

Tab 1	CS/SB 16 by JU, Simmons ; (Similar to CS/H 06517) Relief of Christeia Jones, Logan Grant, Denard Maybin, Jr., and Lanard Maybin/Department of Highway Safety and Motor Vehicles						
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Tab 2	CS/SB 220 by GO, Cruz (CO-INTRODUCERS) Gibson, Rouson, Book, Stewart ; (Similar to H 00121) Abandoned Cemeteries						
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782640	A	S	RCS	ATD, Cruz	Delete L.95 - 170:	02/25 02:11 PM
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Tab 3	CS/SB 1086 by IS, Diaz ; (Compare to CS/CS/H 00571) Vehicle and Vessel Registration Data and Functionality						
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182606	D	S	WD	ATD, Diaz	Delete everything after	02/25 02:11 PM
684820	AA	S	WD	ATD, Diaz	Delete L.31 - 53:	02/25 02:11 PM
774030	D	S	RCS	ATD, Diaz	Delete everything after	02/25 02:11 PM

Tab 4	SB 7054 by IS ; (Compare to CS/H 00519) Transportation						
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182020	A	S	RCS	ATD, Lee	Delete L.102 - 109:	02/25 02:11 PM
274560	A	S	RCS	ATD, Lee	btw L.332 - 333:	02/25 02:11 PM
822698	A	S	RCS	ATD, Lee	btw L.398 - 399:	02/25 02:11 PM
167288	A	S	WD	ATD, Taddeo	btw L.463 - 464:	02/25 02:11 PM
566528	A	S	RCS	ATD, Lee	btw L.1179 - 1180:	02/25 02:11 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

**APPROPRIATIONS SUBCOMMITTEE ON
TRANSPORTATION, TOURISM, AND ECONOMIC
DEVELOPMENT**

Senator Hutson, Chair
Senator Thurston, Vice Chair

MEETING DATE: Tuesday, February 25, 2020
TIME: 1:00—4:00 p.m.
PLACE: *Toni Jennings Committee Room, 110 Senate Building*

MEMBERS: Senator Hutson, Chair; Senator Thurston, Vice Chair; Senators Brandes, Lee, Perry, Simpson, Taddeo, and Torres

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 16 Judiciary / Simmons (Similar CS/H 6517)	Relief of Christeia Jones, Logan Grant, Denard Maybin, Jr., and Lanard Maybin/Department of Highway Safety and Motor Vehicles; Providing for the relief of Christeia Jones, as the natural parent and legal guardian of Logan Grant, Denard Maybin, Jr., and Lanard Maybin; providing an appropriation to compensate them for injuries and damages sustained as a result of the negligence of Trooper Raul Umana and the Florida Highway Patrol, a division of the Department of Highway Safety and Motor Vehicles; providing a limitation on the payment of attorney fees, etc. SM JU 02/11/2020 Not Considered JU 02/19/2020 Fav/CS ATD 02/25/2020 Favorable AP	Favorable Yeas 5 Nays 1
2	CS/SB 220 Governmental Oversight and Accountability / Cruz (Similar H 121)	Abandoned Cemeteries; Creating the Task Force on Abandoned African-American Cemeteries; requiring the Department of State to partner with specified entities to undertake an investigation of the former Zion Cemetery site; requiring the department to contract with the University of South Florida and the Florida Agricultural and Mechanical University for the identification and location of eligible next of kin, etc. GO 12/09/2019 Fav/CS ATD 02/25/2020 Fav/CS AP	Fav/CS Yeas 6 Nays 0
3	CS/SB 1086 Infrastructure and Security / Diaz (Compare CS/CS/H 571)	Vehicle and Vessel Registration Data and Functionality; Requiring the Department of Highway Safety and Motor Vehicles to provide tax collectors and their approved agents and vendors with real-time access to certain vehicle and vessel registration data and functionality in the same manner as provided to other third parties, etc. IS 01/21/2020 Fav/CS ATD 02/25/2020 Fav/CS AP	Fav/CS Yeas 5 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Tuesday, February 25, 2020, 1:00—4:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 7054 Infrastructure and Security (Compare CS/H 519, CS/H 1315, CS/S 1766)	Transportation; Revising the organization of the Department of Transportation; revising uses for distributions made under the State Transportation Trust Fund in specified fiscal years; deleting the scheduled expiration of funding for the Intermodal Logistics Center Infrastructure Support Program; requiring airport protection zoning regulations to require certain permit applicants to submit a final valid determination from the Federal Aviation Administration, etc. ATD 02/25/2020 Fav/CS AP	Fav/CS Yeas 7 Nays 0

Other Related Meeting Documents



THE FLORIDA SENATE

SPECIAL MASTER ON CLAIM BILLS

Location
409 The Capitol

Mailing Address
404 South Monroe Street
Tallahassee, Florida 32399-1100
(850) 487-5229

DATE	COMM	ACTION
2/6/20	SM	Report Submitted
2/10/20	JU	Fav/CS
2/24/20	ATD	Recommend: Favorable
	AP	

February 6, 2020

The Honorable Bill Galvano
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **SB 16** – Senator Simmons
HB 6517 – Representative Williamson
Relief of Christeia Jones, Logan Grant, Denard Maybin, Jr., and Lanard
Maybin by the Department of Highway Safety and Motor Vehicles

SPECIAL MASTER'S FINAL REPORT

THIS IS AN UNCONTESTED CLAIM FOR GENERAL REVENUE FUNDS IN THE AMOUNT OF \$17,715,000. THIS AMOUNT IS THE REMAINING BALANCE OF AN \$18,000,000 SETTLEMENT AGREEMENT REGARDING ALLEGED NEGLIGENCE OF TROOPER RAUL UMANA AND THE FLORIDA HIGHWAY PATROL, A DIVISION OF THE DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES.

