercising the powers granted herein.

Section 9. Subsection (15) is added to section 348.54, Florida Statutes, to read:

348.54 Powers of the authority.—Except as otherwise limited herein, the authority shall have the power:

(15) With the consent of the county within whose jurisdiction the activities occur, to construct, operate, and maintain roads, bridges, avenues of access, thoroughfares, and boulevards and managed lanes and other

transit supporting facilities outside of the jurisdictional boundaries of Hillsborough County and within the jurisdictional boundaries of counties contiguous to Hillsborough County, together with the right to construct, repair, replace, operate, install, and maintain such facilities and electronic toll payment systems thereon or incidental thereto, with all necessary and incidental powers to accomplish the foregoing.

Section 10. Section 341.103, Florida Statutes, is created to read:

341.103 Disposal of personal property found on a public transportation system.—

(1) If personal property is found on a public transportation system, the director of the system or the director's designee shall take charge of the property and make a record of the date such property was found. If, within 90 calendar days after such property is found, or for a longer period of time as may be deemed appropriate by the director or the director's designee under the circumstances, the property is not claimed by the owner, the director or the director's designee may:

(a) Retain any or all of the property for use by the public transportation system or for use by the state or the unit of local government owning or operating the public transportation system;

(b) Trade or donate such property to another unit of local government or a state agency;

(c) Donate the property to a charitable organization;

(d) Sell the property; or

(e) Dispose of the property through an appropriate refuse removal company or a company that provides salvage services for the type of personal property found or located on the public transportation system.

(2) The public transportation system shall notify the owner, if known, that the property has been found and of its intent to dispose of such property.

(3) If the public transportation system elects to sell the property, it shall be sold at a public auction on the Internet or at a specified physical location. Notice of the time and place of sale must be given at least 10 calendar days before the date of sale in a publication of general circulation within the county where the public transportation system is located and after written notice, via certified mail, return receipt requested, is provided to the owner, if his or her identity and address are known. Such notice is sufficient if it refers to the public transportation system's intention to sell all then-accumulated found property. There is no requirement that the notice identify each item to be sold. The rightful owner of such property may reclaim the property at any time before sale by presenting acceptable evidence of ownership to the public transportation system director or the director's designee. All proceeds from the sale of the property shall be retained by the public transportation system

for use by the public transportation system in any lawfully authorized manner.

(4) A purchaser or recipient of personal property sold or obtained in good faith under this section shall take possession of the property free of the rights of the persons previously holding any legal or equitable interest therein, whether or not recorded.

Section 11. Section 479.16, Florida Statutes, is amended to read:

479.16 Signs for which permits are not required.—Signs placed on benches, transit shelters, modular news racks, street light poles, public pay telephones, and waste disposal receptacles within the right-of-way, as provided under s. 337.408, are exempt from this chapter. The following signs are exempt from the requirement that a permit ~~for a sign~~ be obtained under the ~~provisions of this chapter but~~ must ~~are required to~~ comply with the ~~provisions of s. 479.11(4)-(8):~~

(1) Signs erected on the premises of an establishment, which signs consist primarily of the name of the establishment or ~~which~~ identify the principal or accessory merchandise, services, activities, or entertainment sold, produced, manufactured, or furnished on the premises of the establishment and which comply with the lighting restrictions ~~imposed under department rule adopted pursuant to s. 479.11(5), or signs owned by a municipality or a county located on the premises of such municipality or such county which display information regarding government services, activities, events, or entertainment.~~ For purposes of this section, the following types of messages shall not be considered information regarding government services, activities, events, or entertainment:

- (a) Messages that ~~which~~ specifically reference any commercial enterprise.
- (b) Messages that ~~which~~ reference a commercial sponsor of any event.
- (c) Personal messages.
- (d) Political campaign messages.

If a sign located on the premises of an establishment consists principally of brand name or trade name advertising and the merchandise or service is only incidental to the principal activity, or if the owner of the establishment receives rental income from the sign, ~~then~~ the sign is not exempt under this subsection.

(2) Signs erected, used, or maintained on a farm by the owner or lessee of such farm and relating solely to farm produce, merchandise, service, or entertainment sold, produced, manufactured, or furnished on such farm.

(3) Signs posted or displayed on real property by the owner or by the authority of the owner, stating that the real property is for sale or rent.

However, if the sign contains any message not pertaining to the sale or rental of ~~the~~ that real property, then it is not exempt under this section.

(4) Official notices or advertisements posted or displayed on private property by or under the direction of any public or court officer in the performance of her or his official or directed duties; or by trustees under deeds of trust or deeds of assignment or other similar instruments.

(5) Danger or precautionary signs relating to the premises on which they are located; forest fire warning signs erected under the authority of the Florida Forest Service of the Department of Agriculture and Consumer Services; and signs, notices, or symbols erected by the United States Government under the direction of the United States Forestry Service.

(6) Notices of any railroad, bridge, ferry, or other transportation or transmission company necessary for the direction or safety of the public.

(7) Signs, notices, or symbols for the information of aviators as to location, directions, and landings and conditions affecting safety in aviation erected or authorized by the department.

