COUNTY DEPARTMENT AGENDA REQUEST

Department:	Commissioners	Presenter(s):	Commissioner Steve Brown
Meeting Date:	Wednesday, May 4, 2011	Type of Request:	New Business

Wording for the Agenda:

Discussion of a request by Commissioner Brown that the Board consider a "Resolution Requesting Governor Nathan Deal to Veto HB179", which would protect the appearance of Georgia's highways and preserve the tree buffers owned by citizens of Georgia.

Background/History/Details:

House Bill 179 is the latest in a number of efforts brought before the leadership of the State of Georgia over the decades attempting to increase the number and visibility of billboards along Georgia's interstates and highways in order to promote businesses, but at the expense of Georgia's easements and natural beauty. On April 19, 2011, after passage in both the Georgia House of Representatives and the Senate, the Georgia General Assembly sent House Bill 179 to Governor Nathan Deal for signature.

Opposition to the bill has been expressed by many including the City of Sandy Springs, representatives from Columbus, Georgia, and by Representative Matt Ramsey.

Commissioner Brown would like the Board to consider proposed resolution, and if approved by Board of Commissioners, the resolution will be placed on a Board agenda for approval and forwarded to Governor Deal.

What action are you seeking from the Board of Commissioners?

Discussion and consideration of a "Resolution to Protect the Appearance of Our Highways and Preserving the Tree Buffers Owned by the Citizens of Georgia." Contingent on the Board's direction, this resolution can be placed on an upcoming agenda for a vote..

If this item requires funding, please describe:

Not Applicable.

Has this issue come before the Commissioners in the past?	No	If so, when?	
Do you need audio-visual for the presentation?	No	Back-up Material Submitted?	Yes

STAFF USE ONLY

Approved by Finance	Not Applicable	Reviewed by Legal	Yes
Approved by Purchasing	Not Applicable	Approved by County Clerk	Yes
Administrator's Approval	Yes		

Staff Notes:

STATE OF GEORGIA
COUNTY OF FAYETTE

DRAFT

RESOLUTION NO.

RESOLUTION REQUESTING GOVERNOR NATHAN DEAL TO VETO HB179

WHEREAS, Fayette County is a political subdivision of the State of Georgia, and the Fayette County Board of Commissioners is the governing authority of the County of Fayette; and

WHEREAS, the Georgia House of Representatives and Senate have passed House Bill 179 (BH179); and

WHEREAS, HB179, as passed allows billboard owners to clear cut trees within two hundred fifty (250) feet of a state right-of-way fence or boundary and/or within three hundred fifty (350) feet of the pavement edge; and

WHEREAS, HB179, as passed, prohibits any beautification projects that include the planting of trees in the right-of-way that may in the future obscure billboards; and

WHEREAS, HB179, as passed, removes many existing restrictions on the types of trees that billboard companies may remove; and

WHEREAS, HB179, as passed, gives the billboard industry an unknown amount of credits for removing illegal signs toward their cost for tree removal and maintenance permits; and

WHEREAS, the Georgia Department of Transportation has revealed that its cost for managing its billboard program last year was $915,000; and that although HB179 provides for an increase in fees for the permitting of billboards and an increase in renewal fees, the fees are not sufficient to cover the cost of processing applications and inspections; and

WHEREAS, the Fayette County Board of Commissioners does not believe that subsidizing the billboard industry is in the best interest of the citizens of the County;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Fayette County, Georgia that it respectfully requests that Governor Nathan Deal veto HB179 as passed for the protection of the scenic beauty and the environment of the State of Georgia.

BE IT FURTHER RESOLVED that a copy of this Resolution shall be forwarded to the Office of the Governor of the State of Georgia.

SO RESOLVED THIS _____ DAY OF _____, 2011

BOARD OF COMMISSIONERS
FAYETTE COUNTY, GEORGIA

_____
Herbert Frady, Chairman

ATTEST:

_____
Clerk / Deputy Clerk

HB 179 - State highway system; permits for legally erected signs; change provisions

Sponsored By

(1) Burns,Jon 157th (2) Roberts,Jay 154th (3) England,Terry 108th
(4) Bryant,Bob 160th (5) Hamilton,Mark 23rd (6) Benton,Tommy 31st