FINDINGS OF FACT:

The Accident

On May 18, 2014, at approximately 9:25 p.m., Florida Highway Patrol (FHP) Trooper Raul Umana, traveling north on I-75 in a 2007 Crown Victoria patrol vehicle, attempted to turn around using a crossover gap in the median. Trooper Umana had been on the far right shoulder assisting with a disabled vehicle and then made two lane changes with a maximum speed of 45 miles per hour as he crossed to the far left northbound lane and approached the crossover gap.¹ He

¹ Florida Highway Patrol Vehicle/Personnel Crash Investigation Report (FHP Report), 25 (Aug. 29, 2014).

entered the median too quickly to properly negotiate the turn and hit the median barrier at a speed of 20 miles per hour before entering the southbound lane.²

Ms. Christeia Jones was traveling in the southbound lane with her three children in the backseat (Logan Grant, 2 years old; Lanard Maybin, 5 years old; and Denard Maybin, Jr., 7 years old).

Once entering the southbound lane at nine miles an hour, Trooper Umana's vehicle struck the 2014 Nissan Altima driven by Ms. Jones as well as a Mercedes traveling behind Ms. Jones. Ms. Jones had been traveling at 88 miles per hour, applied brakes and steered right (away from Trooper Umana's vehicle) and was traveling at 62 miles per hour at the time of impact with Trooper Umana's vehicle.³

After being struck by Trooper Umana's vehicle and applying brakes, Ms. Jones's Altima slowed to 16.94 miles an hour, and remained in the traveling lanes 179.5 feet from the initial collision.⁴ A tractor-trailer truck then collided with the Mercedes immediately behind Ms. Jones's vehicle; and then the tractor-trailer truck hit Ms. Jones's vehicle while traveling at 69 miles per hour. The collision with the tractor-trailer truck accelerated the speed of Ms. Jones's car to 58.33 miles per hour as her vehicle was pushed toward the shoulder of the highway.⁵ After both vehicles left the roadway and Ms. Jones's vehicle rotated 270 degrees, the tractor-trailer truck hit Ms. Jones's vehicle a second time and Ms. Jones's vehicle came to rest after hitting a tree. The engine compartment then caught fire.⁶

Ms. Jones was able to exit the vehicle but emergency personnel had to extract her three children who were trapped inside of the car after the rear seat was crushed by impact from the tractor-trailer truck. The FHP report describes damage to the vehicle in great detail⁷ and notes the driver of

² *Id.* at 33.

³ *Id.* at 25.

⁴ *Id.* at 27.

⁵ *Id.*

⁶ *Id.* at 28.

⁷ *Id.* at 15. The report includes a description of the extensive crushing and damage to the back of the vehicle.

"The rear center and left headrest [were] crushed forward to the back of the driver's seat. The front right seat was twisted to the left by the back seat." *Id.* at 16.

the tractor trailer did not fully apply the brakes until after colliding with the Mercedes, which was inconsistent with a statement made by the driver during the investigation.⁸

FHP Report

The FHP report noted no known distractions, adverse weather conditions, or evasive actions that would have contributed to the causation of the crash.⁹

Restraints

The FHP report provides both Lanard (5) and Denard (7) were “unrestrained at the time of the crash and suffered critical injuries,” and Logan (2) was restrained in a forward facing child seat and suffered critical injuries as a result of the incident.¹⁰

Ms. Jones confirmed Logan (2) was secured in a forward facing car seat; however, she testified both Lanard (5) and Denard (7) were wearing seatbelts when they began the ride.¹¹ Additionally, the FHP report includes information from Ms. Jones’s grandmother, Marilyn Lilly, who told the investigating officer the two older boys were wearing seatbelts when Ms. Jones left her house.¹² Ms. Jones does not have knowledge of the boys unbuckling themselves during the course of the ride.¹³

Counsel for claimants indicated there was no expert testimony presented suggesting the seatbelts would have made a difference for Lanard and Denard. Counsel noted the one child who was restrained, Logan, was the most severely injured. Counsel suggested if seatbelts were not used by the two older boys—not wearing the belts may have saved their lives.¹⁴

Speed

⁸ *Id.* at 28.

⁹ *Id.* at 5.

¹⁰ *Id.* at 6-7. “The rear left and center seatbelts were locked in the retracted position. The rear right seat belt appeared to have been cut in two places. The child restraint seat was cracked and the metal seatbelt clip was bent.” *Id.* at 16.

¹¹ Deposition, Christeia Jones, 87 (Jan. 18, 2018); Deposition, Trooper Crocker 7:20–7:30.

¹² FHP Report at 22.

¹³ Special Master Hearing at 3:28:43-3:29:45.

¹⁴ *Id.* at 14:45-15:58.

The posted speed limit of the highway where the incident occurred was 70 miles per hour.¹⁵ Information gathered during the FHP's investigation demonstrated Ms. Jones was driving at a speed exceeding the limits and made efforts to slow down just before impact with Trooper Umana's vehicle.

FHP investigators were able to obtain information from the event data recorder in Ms. Jones's vehicle. Prior to Trooper Umana's vehicle hitting Ms. Jones's vehicle, Ms. Jones was traveling at 88 miles per hour; which counsel for the claimants noted as going with the flow of traffic.¹⁶ The FHP report indicates about 1.5-2 seconds prior to impact, speed was reduced to 86 miles per hour. By one second before impact, Ms. Jones was traveling at 79 miles per hour; .5 second before impact, she was traveling at 69 miles per hour; and, at impact, she was traveling at 62 miles per hour.¹⁷

Medical Injuries

Ms. Jones is not seeking relief for herself through the claim bill. She seeks relief only for her children. Information regarding injuries to the three children was provided at the special master hearing. The submitted information includes evaluations, for each child, by medical professionals, vocational rehabilitation, and life care planning professionals.

Logan Grant

Logan suffered from a severe traumatic brain injury, orbital fractures, lung contusions, and a left subdural hematoma in his brain. He was hospitalized at UF Health Shands Hospital for a month before going to a rehabilitation hospital for another two weeks.¹⁸

As of November 2017, Logan could walk on his own with fewer falls when wearing a brace on one foot; fatigued easily; was able to dress himself if clothing did not have fasteners; had limited strength and coordination with his left hand; and had cognitive-behavioral impairment. He was receiving

¹⁵ FHP Report at 5.

