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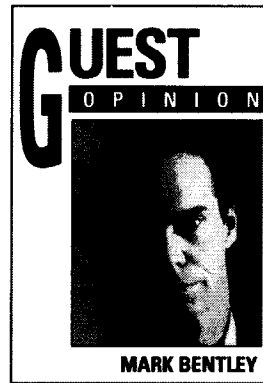
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## Home rule – but at what cost?

Florida's local governments may have shot themselves in the foot in their overzealous effort to guard their autonomy under the principle of home rule. During the current legislative session, legislation was proposed (Senate Bill 940) to deal with the issue of relocating billboards in connection with Florida's aggressive road-expansion efforts. However, the initial proposal was attacked by local governments that feared relinquishing their delegated home rule authority. In response to this backlash, the legislation was amended. The alternative endorsed by these local governments, if enacted, may protect home rule, but at a cost of millions of dollars — to be paid by these already economically distressed cities and counties.

Under the existing Outdoor Advertising Act, if a local government has enacted sign regulations and wants to apply them to require a nonconforming billboard that previously received permits from the local government and the Florida Department of Transportation, either to retrofit or relocate the billboard, the local government is required to pay the sign owner constitutionally required "just compensation." However, under these circumstances, most local governments refuse to enforce their sign regulations. On balance, because of the lack



of funding, aesthetics takes a back seat to economics. For example, in 1985 Hillsborough County enacted regulations that included a blanket prohibition on off-site advertising and an amortization period of about 10 years to allow sign owners to recover their investment. However, since the amortization period expired, the county has refused to enforce its regulations for fear of paying significant "just compensation."

The original SB 940 included an amendment to the Outdoor Advertising Act that would have allowed any legal nonconforming billboard to be "slid back" on any remainder property, regardless of any local regulations that would have prohibited the relocation.

The proposed legislation has been modified substantially as a result of local governments' outcry that they should not be robbed of their ability to regulate aesthetics in their respective communities. However, the revised legislation now states that if both the sign owner and

of funding, aesthetics takes a back seat to economics.

FDOT want to relocate a sign onto remainder property that does not have proper zoning, or is otherwise inconsistent with a local government's sign ordinance, "the ordinances of the local government shall prevail, provided that the local government shall assume the responsibility to provide the owner of the sign just compensation for its removal."

Therefore, assuming SB 940 does pass, FDOT — in an effort to reduce its road construction costs — will obviously always agree to a sign relocation with the support of the owner, thereby shifting the costs onto local governments.

Local governments may have successfully championed their cause of maintaining the integrity of home rule. However, this victory is one that will ring hollow, as it places a disproportionate cost on taxpayers. Now, the local government, acting alone, will shoulder the burden of paying compensation to sign owners, without any participation from the state. Perhaps local governments may want to reconsider the importance of maintaining the sanctity of their home rule powers in this instance and save their fight for a more sensible battle. ■

Bentley recently became a partner with the Tampa law firm of Mechanik Nuccio Bentley & Williams P.A.