Sponsored In Senate By

Balfour,Don 9th

Committees

HC: Trans **SC:** TRANS

Current Status

04/19/11 - House Sent to Governor

First Reader Summary

A BILL to be entitled an Act to amend Part 2 of Article 3 of Chapter 6 of Title 32 of the Official Code of Georgia Annotated, relating to the state highway system, so as to modify the procedures whereby owners of legally erected and maintained signs obtain and renew permits for the installation of signs; to change certain conditions relating to permits to remove vegetation from the viewing zones of outdoor signs; to provide for related matters; to provide for severability; to provide for the Department of Transportation to promulgate forms and policies; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Votes

Date	Time	Vote No	Yeas	Nays	NV	Exc	Description
02/24/2011	1:25PM	House Vote #59	160	008	006	006	Burns AM 34 0476
02/24/2011	1:27PM	House Vote #60	098	069	007	006	PASSAGE
02/28/2011	1:57PM	House Vote #64	056	104	012	008	RECON
03/08/2011	11:13AM	Senate Vote #84	019	032	004	001	MOTION TO TABLE
03/08/2011	12:51PM	Senate Vote #85	028	026	001	001	ADOPTION OF AMENDMENT #2 BY THE SENATOR FROM THE 45TH
03/08/2011	12:54PM	Senate Vote #86	022	033	001	000	ADOPTION OF AMEND #5A BY SEN FROM THE 15TH TO AMEND #5 BY SEN FROM THE 15TH
03/08/2011	1:00PM	Senate Vote #87	037	019	000	000	PASSAGE AS AMENDED
03/10/2011	1:45PM	House Vote #134	094	064	013	009	Agree Sen Am

Status History

Date	Action
02/07/2011	House First Readers
02/09/2011	House Second Readers
02/16/2011	House Committee Favorably Reported
02/24/2011	House Third Readers
02/24/2011	House Passed/Adopted
02/24/2011	House Notice To Reconsider
03/01/2011	Senate Read and Referred

03/04/2011	Senate Committee Favorably Reported
03/07/2011	Senate Read Second Time
03/08/2011	Senate Third Read
03/08/2011	Senate Passed/Adopted
03/10/2011	House Agree Senate Amend or Sub
04/19/2011	House Sent to Governor

Footnotes

2/24/2011 Modified Structured Rule

Versions

1. LC 34 2873/a
2. LC 34 2906S/hs
3. HB 179/CSFA
4. Sen floor amend 1 AM 34 0489
5. Sen floor amend 2
6. Sen floor amend 3 AM 34 0482
7. Sen floor amend 4 AM 34 0484
8. Sen floor amend 5 AM 34 0487
9. Sen floor amend 5a
10. Sen floor amend 6 AM 34 0483
11. Sen floor amend 7 AM 34 0488
12. Sen floor amend 8
13. Sen floor amend 9
14. HB 179/AP*

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House Bill 179 (AS PASSED HOUSE AND SENATE)

By: Representatives Burns of the 157th, Roberts of the 154th, England of the 108th, Bryant of the 160th, Hamilton of the 23rd, and others

A BILL TO BE ENTITLED

AN ACT

To amend Part 2 of Article 3 of Chapter 6 of Title 32 of the Official Code of Georgia Annotated, relating to the state highway system, so as to modify the procedures whereby owners of legally erected and maintained signs obtain and renew permits for the installation of signs; to change certain conditions relating to permits to remove vegetation from the viewing zones of outdoor signs; to provide for related matters; to provide for severability; to provide for the Department of Transportation to promulgate forms and policies; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Part 2 of Article 3 of Chapter 6 of Title 32 of the Official Code of Georgia Annotated, relating to the state highway system, is amended by revising subsection (a) of Code Section 32-6-74, relating to applications for permits for outdoor advertising signs, as follows:

"(a) ~~Applications for permits and the renewal thereof authorized by subsections (a) through (d) of Code Section 32-6-79 shall be made to the department upon forms prescribed by the department. The applications shall contain the signature of the applicant and such other information as may be required by the department and shall be verified under oath by the person, firm, or corporation making the application. Permits and renewals thereof shall be issued for and shall be valid only if the sign is erected and maintained in accordance with this part during the 12 month period next following the date of issuance. The fee for the initial issuance of a permit shall be $50.00. The fee for the renewal of a permit shall be $25.00. The money received from permit fees shall be used to help defray the expenses of administering this part, Code Section 48-2-17 to the contrary notwithstanding. Upon receipt of a properly executed application and the appropriate fee for the erection or maintenance of a sign which may be lawfully erected or maintained pursuant to this part, the department shall, within 60 days, issue a permit or renewal authorizing the erection or maintenance, or both, of the sign for which application was made except when a person, firm, or~~