¹⁶ Special Master Hearing at 51:20-51:30. *See also* FHP Report at 13 (noting none of three witnesses, who were truck drivers, indicated Ms. Jones, the vehicle behind her, nor the tractor-trailer truck were speeding). Counsel for claimants highlighted this information in support of Ms. Jones, who, although speeding, was traveling with the flow of traffic. Special Master hearing at 52:20-:53:06.

¹⁷ FHP Report at 18.

¹⁸ Special Master Hearing at 16:00-16:30; *see* Kornberg, MD, Paul B., Rehabilitation & Electrodiagnostics: Comprehensive Medical Evaluation, 13 -15 (Nov. 22, 2017).

occupational, physical, speech, and behavioral therapy.¹⁹ The doctor evaluating Logan found his “level of function and quality of life has markedly diminished in relation to the motor vehicle crash” and anticipated his deficits are permanent and will require continued multidisciplinary care.²⁰ The evaluating doctor believes, due to cognitive and communication impairments, Logan is not expected to be able to live alone as an adult, and will require guardianship and attendant care to assist with activities of daily living.²¹

A doctor examining Logan on behalf of the respondent came to similar conclusions with regard to Logan’s abilities and future needs. The doctor found Logan had cognitive deficits with regard to executive functioning and his ability to control behaviors, regulate emotions, and stay on task.²² This doctor also found Logan will likely need some assistance in making major life and financial decisions; and he is likely to be able to perform labor-oriented work.²³

A doctor hired by the claimants conducted a vocational rehabilitation evaluation, which included the finding that he “will not be capable of securing and maintaining competitive employment.”²⁴ The doctor found it reasonable to assume he would have previously been capable of graduating from high school and earning a college degree.²⁵ The same doctor, in coordination with others, evaluated Logan’s needs and developed a life care plan.²⁶ An economist used underlying reports from doctors evaluating the claimant to estimate economic losses and the cost of future care needs which are identified later in this report.

Lanard Maybin

¹⁹Kornberg, MD, Paul B., Rehabilitation & Electrodiagnostics: Comprehensive Medical Evaluation, 8-10 (Nov. 22, 2017).

²⁰ *Id.* at 14.

²¹ *Id.* at 15.

²² Kelderman, M.D., Jill (The Center for Pediatric Neuropsychology), Compulsory Medical Evaluation for Logan Grant, 9 (Aug. 23, 2018).

²³ *Id.* at 10.

²⁴ Shahnasarian, Ph.D., Michael, Vocational Rehabilitation Evaluation of Logan Eduardo Grant, 30 (June 25, 2018). This finding is based upon a reasonable degree of vocational rehabilitation probability. *Id.* *But see* Kelderman, Ph.D. ABPP, Jill, Pediatric Neuropsychological Evaluation, 10 (Aug. 23, 2018) (concluding Logan will likely need some level of supervision throughout adulthood with regard to major life and financial decisions but noting he is likely to be able to work labor-related jobs).

²⁵ *Id.* at 31.

²⁶ Shahnasarian, Ph.D., Michael, 1st Update—Life Care Plan Prepared for Logan Eduardo Grant (Aug. 2, 2018).

Lanard, who was found in the front of the car under the dashboard, suffered facial lacerations, a left shoulder fracture, a major neurocognitive disorder and behavioral disturbance related to a traumatic brain injury, attention deficit disorder related to traumatic brain injury, and possible post-traumatic stress disorder.²⁷

In September 2019, a doctor providing an opinion about Lanard's functional status and needs noted his "level of function and quality of life has markedly diminished" as a result of his injuries. The doctor also noted ongoing neurocognitive and behavioral impairments that impact daily life at home and in school, which will require ongoing multidisciplinary care. The doctor believes these impairments will negatively impact Lanard's future vocational potential and his level of independence; however, the doctor is not certain if Lanard will be able to achieve gainful employment in the competitive job market or live alone as an adult.²⁸

In 2019, a doctor conducted a vocational rehabilitation evaluation of Lanard. In reviewing medical records, the doctor noted neuropsychological diagnoses of 1) a major cognitive disorder likely from traumatic brain injury with behavior disturbance; 2) post-traumatic stress disorder; and 3) nocturnal enuresis. Additionally, Lanard indicated difficulty focusing and has ongoing nightmares and accident-related thoughts. His facial scarring is described as "prominent."²⁹ The same doctor, in coordination with others, evaluated Lanard's needs and developed a life care plan.³⁰ An economist used underlying reports from doctors evaluating the claimant to estimate economic losses and the cost of future care needs, which are identified later in this report.

Denard Maybin

²⁷ Kornberg, M.D., Paul, Comprehensive Medical Evaluation of Lanard Maybin, 11 (Sept. 11, 2019); Shands at the University of Florida, Department of Pediatric Surgery Discharge Note Re: Lanard Maybin (May 23, 2014).

²⁸ Kornberg at 11.

²⁹ Shahnasarian, Ph.D., Michael, Vocational Rehabilitation Evaluation of Lanard Maybin, 26 (Aug. 14, 2019).

³⁰ Shahnasarian, Ph.D., Michael, 1st Update—Life Care Plan Prepared for Lanard Maybin (Nov. 4, 2019). During his testimony at the special master hearing, Dr. Shanasarian indicated one needed change to page 19 of his original report. He noted it should read, "to be determined" as to whether Lanard would require a live-in personal care attendant after the age of 22. See Shanasarian, Life Care Plan Prepared for Lanard Maybin (Oct. 18, 2019). The correction was at the request of Dr. Gorman, a neuropsychologist, who could not state, with probability, the ongoing need beyond age 21. Special Master Hearing at 1:29:40-1:30:06. Counsel for claimants submitted a revised life care plan and a revised economic loss analysis report regarding Lanard in November of 2019, as cited above.

