

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

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

**SPONSOR(S):** Transportation & Tourism Appropriations Subcommittee, Transportation & Infrastructure Subcommittee, Fine 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			

### 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 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 flashing lights, but should wait for motorists to clear the intersection before they cross.

This bill allows a pedestrian crosswalk that is located on a public highway, street, or road that has no more than two lanes and a speed limit of 35 miles per hour or less to be controlled by yellow RRFB traffic control devices. The bill further requires the Legislature to request that the federal government allow existing yellow RRFB traffic control devices at crosswalks on certain public highways, streets, or roads to be replaced by red RRPB traffic control devices. If the federal government grants the request, the conversion to red RRFB traffic control devices must be completed within 12 months. If the federal government does not grant the request, the entity with jurisdiction over these same crosswalks must ensure, by October 1, 2024, that all RRFB traffic control devices are removed. Alternatively, the entity with jurisdiction may completely remove the crosswalk or retrofit the crosswalk with legally acceptable equipment.

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.

The bill provides an effective date of July 1, 2020.

**This bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III.A.1 of the analysis.**

# 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.<sup>1</sup> 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.<sup>2</sup> 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.<sup>3</sup>

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.<sup>4</sup> If traffic control signals are in operation, pedestrians cannot cross at any place except in a marked crosswalk.<sup>5</sup> If there are no crosswalks, pedestrians crossing a roadway must yield to vehicles.<sup>6</sup>

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).<sup>7</sup> 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) publishes the MUTCD.<sup>8</sup>

The Department of Transportation (DOT) and local governments utilize various types of signals to indicate when pedestrians may safely cross midblock crosswalks.<sup>9</sup> One type of signal commonly used by DOT and local governments is a rectangular rapid flash beacon (RRFB) and a pedestrian hybrid beacon (PHB).<sup>10</sup> The RRFB consists of two rapidly and alternately flashing yellow rectangular LED lights that function as a warning beacon.<sup>11</sup> Pedestrians press the call button to activate the flashing lights, but should wait for motorists to clear the intersection before they cross.<sup>12</sup>

In July 2008, the MUTCD was updated to provide interim approval via a memorandum<sup>13</sup> to RRFBs for optional use in limited circumstances. The interim approval allows RRFBs usage as a warning beacon to supplement standard pedestrian crossing warning signs and markings at either a pedestrian or school crossing.<sup>14</sup> The cost is approximately \$10,000 to \$15,000 for purchase and installation of two RRFB units (one on either side of a street).<sup>15</sup> The FHWA will grant interim approval for the optional use

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<sup>1</sup> Section 316.130(1), F.S.

<sup>2</sup> Section 316.130(3), F.S.

<sup>3</sup> Section 316.130(4), F.S.

<sup>4</sup> Section 316.130(7), F.S.

<sup>5</sup> Section 316.130(11), F.S.

<sup>6</sup> Section 316.130(10), F.S.

<sup>7</sup> Section 316.0755, F.S.

<sup>8</sup> US 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).

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

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> 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](https://mutcd.fhwa.dot.gov/resources/interim_approval/ia11/fhwamemo.htm) (last visited January 23, 2020).

<sup>14</sup> US Department of Transportation, *Rectangular Rapid Flash Beacon (RRFB)*, available at [https://safety.fhwa.dot.gov/intersection/conventional/unsignalized/tech\\_sum/fhwasa09009/](https://safety.fhwa.dot.gov/intersection/conventional/unsignalized/tech_sum/fhwasa09009/) (last visited January 23, 2020).

<sup>15</sup> *Id.*

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.<sup>16</sup> A state may request interim approval for all jurisdictions in that state.<sup>17</sup>

As of October 2019, DOT reported approximately 191 midblock crosswalks with RRFBs on the state highway system.<sup>18</sup> Of the 191 midblock crosswalks, 113 crosswalks are not two lanes or 35 miles per hour or less.<sup>19</sup> It is unknown how many midblock crosswalks are in use statewide on county and city roads.<sup>20</sup>

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

**Injury or Death to Non-Motorists at Midblock Crossings<sup>21</sup>**

Injury Level	2017	2018	2019
<b>Midblock - Marked Crosswalk</b>	<b>263</b>	<b>262</b>	<b>247</b>
<b>Pedestrian</b>	<b>164</b>	<b>157</b>	<b>157</b>
Fatal (within 30 days)	12	6	5
Incapacitating	30	22	16
Non-incapacitating	61	57	78
Possible	56	65	50
None	5	7	8
<b>Bicyclist</b>	<b>99</b>	<b>105</b>	<b>90</b>
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**

This bill creates s. 316.0756, F.S., and allows 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 to be controlled by yellow RRFB traffic control devices.