~~corporation is maintaining or allowing the maintenance of an illegal sign as provided for in subsection (f) of Code Section 32-6-79. Application for the renewal of a permit shall be made to the department not more than 90 nor less than 60 days before the expiration date of the permit for which renewal is sought. If the department fails to receive the renewal application before the expiration date of the permit, the department will notify the applicant that the renewal application is overdue when the applicant's address is known or reasonably available to the department and shall give the applicant 30 days after the expiration date to send the department the renewal application. If the applicant does not send the properly executed application and the appropriate fee within the specified 30 day period, the sign shall then become an illegal sign. No permit shall be renewed if the application for the renewal thereof has not been made in accordance with this Code section.~~ Applications for permits authorized by subsections (a) through (d) of Code Section 32-6-79 shall be made to the department upon forms prescribed by the department. The applications shall contain the signature of the applicant and such other information as may be required by the department and shall be verified under oath by the person, firm, or corporation making the application. Permits and renewals thereof shall be issued for and shall be valid only if the sign is erected and maintained in accordance with this part during the 12 month period next following the date of issuance. As to permits for the initial erection of an outdoor advertising sign, one 12 month extension may be granted so long as a written request is submitted to the department at least 30 days prior to expiration along with a fee of $35.00. Any denial of an extension request shall be sent to the applicant before the expiration date and shall state the basis for denial. Multiple extensions shall not be granted as to the same permit, and the applicant shall not be allowed to reapply for the same site until the extension has expired; however, modifications to the application which do not extend the term of the permit shall be allowed. There shall be an initial outdoor advertising permit fee and an annual renewal fee. On and after July 1, 2011, the outdoor advertising application fee shall be $300.00, and the renewal fee for each sign shall be $85.00. The department may adjust future application and renewal fees through the formal rule making process so long as notice of any proposed increase is sent to the House and Senate Transportation Committees at least 30 days prior to final adoption by the department. Such fees shall be limited to amounts sufficient to offset the administrative costs to the department. An annual report on the expenditures and revenues of the department related to the outdoor advertising program shall be sent to the House and Senate Transportation Committees no later than October 31 of each year. Upon receipt of a properly executed application and the appropriate fee for the erection or maintenance of a sign which may be lawfully erected or maintained pursuant to this part, the department shall, within 60 days, issue a permit authorizing the erection or maintenance, or both, of

the sign for which application was made except when a person, firm, or corporation is maintaining or allowing the maintenance of an illegal sign as provided for in subsection (f) of Code Section 32-6-79. All outdoor advertising permits and renewals shall expire on the first day of April in the year following issuance. Renewal of such permits shall be made to the department between January 1 and April 1 of each calendar year. Notice of such renewal period shall be mailed to each outdoor advertising permit holder along with an itemized list of all permits maintained by such person or entity in the month of December. In response, each permit holder should clearly indicate any permits not being renewed and return a copy to the department along with payment for all permits being renewed. If a permit holder believes the itemized list is incomplete or inaccurate, such permit holder shall clearly note such discrepancies on the list and return a copy to the department with supporting documentation. The permit holder shall submit the renewal and any suggested corrections within 60 days of the date of the department notice or by April 1, whichever occurs last. If the department fails to receive the renewal before the expiration date, the department shall notify the permit holder by certified mail that the renewal is overdue and shall give the permit holder 45 days from the date of the postmark on such notice to send the department the renewal. If the applicant does not send the permit renewal and fee within 45 days after the postmark date on such notice, the permit shall expire and the sign shall then become an illegal sign. Signs shall become illegal by operation of law after the expiration of the permit followed by notice to the permit holder and a failure to submit for the renewal within 45 days. Any illegal sign may be removed without any administrative proceeding before the department. Vegetation permits or renewals issued pursuant to Code Section 32-6-75.3 shall expire on the first day of September in the year following issuance. If a vegetation permit renewal application and fee is not timely submitted and such deficiency is not cured within 45 days of the postmark date of notice via certified mail from the department, the vegetation permit shall be canceled, but the sign shall not be deemed illegal. No permit shall be renewed if the renewal thereof has not been made in accordance with this Code section.″

SECTION 2.