Denard suffered from a traumatic brain injury, right subdural hematoma, and diffuse axonal injury.³¹ A 2015 follow-up MRI showed scarring and shrinking of the brain in some areas; and an old hemorrhage in the bilateral front lobes (which are responsible for executive functioning and emotional regulation).³²

In 2017, a doctor evaluated Denard for the purpose of providing an opinion about his functional status and future needs. The doctor found his “level of function and quality of life has markedly diminished in relation to the motor vehicle crash.”³³ The evaluation noted mild right lower extremity weakness with motor perceptual, communication, and cognitive impairments, which are anticipated to be permanent.³⁴ As a result of cognitive and functional impairments, the evaluating doctor believes Denard will require ongoing multidisciplinary care and is not expected to attain gainful employment in the competitive job market.³⁵

A doctor examining Denard on behalf of the respondent found Denard has “significant weaknesses” with regard to executive functioning, “remarkable deficits” with regard to organization, “significant difficulties with fine motor skills,” as well as visual-spatial deficits.³⁶ With regard to Denard’s abilities and future needs, the doctor found Denard is unlikely to attain a standard high school diploma and notes he will likely require some level of assistance and supervision with major life and financial decisions.³⁷ However, he is “unlikely to require a personal care attendant as he will be able to care for his personal needs.”³⁸ This doctor also believes Denard will be able to perform labor-oriented work.³⁹

³¹ Special Master Hearing at 16:32-16:58; see Kornberg, M.D., Paul B, Rehabilitation & Electrodiagnostics: Comprehensive Medical Evaluation–Denard Maybin, 2-3 (Nov. 22, 2017).

³² Kornberg at 6; see Special Master Hearing at 2:19:00-2:20:45.

³³ Kornberg at 12.

³⁴ *Id.* at 12.

³⁵ *Id.* at 12; see also Shahnasarian, Michael, Vocational Rehabilitation Evaluation for Denard Maybin, 33 (June 22, 2018).

³⁶ Kelderman, M.D., Jill (The Center for Pediatric Neuropsychology), Compulsory Medical Evaluation for Denard Maybin, Jr., 9 (Aug. 22, 2018).

³⁷ *Id.* at 10.

³⁸ *Id.* at 10. This is notable as the life care plan and costs of future life care needs includes the cost of a live-in personal care attend with a present value cost of \$4,195,226; as well as an item listed as “additional cost for live-in care,” which has a present value of \$208,692. Raffa, Frederick (Raffa Consulting Economists, Inc.), Economic Loss Analysis in the Matter of Maybin, Jr., Denard vs. Florida Highway Patrol, Table 2 (Oct. 31, 2018).

³⁹ Kelderman at 10.

In 2018, a doctor provided a vocational rehabilitation evaluation for Denard as requested by the claimants.⁴⁰ The doctor's findings included academic and medical difficulties since the accident, and multifaceted neuropsychological difficulties. These difficulties include reasoning ability, memory, processing speed, motor skills, emotional disturbance, and anxiety among other findings.⁴¹ The doctor concluded Denard is not likely to be capable of attaining competitive employment.⁴²

The same doctor, in coordination with others, evaluated Denard's needs and developed a life care plan.⁴³ An economist used underlying reports from doctors evaluating the claimant to estimate economic losses and the cost of future care needs, which are identified later in this report.

Caretaking

Ms. Jones is the primary caretaker for Logan, Lanard, and Denard and takes them to all of their appointments. She testified she takes them to speech, physical, and occupational therapy appointments two days a week (2-3 hours each of those days). In addition, she takes them to appointments with specialists and their primary care physician. Ms. Jones works as a substitute teacher 1-3 days a week (depending upon appointments), which allows her to have a schedule flexible enough to get her children to their doctors and therapists. She would like to work fulltime using her bachelor's in criminal justice and seek a master's and a law degree.⁴⁴

Estimated Economic Losses

Claimants submitted economic loss analyses⁴⁵ with regard to the children based upon medical assessments and expected needs and limitations.

⁴⁰ Shahnasarian, Ph.D., Michael, Vocational Rehabilitation Evaluation for Denard Maybin, 33 (June 22, 2018).

⁴¹ *Id.*

⁴² *Id.*

⁴³ Shahnasarian, Ph.D., Michael, Life Care Plan Prepared for Denard Maybin (July 5, 2018).

⁴⁴ Special Master Hearing at 3:15:09-3:18:10. Ms. Jones testified about her worries for her children as well as her desire to make sure they are healthy and prepare them as much as possible to live without her. *Id.* at 3:31:30-3:32:00 and 3:38:50-3:39:00.

⁴⁵ See Raffa, Frederick (Raffa Consulting Economists, Inc.), Economic Loss Analysis in the Matter of Mr. Lanard Maybin 2nd Revised Report (Nov. 7, 2019); Raffa, Frederick (Raffa Consulting Economists, Inc.), Economic Loss Analysis in the Matter of Grant, Logan vs. Florida Highway Patrol Report (Nov. 2, 2018); Raffa, Economic Loss Analysis Re: Denard.

The estimated economic losses with regard to future earning capacities in difference scenarios were as follows:

Earning Capacity: Assuming Pre-Incident Employment with No Further Degree Beyond High School	
	Present Value
Logan	\$1,543,014
Lanard	\$1,690,822
Denard	\$1,592,738

Earning Capacity: Assuming Pre-Incident Employment and Additional Schooling	
	Present Value
Logan (with a bachelor’s degree)	\$2,810,754
Lanard (with technical school training)	\$1,834,473
Denard (with a bachelor’s degree)	\$2,906,356

The estimated cost of future life care needs for each child is as follows:

Cost of Future Life Care Needs	
	Present Value
Logan⁴⁶	\$6,702,555 or \$6,738,094
Lanard⁴⁷	\$2,126,572
Denard⁴⁸	\$5,818,550

In summary, the estimated economic loss and cost of future care at present value⁴⁹ for each child is as follows:

- Logan \$8,245,569–\$9,548,848
- Lanard \$3,817,394–\$3,961,045
- Denard⁵⁰ \$7,411,288–\$8,724,906

⁴⁶ Two options were listed for Logan’s Life Care Plan depending upon what is used to assist him with ambulating (Option 1: Walkaide and Options 2: Bioness L300).