The bill requires the Legislature to request that the federal government allow existing yellow RRFB traffic control devices at a crosswalk 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 to be replaced by red RRPB traffic control devices. If the federal government grants the request, all yellow RRFB traffic control devices at each such crosswalk shall be replaced by red RRFB traffic control devices within 12 months.

In the event the federal government does not grant the request, the entity with jurisdiction over these same crosswalks must ensure, by October 1, 2024, that all RRFB traffic control devices are removed. Alternatively, the entity with jurisdiction may completely remove the crosswalk or retrofit the crosswalk with legally acceptable equipment.

<sup>16</sup> Memorandum of Interim Approval for Optional Use of Rectangular Rapid Flashing Beacons (IA-11), *supra*, at FN 13.

<sup>17</sup> *Id.*

<sup>18</sup> Department of Transportation, Agency Analysis of 2020 House Bill 1371, p.5 (November 20, 2019).

<sup>19</sup> Email from John Kotyk, Legislative Affairs Director, Department of Transportation, RE: Updated Fiscal, (February 10, 2020).

<sup>20</sup> Email from Amanda Marsh, Legislative Specialist, Department of Transportation, RE: Midblock crosswalks, (October 18, 2019).

<sup>21</sup> Email from Kevin Jacobs, Deputy Legislative Affairs Director, Department of Highway Safety and Motor Vehicles, RE:

non/motorists/midblock crosswalk stats, (January 24, 2020).

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

**B. SECTION DIRECTORY:**

**Section 1:** Creates s. 316.0756, F.S., relating to traffic control signal devices and pedestrian control signals at crosswalks other than at intersections.

**Section 2:** Provides legislative finding.

**Section 3:** 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:**

Should the federal government grant the state's request to replace yellow RRFBs with red RRFBs, the cost would be indeterminate, but likely insignificant and could be absorbed within existing resources. However, DOT has identified 113 midblock crosswalks located on the state highway system that are not two lanes and the speed limit is greater than 35 miles per hour. If the federal government does not grant the request to allow yellow RRFBs to be replaced with red RRFBs, 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. DOT efforts would be limited to midblock crosswalks located on the state highway system.<sup>22</sup>

In developing the estimated cost, the department assumes 20 percent of the RRFB locations will warrant a traffic signal and 80 percent of the crosswalks with either be removed or converted to a static sign at the crosswalk. The cost to add a traffic signal at a midblock crosswalk is approximately \$300,000 per location; and the cost to remove midblock crosswalk is approximately \$7,000. If a traffic signal is installed, the annual maintenance cost is approximately \$3,200.<sup>23</sup>

The fiscal impact is contained within the confines of the Work Program. Due to the fluid and dynamic nature of the Work Program, the fiscal impact may be partially mitigated by normal changes which may occur with projects throughout the year. The bill also specifies a full implementation date of October 1, 2024, should the federal government not grant the state's request to replace yellow with red RRFBs. This would effectively spread the fiscal impact over a 4-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.<sup>24</sup> The cost to add a traffic

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<sup>22</sup> Email from John Kotyk, Legislative Affairs Director, Department of Transportation, RE: Updated Fiscal, (February 10, 2020).

<sup>23</sup> *Id.*

<sup>24</sup> Email from Amanda Marsh, Legislative Specialist, Department of Transportation, RE: Midblock crosswalks, (October 18, 2019).

signal at a midblock crosswalk is approximately \$300,000; 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.

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 Article VII, section 18, of the Florida Constitution may apply because this bill requires cities/counties to install specified traffic and pedestrian signals on roadways. This bill does not appear to qualify under any exemption or exception. If the bill does qualify as a mandate, the law must fulfill an important state interest and final passage must be approved by two-thirds of the membership of each house of the Legislature.

2. Other:

None.

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.

This analysis is written to the committee substitute as reported favorably by the Transportation & Infrastructure Subcommittee.

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

- Removed the provisions from the bill that an entity with jurisdiction over a public highway, street, or road must install PHBs at any midblock crosswalks or must remove the midblock crosswalk in its entirety by October 1, 2024.
- Added provisions to allow RRFB under certain conditions, require the Legislature to request that the federal government allow red RRFB at certain crosswalks, and require 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.

This analysis is drafted to the committee substitute as passed by the Transportation & Tourism Appropriations Subcommittee.