Said part is further amended by revising Code Section 32-6-75.3, relating to applications for tree trimming permits, as follows:

″32-6-75.3.

(a)(1) For purposes of this Code section, the term:

(A) 'Removal' or 'removed' means the elimination of trees or other vegetation from a viewing zone.

(B) 'Target view zone' means an area of the viewing zone extending from the sign to the roadway to which the sign is permitted which shall be angled as requested by the applicant to maximize the visibility of the sign to passing motorists but not to exceed:

(i) Two-hundred and fifty feet along the right of way fence or boundary; and

(ii) Three-hundred and fifty feet along the pavement edge, to include any emergency lane or paved shoulder.

(C) 'Trimming' or 'trimmed' means the pruning of excess limbs or branches from trees or other vegetation which are not removed from a viewing zone.

~~(C)~~(D) 'Viewing zone' means a continuous 500 foot horizontal distance parallel to a state right of way and adjacent to or otherwise within the line of sight of an outdoor advertising sign.

(2) The General Assembly finds and declares that outdoor advertising provides a substantial service and benefit to Georgia and Georgia's citizens as well as the traveling public. Therefore, the General Assembly declares it to be in the public interest that provisions be made for the visibility of outdoor advertising signs legally erected and maintained along the highways in this state to provide information regarding places offering lodging, food, motor vehicle fuels and lubricants, motor service and repairs, or any other services or products available to the general public. Recognizing, however, that the beautification of this state and the health of its environment are absolutely essential and equally as important to the traveling public, the General Assembly finds and declares that these needs must be balanced.

(b)(1) So as to promote these objectives and in accordance with the provisions of this Code section, the commissioner shall provide by rule or regulation for the issuance and annual renewal of permits for the trimming and removal of trees and other vegetation on the state rights of way within viewing zones with respect to outdoor advertising signs legally erected and legally maintained adjacent to said rights of way. Such rules and regulations shall include, without limitation, standards for survival of vegetation trimmed or planted.

(2) So as to ensure that no vegetation maintenance permits are issued for the purpose of creating new outdoor advertising signs, no owner of outdoor advertising signs ~~erected after January 1, 1999~~ permitted or assigned a working number by the department after December 31, 2010, or such owner's agent, ~~will~~ shall be eligible to make application for vegetation maintenance for a period of five years from the date a new sign is permitted.

(c) Application for a tree or vegetation trimming or removal permit and the annual renewal thereof shall be made upon the forms prescribed and provided by the department and shall contain the signature of the applicant and such other information as may be required by the department's rules and regulations.

(d) An application fee shall accompany the application for each vegetation maintenance permit, and both the application and fee shall be submitted to the department. There shall be an annual renewal of the permit for activities in the original scope of the permit. The department shall promulgate rules and regulations setting forth the application fees and renewal fees. Such application and renewal fees shall be established by the department in reasonable amounts in order to fully recover the costs of administering the vegetation maintenance program.

(e)(1) The department shall evaluate each application for a permit under this Code section and require as a condition of granting any permit under this Code section that the value of the landscaping to be either provided or paid for by the applicant is not less than the department's appraised value of the benefit to be conferred by the state upon the applicant by allowing the trimming or removing of trees or other vegetation as requested, which shall be the value of the trees or vegetation to be trimmed or removed; provided, however, that a permit may be granted to an otherwise qualified applicant in a case where the value of the landscaping to be either provided or paid for by the applicant is less than the department's appraised value of the trees or other vegetation to be trimmed or removed if, in addition, the applicant pays to the department an amount equal to the amount of the difference between the value of the landscaping to be either provided or paid for by the applicant and the department's appraised value of the trees or other vegetation to be trimmed or removed.