⁴⁷ The values for Lanard include adjusting for the correction to the life care plan evaluation (indicating the need for a live-in attendant after the age of 21 is yet to be determined by professionals).

⁴⁸ If the medical opinion of the respondent’s evaluating doctor is applied (that Denard will not require live-in care), the values for Denard’s future life care needs would likely be reduced by the values listed for a live-in care attendant (\$4,195,226) and “additional cost for live-in care” (\$208,692). If he no longer required housekeeping, that would further reduce his future life care needs by \$70,761. See Raffa Economic Loss Analysis Re: Denard at Table 2.

⁴⁹ Raffa Economic Loss Analysis Re: Logan at Tables 3A and 3B; Raffa 2nd Revised Economic Loss Analysis Re: Lanard at Tables 3A and 3B; and Raffa Economic Loss Analysis Re: Denard at Tables 3A and 3B.

⁵⁰ See *supra* n. 48.

Combined, the estimated economic loss ranges for all three children is \$19,474,251–\$22,234,799.⁵¹

Trooper Raul Umana

During a deposition related to this matter, Trooper Umana stated he was going to pull into the median and wait until it was safe to turn around; however, he admitted he approached too quickly. He said his “lack of experience there really kicked in.”⁵² He said “there was too close of [a] range for me to get across and turn around.”⁵³ Trooper Umana agreed it was part of his training to turn around in the safest area.⁵⁴ Although he did not know the speed at which he entered the median, his opinion was it “was too fast.”⁵⁵

The FHP report indicates Trooper Umana received a traffic citation for careless driving pursuant to section 316.1935, of the Florida Statutes,⁵⁶ which he states he paid.⁵⁷ He did not receive any discipline from FHP.⁵⁸

Other Vehicles Involved in Incident

In addition to Trooper Umana’s and Ms. Jones’s vehicles, there were two other vehicles involved in this incident. There was a vehicle directly behind Ms. Jones’s vehicle involved, as well as a tractor-trailer truck.

The Vehicle Behind Ms. Jones’s Vehicle

The vehicle behind Ms. Jones, according to the FHP report, was following too closely behind her.⁵⁹ Although this vehicle did not come into contact with Ms. Jones’s vehicle, the insurer of this vehicle opted to provide \$20,000 in a settlement agreement.

The Tractor-Trailer Truck

Two possible issues arose with regard to the tractor-trailer truck. The first potential issue was with regard to speed. Although the tractor-trailer truck did not have a recording of

⁵¹ Although respondent’s doctor does not believe Denard will require live-in care after the age of 21, these amounts include such live-in care.

⁵² Trooper Raul Umana, Deposition, 22 lines 19–12 (July 17, 2017).

⁵³ *Id.* at 22 line 25–23 line 5.

⁵⁴ *Id.* at 26 lines 1–4.

⁵⁵ *Id.* at 32 lines 6–11.

⁵⁶ FHP Report at 59.

⁵⁷ Trooper Raul Umana, Deposition, 53 lines 17–20.

⁵⁸ *Id.* at 53 line 14–54 line 10 (July 17, 2017).

⁵⁹ FHP Report at 26.

data like Ms. Jones's Altima had, a responding trooper originally noted the driver of the tractor-trailer truck was following too closely because the driver had stated he did not have time to react after vehicles in front of him were involved in the initial crash.⁶⁰ The significant damage to the back of Ms. Jones's vehicle, which crushed the back seat where her children were located, was from impact of the tractor-trailer truck. The second potential issue was with regard to the driver's time on duty and whether he exceeded the limit regarding driving hours.⁶¹ Evidence was not submitted to confirm whether the driver of the tractor-trailer truck had been following too closely or driving for too many hours at the time of the crash.

Litigation History and Settlement

Two cases were filed by Ms. Jones in Orange County seeking relief as a result of this incident. One case was filed by Ms. Jones on behalf of her three children⁶²; and the other was filed regarding Ms. Jones's personal injury claims.⁶³ Prior to trial, the parties arrived at a mediated settlement agreement⁶⁴ and both cases were subsequently closed.

Settlement

Counsel for claimants believed the potential jury verdict value of this matter would be \$40-50 million.⁶⁵ The mediated settlement agreement notes claimants and respondent (FHP) acknowledged "a jury could reasonably award damages to the minor Plaintiffs in the amount of [\$18 million]."⁶⁶ Counsel for the claimants stated the settlement amount was less than the amount claimants believe is the full value because of issues relating to speed and whether the use of seatbelts would have been of concern for a jury. Counsel noted there was no information suggesting Ms. Jones could have avoided the incident, but conceded the issue of the seatbelts could have affected a jury's verdict.⁶⁷

⁶⁰ Sworn Audio Statement, Trooper Shawn Crocker, 13:30-13:59 (June 9, 2014).

⁶¹ Special Master Hearing at 1:06:20-1:07:06.

⁶² Jones on behalf of Grant, et al. v. Fla Highway Patrol, Case No. 2017-CA-000732-O (Fla. 9th Circ. Ct.).

⁶³ Jones v. Fla. Highway Patrol, Case No. 2018-CA-004258-O (Fla. 9th Circ. Ct.).

⁶⁴ Special Master Hearing at 16:59-17:25.

⁶⁵ *Id.* at 20:22-20:37.

⁶⁶ Mediation Settlement Agreement, Jones on behalf of Grant, et al. v. Fla. Highway Patrol, Case No. 2017-CA-000732-O (Fla. 9th Circ. Ct.), 2 (Nov. 30, 2018); Special Master Hearing at 4:02:30-4:03:56.