(8) Signs or notices measuring up to 8 square feet in area which are erected or maintained upon property and state stating only the name of the owner, lessee, or occupant of the premises ~~and not exceeding 8 square feet in area.~~

(9) Historical markers erected by ~~duly constituted~~ and authorized public authorities.

(10) Official traffic control signs and markers erected, caused to be erected, or approved by the department.

(11) Signs erected upon property warning the public against hunting and fishing or trespassing ~~thereon.~~

(12) Signs ~~not in excess of up to 8 square feet which~~ that are owned by and relate to the facilities and activities of churches, civic organizations, fraternal organizations, charitable organizations, or units or agencies of government.

~~(13) Except that signs placed on benches, transit shelters, and waste receptacles as provided for in s. 337.408 are exempt from all provisions of this chapter.~~

~~(13)~~(14) Signs relating exclusively to political campaigns.

~~(14)~~(15) Signs measuring up to not in excess of 16 square feet placed at a road junction with the State Highway System denoting only the distance or direction of a residence or farm operation, or, outside an incorporated in a rural area where a hardship is created because a small business is not visible from the road junction with the State Highway System, one sign measuring up to not in excess of 16 square feet, denoting only the name of the business

and the distance and direction to the business. ~~The small-business-sign provision of this subsection does not apply to charter counties and may not be implemented if the Federal Government notifies the department that implementation will adversely affect the allocation of federal funds to the department.~~

(15) Signs placed by a local tourist-oriented business located within a rural area of critical economic concern as defined in s. 288.0656(2) which are:

- (a) Not more than 8 square feet in size or not more than 4 feet in height;
- (b) Located only in rural areas on a facility that does not meet the definition of a limited access facility as defined by department rule;
- (c) Located within 2 miles of the business location and at least 500 feet apart;
- (d) Located only in two directions leading to the business; and
- (e) Not located within the road right-of-way.

A business placing such signs must be at least 4 miles from any other business using this exemption and may not participate in any other directional signage program by the department.

(16) Signs measuring up to 32 square feet denoting only the distance or direction of a farm operation which are erected at a road junction with the State Highway System, but only during the harvest season of the farm operation for a period not to exceed 4 months.

(17) Acknowledgment signs erected upon publicly funded school premises which relate to a specific public school club, team, or event which are placed at least 1,000 feet from any other acknowledgment signs on the same side of the roadway. The sponsor information on an acknowledgment sign may constitute no more than 100 square feet of the sign. For purposes of this subsection, the term “acknowledgment sign” means a sign that is intended to inform the traveling public that a public school club, team, or event has been sponsored by a person, firm, or other entity.

(18) Displays erected upon a sports facility the content of which is directly related to the facility’s activities or where products or services offered on the sports facility property are present. Displays must be mounted flush to the surface of the sports facility and must rely upon the building facade for structural support. For purposes of this subsection, the term “sports facility” means an athletic complex, athletic arena, or athletic stadium, including physically connected parking facilities, which is open to the public and has a permanently installed seating capacity of 15,000 people or more.

The exemptions in subsections (14)-(18) may not be implemented or continued if the Federal Government notifies the department that

implementation or continuation will adversely impact the allocation of federal funds to the department. If the exemptions in subsections (14)-(18) are not implemented or continued due to notification from the Federal Government that the allocation of federal funds to the department will be adversely impacted, the department shall provide notice to the sign owner that the sign must be removed within 30 days. If the sign is not removed within 30 days after receipt of the notice by the sign owner, the department may remove the sign, and the costs incurred in connection with the sign removal shall be assessed against and collected from the sign owner.

Section 12. Section 479.262, Florida Statutes, is amended to read:

479.262 Tourist-oriented directional sign program.—

(1) A tourist-oriented directional sign program to provide directions to rural tourist-oriented businesses, services, and activities may be established for intersections on rural and conventional state, county, or municipal roads only in rural counties identified by criteria and population in s. 288.0656 when approved and permitted by county or local government entities within their respective jurisdictional areas ~~at intersections on rural and conventional state, county, or municipal roads~~. A county or local government ~~that~~ which issues permits for a tourist-oriented directional sign program ~~is~~ shall be responsible for sign construction, maintenance, and program operation in compliance with subsection (3) for roads on the state highway system and may establish permit fees sufficient to offset associated costs. A tourist-oriented directional sign may not be used on roads in urban areas or at interchanges on freeways or expressways.

(2) This section does not create a proprietary or compensable interest in any tourist-oriented directional sign site or location for any permittee on any rural and conventional state, county, or municipal road roads. The department or the permitting entity may terminate permits or change locations of tourist-oriented directional sign sites as determined necessary for construction or improvement of transportation facilities or for improved traffic control or safety.

(3) Tourist-oriented directional signs installed on the state highway system ~~must~~ shall comply with the requirements of the federal Manual on Uniform Traffic Control Devices and rules established by the department. The department may adopt rules to establish requirements for participant qualification, construction standards, location of sign sites, and other criteria necessary to implement this program.

Section 13. This act shall take effect July 1, 2014.

Approved by the Governor June 20, 2014.

Filed in Office Secretary of State June 20, 2014.