~~(2)(A)(i) No trees or vegetation shall be trimmed or removed under this Code section other than within a viewing zone.~~

~~(ii) No removal of any hardwood tree having a diameter outside bark of more than 8 inches at a height of 6 inches above ground level or any historic or endangered species tree or any tree planted as part of any local, state, or federal government project shall be permitted under this Code section.~~

~~(iii) All hardwood trees having a diameter outside bark of 8 inches or less at a height of 6 inches above ground level may be removed from within a viewing zone.~~

~~(iv) All nonhardwood trees may be removed from within a viewing zone for a combined total of 250 feet horizontal distance parallel to the right of way.~~

~~(v) All nonhardwood trees having a diameter outside bark of less than 12 inches at a height of 6 inches above ground level may be removed from within a viewing zone.~~

~~(vi) Pine trees having a diameter outside bark of 12 inches or more at a height of 6 inches above ground level shall not be removed from a viewing zone in such numbers as to reduce stocking to less than the minimum standard for full stocking for such trees, as determined by the Georgia Forestry Commission, over an area having a~~

~~combined total of not less than 250 feet horizontal distance parallel to the right of way.~~

~~(vii) The provisions of divisions (iv) and (vi) of this subparagraph notwithstanding, in the case of any outdoor advertising sign erected on or before April 20, 1998, and which is less than 35 feet in height as measured from the top of the sign to the ground directly beneath or to the road level, whichever distance results in the best view or the greatest elevation, or which is subsequently lowered to such a height, the horizontal distance of the area within the viewing zone from which all trees, other than hardwoods having a diameter outside the bark of more than 8 inches at a height of 6 inches above ground level, may be removed shall be increased to 350 feet.~~

(2) Any measurement of vegetation to be removed for valuation purposes shall be made at diameter breast height as shown in the section entitled 'Height of Measurement' in the *Guide for Plant Appraisal (9th Edition)* as published by the International Society of Arboriculture. Based on the substantial benefit to the state where dead or diseased trees are removed from the right of way, and the negligible value of dead or diseased trees, such vegetation shall not be measured or valued in determining the appraised value. Trees shall be only deemed dead or diseased if listed as such in the report of a certified forester or arborist, subject to review and approval by the department. Upon receipt of a properly completed application, the department shall, within 60 days, issue the permit for vegetation maintenance.

(3) The applicant shall be allowed to remove all trees and vegetation from the target view zone so long as the sign was permitted or assigned a working number by the department on or before December 31, 2010. Vegetation removal shall be prohibited in all areas of the viewing zone outside of the target view zone except that portions of vegetation, such as tree limbs, which extend into the target view zone from outside the target view zone may be trimmed as necessary to preserve the clear target view zone. The only vegetation which cannot be removed from the target view zone pursuant to this paragraph shall be landmark trees, historic trees, and specimen trees, as defined in subparagraphs (A) through (C) of this paragraph, and any tree planted as part of a permitted local, state, or federal government beautification project. After July 1, 2011, however, no beautification project in this state shall include the planting of trees in the right of way within 500 feet of an outdoor advertising sign such that the visibility of a permitted outdoor advertising sign is obscured or could later be obscured by the growth of such vegetation.

(A) For purposes of this paragraph, the term 'historic tree' means a tree or group of trees that are reasonably determined by the department to be:

(i) Identified by a unit of government to recognize an individual or group;

(ii) Located at the site of a historic event and significantly impact an individual's perception of the event;

(iii) Dated to the time of a historic event at the location of the tree, as identified by a unit of government; or

(iv) Confirmed as the progeny of a tree that meets any of the criteria contained in this division.

(B) For purposes of this paragraph, the term 'landmark tree' means a tree or group of trees that:

(i) Have been planted and maintained for educational purposes for more than 75 years;

(ii) Were planted as a memorial to an individual, group, event, or cause and are more than 75 years old; or

(iii) Symbolize a historically significant individual, place, event, or contribution, as recognized by a unit of government prior to July 1, 2010.

(C) For purposes of this paragraph, the term 'specimen tree' means a hardwood tree or group of hardwood trees that is determined to be in excess of 75 years of age as determined by a registered forester or arborist.

~~(B)~~(D) Pruning or trimming of trees under a permit shall conform to industry standards as defined by the National Arborist Association, International Society of Arboriculture or ANSI A300 pruning standards as of January 1, ~~1999~~ 2011, or such later edition as may be adopted by rule or regulation of the department.

~~(3)~~(4) An applicant's record of conduct regarding disturbance of trees or other vegetation on state rights of way shall be considered by the department as part of the evaluation process for any permit or permit renewal application.

~~(4)~~(5) Prior to approving any permit application to remove allegedly diseased trees, the department shall verify that such trees are in fact diseased. Such determination shall be made by the department's landscape architect.

~~(5)~~(6) A performance bond in an amount adequate for the requirements of the permit as determined by the department shall be required of each permittee.