⁶⁷ Special Master hearing at 21:00-21:54.

The respondent did not admit liability or responsibility for the incident but did reach a mediated settlement agreement of \$18,000,000.⁶⁸ As part of the agreement, the respondent agreed to be silent on the claim bill, not support or oppose the bill, and did not present a case or argument at the special master hearing.⁶⁹

Funds Received by Claimants

Pursuant to settlement agreements, claimants have received funds from FHP, the insurer of the tractor-trailer truck, and the insurer of the Mercedes.

Respondent's Payment Pursuant to the Statutory Cap

The claimants received the remaining amount (\$285,000)⁷⁰ of the respondent's statutory limit (\$300,000 per incident) from the Division of Risk Management and seek the remaining balance of the settlement (\$17,715,000) through this claim bill. From payment of the limit, claimants' net proceeds were \$142,999.14, and the following disbursements were made⁷¹:

- Christeia Jones \$49,999.14
- Logan Grant Special Needs Trust (SNT) \$25,000.00
- Denard Maybin, Jr. SNT \$25,000.00
- Lanard Maybin SNT \$50,000.00

Settlement Funds from other Insurance Policies

In addition to the respondent's payment, the children received funds from settlements with insurers of two other vehicles involved in the accident.⁷²

Each of the children recovered funds from the tractor-trailer truck's insurance company, and Ms. Jones recovered a portion of each of those amount, as well. The total recovery from the tractor-trailer truck's insurance company was \$965,984.33. After payment of attorney fees and costs and liens, the distributions were as follows:

- Christeia Jones \$15,000
- Logan Grant SNT \$185,031.80

⁶⁸ Order on Petition for Approval of Personal Injury Settlement of Minors Logan Grant, Denard Maybin, Jr., and Lanard Maybin, Case No. 2017-CA-000732-O (Fla. 9th Circ. Ct.) (June 24, 2019).

⁶⁹ Mediation Settlement Agreement at 2.

⁷⁰ The first \$15,000 of respondent's limit went to the driver of the tractor-trailer truck. Correspondence from Kenneth McKenna, Attorney for Claimants (Nov. 12, 2019).

⁷¹ Closing Statement, Recovery from FHP (June 27, 2018); see Affidavit of Attorney for Claimants Attorney (Oct. 16, 2019).

⁷² Affidavit of Attorney for Claimants at 2.

- (from total recovery of \$482,992.17)
- Denard Maybin, Jr. SNT \$154,191.15
- (from total recovery of \$386,393.73)
- Lanard Maybin SNT \$41,535.42
- (from total recovery of \$96,598.43)

Claimants recovered \$20,000 from an insurer of the Mercedes traveling behind Ms. Jones that was involved in the incident. From this settlement, proceeds to claimants totaled \$5,644.22, which was distributed as follows:

- Logan Grant SNT \$1,881.41
- Denard Maybin, Jr. SNT \$1,881.41
- Lanard Maybin SNT \$1,881.40

Balance of Each Child's Special Needs Trust

As of fall 2019, the balance of each child's special needs trust is as follows⁷³:

- Logan Grant SNT \$205,368.83
- Denard Maybin, Jr. SNT \$170,415.51
- Lanard Maybin SNT \$80,817.50

Liens

Florida Medicaid had asserted liens on each claimant though HMS/Conduent, which have been paid in full.⁷⁴

WellCare has asserted a lien of \$49,767.42 regarding Logan Grant; \$22,869.40 on Denard Maybin, Jr.; and \$8,485.71 on Lanard Maybin.⁷⁵ Counsel for claimants indicated funds are being held in trust for payment of these liens; however, there is disagreement with regard to how much is to be paid.⁷⁶

CONCLUSIONS OF LAW:

A *de novo* hearing was held as the Legislature is not bound by settlements or jury verdicts when considering a claim bill, passage of which is an act of legislative grace.

Section 768.28, Florida Statutes, waives sovereign immunity for tort liability up to \$200,000 per person and \$300,000 for all

⁷³ Information is as of September 12, 2019 for all accounts.

⁷⁴ First Updated Affidavit of Attorney for Claimants, 2 (Nov. 12, 2019).

⁷⁵ Affidavit of Attorney for Claimants at 3. Special Master Hearing at 2:50:30-2:54:30.

⁷⁶ First Updated Affidavit of Attorney for Claimants, 3 (Nov. 12, 2019).

claims or judgments arising out of the same incident. Sums exceeding this amount are payable by the State and its agencies or subdivisions by further act of the Legislature.

In this matter, the claimants allege negligence on behalf of Trooper Umana. The State is liable for a negligent act committed by an employee acting within the scope of employment. Trooper Umana was operating his patrol vehicle while on duty and was within the scope of his employment with Florida Highway Patrol (a division of the Department of Highway Safety and Motor Vehicles). Therefore, his employer, ultimately the State, is liable for negligent acts committed by him pursuant to the statutory sovereign immunity waiver.

Negligence

There are four elements to a negligence claim: (1) duty—where the defendant has a legal obligation to protect others against unreasonable risks; (2) breach—which occurs when the defendant has failed to conform to the required standard of conduct; (3) causation—where the defendant's conduct is foreseeably and substantially the cause of the resulting damages; and (4) damages—actual harm.⁷⁷

Duty

Statute and case law describe the duty of care placed upon motorists. Florida's statute regarding careless driving provides:

Any person operating a vehicle upon the streets or highways within the state shall drive the same in a careful and prudent manner, having regard for the width, grade, curves, corners, traffic, and all other attendant circumstances, so as not to endanger the life, limb, or property of any person. Failure to drive in such manner shall constitute careless driving and a violation of this section.⁷⁸

Case law provides motorists have a duty to use reasonable care to avoid accidents and injury to themselves and others.⁷⁹ The driver of an automobile, a "dangerous instrumentality," is responsible for maintaining control of the vehicle, commensurate with the setting, and being "prepared to meet

⁷⁷ Williams v. Davis, 974 So.2d 1052, at 1056–1057 (Fla. 2007).