(f)(1) No trees or other vegetation on state rights of way shall be trimmed, killed, or removed by any person other than in accordance with a permit issued under this Code section by any person other than the department or an authorized agent or contractor thereof.

(2) No outdoor advertising sign to which a permit under this Code section is applicable shall be unused for advertising for a period of six consecutive months or more.

(3) On and after July 1, 1999, no outdoor advertising sign to which a permit under this Code section is applicable shall be maintained in such a condition of disrepair as to be unusable for advertising.

(4)(A) In cases where the department has reasonable cause to believe that a violation of this subsection has been committed by any person, the procedures provided under Code Section 32-6-95 shall apply the same as in cases wherein the department believes that a sign is being maintained in violation of this part.

(B) Following notice, hearing, and a finding that a person has committed a violation of paragraph (1) of this subsection, a civil fine of not less than $10,000.00 nor more than $20,000.00, and restitution in an amount equal to the appraised value of the trees or vegetation, or both, which were unlawfully trimmed or removed, shall be imposed on such person.

(C) Following notice, hearing, and a finding that a permittee under this Code section has committed a violation of paragraph (2) of this subsection, an order directing the removal of such unused sign, at the expense of the permittee, shall be issued.

(D) Following notice, hearing, and a finding that a permittee under this Code section has committed a violation of paragraph (3) of this subsection, an order directing the removal of such unusable sign shall be issued.

(E) The department or its authorized agents shall be authorized to enter upon private lands and disassemble and remove signs without civil or criminal liability therefor pursuant to an order issued in accordance with this paragraph and as provided by Code Section 32-6-96 for disassembly and removal of illegal outdoor advertising signs.

(g) In order to obtain a vegetation maintenance permit for signs which exceed 75 feet in height, as measured from the base of the sign or crown of the adjacent roadway to which the sign is permitted, whichever is higher, the owner of the sign shall agree to reduce the sign to 75 feet in height or less, as measured from the base of the sign or crown of the adjacent roadway to which the sign is permitted, whichever is higher, unless lowering is precluded by local government code or regulation. Work to lower the sign shall be concluded within 60 days of completion of the vegetation removal. If the terms of the work plan are not complied with and all work satisfactorily completed within the allowed time, the performance bond shall be forfeited, and the department shall be authorized to collect the bond and lower the sign. Upon completion of any project which reduces sign height by use of a new support mechanism, such as a new pole, the sign owner shall provide the department with a written footer inspection from the applicable local government or a professional engineer prior to the release of the bond.

(h) The department shall have the right to refuse to issue any vegetation permits to any person, firm, or entity which the department determines is maintaining or is allowing to be

maintained any abandoned sign or signs, until all such abandoned signs are removed or brought into compliance with the provisions of this Code section. For purposes of this subsection, the term 'abandoned sign' means any sign adjacent to a state-controlled route that has not contained a message for six consecutive months and which has not had a message displayed within 30 days after receipt of notice by certified mail from the department. The addition of a 'for rent' panel or a phone number shall not qualify as a message for purposes of this subsection, but self promotional copy covering at least one entire sign face or advertising copy benefitting charitable, nonprofit, religious, or other noncommercial groups shall qualify as a message.

(i) The department shall have the right to refuse to issue any vegetation permits to any person, firm, or entity which the department determines is maintaining or is allowing to be maintained in their inventory of signs in this state any sign which depicts any material which is obscene as such term is defined in Code Section 16-12-80, or material that is in conflict with the applicable local government's obscenity ordinance. Upon conviction of depiction of any material as obscene the person, firm, or entity shall be punishable by a fine of not less than $5000.00 for the first conviction and $10,000.00 for any subsequent conviction and shall also be guilty of a misdemeanor of a high and aggravated nature.