⁷⁸ Section 316.1925(1), Fla. Stat.

⁷⁹ Nelson v. Ziegler, 89 So.2d 780, 783 (Fla. 1956).

the exigencies of an emergency within reason and consistent with reasonable care and caution.”⁸⁰

Breach

The undersigned finds Trooper Umana breached the duties described above when he approached the median too quickly, as he admitted himself, and attempted to turn around in the center median.

Causation

Trooper Umana’s breach of duty in approaching the median too quickly caused him to hit the guardrail and travel into oncoming traffic where he made impact with other vehicles, including the Jones’s Altima. The collision with Trooper Umana’s vehicle pushed the Jones’s vehicle into the path of the tractor-trailer truck traveling in the middle lane. Impact with the tractor-trailer truck caused significant damage to the back of the vehicle and injured the children in the backseat.

Case law provides, when injury results “directly and in ordinary natural sequence from a negligent act without the intervention of any independent efficient cause,” where the sequence “should be regarded as a probable, not a mere possible, result of the negligent act, [the injured person] is entitled to recover damages as compensation.”⁸¹ The undersigned finds it probable, not merely possible, the Jones’s vehicle would be hit by another vehicle after being hit by Trooper Umana’s vehicle on a three-lane highway. The damages sustained by the Joneses are the natural result of the sequence of events set in motion by Trooper Umana.

Damages

As a result of the collision, doctors indicated all three children suffered traumatic brain injuries as well as the medical injuries previously described in this report. The total amount of damages provided by claimant’s economic analyst is \$19,474,251–\$22,234,799.

As noted previously, the doctor examining the children for the respondent does not believe Denard will require live-in assistance. If Denard does not require live-in care after the age of 21, the economic loss for him may be significantly

⁸⁰ Nelson, 89 So.2d at 783.

⁸¹ Loftin et al. v. McCrainie, 47 So.2d 298, 301 (Fla. 1950).

reduced. However, claimants' experts provide Denard will need such care and have calculated live-in care into the economic loss analysis. Given the claimants' submissions from various experts collaborating to create the life care plan, the undersigned finds the preponderance of evidence demonstrates Denard's estimated future need of live-in care should remain in the calculation.

Respondent and claimants agreed a jury could have awarded \$18,000,000 to the children and settled for that amount—which is less than the calculations provided by the economic analyses.

Comparative Negligence

Comparative negligence “involves the apportionment of the loss among those whose fault contributed to the occurrence” and a claimant cannot recover damages for the percentage of fault for which she is liable.⁸²

Ms. Jones

In this matter, Ms. Jones was exceeding the speed limit by traveling at 88 miles per hour on a highway with a 70 mile per hour speed limit; and two of the children were unbuckled when emergency responders found them.

With regard to Ms. Jones's speed, claimants' counsel did not provide argument of negligence on behalf of Ms. Jones for which damages apportioned to the respondent should be reduced, and respondent remained silent pursuant to the settlement agreement. The data recorder clearly provides evidence Ms. Jones had breached her duty to drive the speed limit. However, information was not provided demonstrating her speed specifically contributed to the causation of the damages suffered.

With regard to seatbelts, “a claim that a plaintiff failed to wear a seat belt and that such failure was a contributing cause of plaintiff's damages should be raised as an affirmative defense of comparative negligence.”⁸³ Testimony and information (provided by Ms. Jones and her grandmother) was consistent that Ms. Jones had buckled her three children, as well as herself, before she started

⁸² Hoffman v. Jones, 280 So.2d 431, 436 (Fla. 1973).

⁸³ Ridely v. Safety Kleen Corp., 693 So.2d 934, 935 (Fla. 1996).

driving. Ms. Jones also indicated she did not have knowledge of the children unbuckling themselves; however, Lenard and Denard were both found unbuckled by first responders. Regardless of how the children were unbuckled, a comparative negligence defense would also require demonstration that the breach of a duty contributed to the damages sustained. Here, counsel for claimants argued if Lenard and Denard were unbuckled—it may have saved their lives.

Given the information she had buckled the children before driving; did not have knowledge of the children unbuckling themselves if or when they did; the argument they would have sustained greater injuries if they remained restrained to the back seat which had extensive crush damage (thereby more than likely not contributing to damages); and no argument from respondent with regard to a comparative negligence defense—no contributory⁸⁴ negligence has been demonstrated.

Driver of the Tractor-Trailer Truck

Similarly, although counsel for claimants mentioned there may have been issues explored with regard to the driver of the tractor-trailer truck (potentially exceeding hours he was allowed to work and a trooper noting the driver may have been speeding) there was no demonstration of the elements required to find comparative negligence on behalf of the tractor-trailer truck driver. The only information provided regarding hours of driving was in the FHP report, which indicated five violations in eight days but stated “these violations alone are not likely to cause a fatigue factor.”⁸⁵ General information regarding speed of the truck indicates the driver recalled traveling at 65 miles per hour at the time of the incident and that the truck was traveling between 60 and 80 miles per hour 69% of the time.

Ms. Jones’s vehicle sustained the most significant damage from impact with the tractor-trailer truck. If more information were available regarding potential comparative negligence on behalf of the truck driver, it is possible the respondent’s responsibility for damages would be reduced; however,

⁸⁴ See Section 768.81(2), Fla. Stat., describing contributory fault and its effect as “fault chargeable to the claimant [which] diminishes proportionately the amount awarded as economic and noneconomic damages for an injury attributable to the claimant’s contributory fault, but does not bar recovery.”

⁸⁵ FHP Report at 15.

further information to find comparative negligence on behalf of the tractor-trailer truck driver was not presented by claimants and the respondent remained silent but acknowledged such issues of comparative negligence had been explored.