(j) The removal of signs with lapsed outdoor advertising permits is of benefit to this state but is often too costly for the department to undertake. In order to encourage the removal of such signs and permitted signs that do not conform to the state's current requirements for outdoor advertising signs without the expenditure of state funds, a credit which may be used as an offset toward the total appraised value of the vegetation to be removed in accordance with a vegetation maintenance permit shall be awarded for each qualifying sign removal as follows:

(1) On or before March 1, 2012, the department shall prepare a list of signs which once held a valid outdoor advertising permit but for which the permit has been allowed to lapse. Notification of a sign's inclusion on such list shall be sent to the last known address for the sign's owner as listed on department records and to any other person or entity which the department reasonably finds to have an interest in such sign. Within 30 days of receipt of such notice or 60 days of publication of the list, whichever comes later, any person or entity claiming to be the owner of a sign that they do not believe has been properly included on the list shall be allowed to submit written notice to the department of their objection. Such objection may include a statement of the relevant facts and any supporting documents. On or before July 1, 2012, the department shall publish the final list. Signs which are the subject of any current objections, administrative appeals, or legal disputes shall not be included on such list. This list shall be updated annually and

provided to the chairpersons of the House and Senate Transportation Committees on or before the first day of March;

(2) The department shall, on or before January 1, 2012, prepare a schedule or formula to determine the credit to be received for the removal of lapsed-permit signs and permitted nonconforming outdoor advertising signs. Such schedule shall provide a valuation of the credit based on four factors: material used in sign structure, height of sign, size of sign, and terrain and topography. The department shall also prepare a form to be submitted by any person or entity seeking a credit under this subsection. Such form shall require a description of the material used in the sign structure, the height of the sign, the size of the sign, and the terrain and topography where the sign is situated and a calculation of the anticipated credit in accordance with the department's schedule or formula;

(3) At such time as any lapsed-permit sign from the department's updated list or a nonconforming outdoor advertising sign is removed, the person or entity responsible for such removal shall submit to the department the completed removal form and photographic evidence of the removal. For purposes of this subsection, the term 'removal' means removal of all structural elements above ground level; removal of footers or foundation elements shall not be required. Within 60 days of such submission, the department shall certify and return the form. No credit shall be allowed for the removal of a lapsed-permit sign by the owner of such sign. The certified form shall serve as a credit voucher. Credit vouchers may be transferred to another party via notarized statement signed by both parties;

(4) Where a lapsed-permit sign from the department's updated list or a nonconforming sign is to be removed in conjunction with a specific application for a vegetation maintenance permit, the sign to be removed shall be designated by department permit number. If the vegetation permit is approved, then the sign designated for removal shall be removed at least 15 days prior to initiation of work pursuant to the vegetation permit. Removal shall be deemed complete when the removal form and photographic evidence of the removal are submitted to the department. The sign designated for removal need not be owned by the vegetation permit applicant. As such, nothing herein shall be interpreted to require that the removed sign be owned or controlled by the vegetation permit applicant. All work hereunder shall be performed by licensed and bonded entities or individuals, where required by law, and the department shall not be liable for the actions of any nondepartment personnel; and

(5) A credit voucher may be used by an applicant for a vegetation maintenance permit as an offset against the total appraised value of the vegetation to be removed on a dollar-for-dollar basis, except that the total payment shall not be reduced below

$4,000.00. Any unused portion of a credit voucher may be used in conjunction with a subsequent vegetation maintenance application.

(k) Nothing contained in this Code section shall render any sign existing on July 1, 2011, nonconforming. Nothing in this Code section shall supersede any applicable local rules or ordinances. The department shall not deny an applicant a vegetation maintenance permit for complying with applicable local rules or ordinances."

SECTION 3.

In the event any section, subsection, sentence, clause, or phrase of this Act shall be declared or adjudged invalid or unconstitutional, such declaration or adjudication shall affect and invalidate the whole of the smallest section or subsection in which such matter appears herein, but shall in no manner affect the other sections, subsections, sentences, clauses, or phrases of this Act, which shall remain of full force and effect as if the section, subsection, sentence, clause, or phrase so declared or adjudged invalid or unconstitutional were not originally a part hereof. The General Assembly declares that it would have passed the remaining parts of this Act if it had known that such part or parts hereof would be declared or adjudged invalid or unconstitutional, but would not have passed any section of this Act containing or constituting an invalid or unconstitutional provision.

SECTION 4.

The Department of Transportation shall have 120 days from the effective date to promulgate any forms or policies necessary to implement this Act. Those applications submitted before any necessary forms and policies are in place shall be processed in accordance with the regulations in place prior to the effective date. Those holding vegetation maintenance permits or renewals issued at any time prior to the promulgation of the necessary forms and policies shall, upon written request to the department, be able to trim or remove vegetation in accordance with the terms of this Act.

SECTION 5.

This Act shall become effective on July 1, 2011.

SECTION 6.

All laws and parts of laws in conflict with this Act are repealed.