ATTORNEY FEES:

Language in the bill states attorney fees may not exceed 25 percent of the amount awarded. Counsel for the claimants indicated attorney fees will be 20 percent, and lobbying fees will amount to 5 percent, of the total funds awarded through the claim bill.⁸⁶

RECOMMENDATIONS:

Recommended Amendment(s)

Although the settlement agreement resolved Christeia Jones claims, as well as claims on behalf of her three boys, Ms. Jones is not seeking relief in an individual capacity through this claim bill.⁸⁷

Therefore, the undersigned recommends removing references in the bill identifying Ms. Jones as a claimant, or providing relief to her; or, replacing such portions with clarifying language providing the funds to the special needs trusts of Logan Grant, Denard Maybin, Jr., and Lanard Maybin, which are handled by Ms. Ashley Gonnelli of Guardian Trust Foundation, Inc.⁸⁸

Recommendation on the Merits

The undersigned did not have the benefit of hearing argument from both parties due to the settlement agreement requiring the respondent to remain silent on the claim bill and not support or oppose the bill.⁸⁹ Therefore, the above facts, conclusions of law, and recommendations are the result of argument and information provided by counsel for the claimants.

Based upon the information provided before, during, and after the special master hearing, the undersigned finds claimants have demonstrated negligence on behalf of the

⁸⁶ Affidavit of Attorney for Claimants at 2 (noting outstanding costs of \$15,603.17 with regard to representation of the claimants).

⁸⁷ Affidavit of Attorney for Claimants, 1 (Oct. 16, 2019).

⁸⁸ E-mail Correspondence from Mr. Daniel Smith, Attorney for Claimants (Jan. 16, 2020).

⁸⁹ Special Master Hearing at 22:13-22:18.

respondent and the amount sought is reasonable when compared to analyses provided by claimants' economist.

Respectfully submitted,

Christie M. Letarte
Senate Special Master

cc: Secretary of the Senate

CS by Judiciary:

The committee substitute reduces the amount of the claim and payment authorized by the bill to \$9 million.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-25-20

Meeting Date

SB 16

Bill Number (if applicable)

Topic Relief of Jones

Amendment Barcode (if applicable)

Name Ken McKenna

Job Title Attorney

Address 719 Vassar St.

Phone 407 244 3000

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Orlando

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State

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32804

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Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing ~~Attorney~~ Claimant

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)



The Florida Senate

Committee Agenda Request

To: Senator Travis Hutson, Chair
Appropriations Subcommittee on Transportation, Tourism, and Economic
Development

Subject: Committee Agenda Request

Date: February 20, 2020

I respectfully request that **Senate Bill 16**, relating to Relief of Christeia Jones, Logan Grant, Denard Maybin, Jr., and Lanard Maybin/Department of Highway Safety and Motor Vehicles, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

Thank you for your consideration.

A handwritten signature in black ink, appearing to read "David Simmons", written over a horizontal line.

Senator David Simmons
Florida Senate, District 9

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Transportation, Tourism, and Economic Development

BILL: PCS/CS/SB 220 (118046)

INTRODUCER: Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Governmental Oversight and Accountability Committee; and Senator Cruz and others

SUBJECT: Abandoned Cemeteries

DATE: February 27, 2020 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Ponder</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
2.	<u>Wells</u>	<u>Hrdlicka</u>	<u>ATD</u>	<u>Recommend: Fav/CS</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 220 creates a ten-member Task Force on Abandoned African-American Cemeteries. The stated purpose of the task force is to study the extent to which unmarked or abandoned African-American cemeteries and burial grounds exist throughout the state and to develop and recommend strategies for identifying and recording cemeteries and burial grounds while preserving local history and ensuring dignity and respect for the deceased. The task force is required to review the findings and recommendations made by the Task Force on Abandoned and Neglected Cemeteries created pursuant to chapter 98-268, Laws of Florida, and to make recommendations regarding the creation, placement, and maintenance of memorials at sites of the former cemeteries. The Department of State (DOS) must provide administrative and staff support relating to the functions of the task force. The task force must submit a report by March 1, 2021, that details its findings and recommendations. The bill provides for the termination of the task force on July 1, 2021.

The bill also requires the DOS, upon receiving consent of the property owners at the former Zion Cemetery site in Tampa, to partner with the University of South Florida, the Florida Agricultural and Mechanical University, and the Zion Cemetery Archaeological Committee formed under the auspices of the Tampa Housing Authority, to initiate an investigation to determine how many graves remain at the site. The DOS is to contract with the University of South Florida and the Florida Agricultural and Mechanical University for the identification and location of eligible next of kin. The universities are required to provide the DOS, no later than January 1, 2021, with

a list of possible descendants of those buried at the site and, to the extent possible, their contact information.

The Division of Historical Resources of the DOS must ensure that any abandoned African-American Cemetery identified by the task force is listed in the Florida Master Site File and seek placement of an Official Florida Historical Marker at a site with the approval of the land owner.

Subject to specific appropriation, the bill requires the DOS to create, place, and maintain a memorial at the site of the former Zion Cemetery in Tampa and at the site of the former Ridgewood Cemetery at C. Leon High School in Tampa. SB 2500, the Senate's General Appropriations Bill for Fiscal Year 2020-2021, appropriates a total of \$100,000 for this same purpose. See Section VII.

The bill takes effect July 1, 2020.

II. Present Situation:

Task Force Requirements under Section 20.03, Florida Statutes

Section 20.03(8), F.S., defines "task force" to mean an "advisory body created without specific statutory enactment for a time not to exceed 1 year or created by specific statutory enactment for a time not to exceed 3 years and appointed to study a specific problem and recommend a solution or policy alternative related to that problem." This provision specifies that the existence of the task force terminates upon the completion of its assignment. Further, members, unless expressly provided otherwise by specific statutory enactment, serve without additional compensation and are authorized to receive only per diem and reimbursement for travel expenses.¹

Florida Law Related to Historic and Abandoned Cemeteries, and to Unmarked Human Remains

Cemetery Regulation

Chapter 497, F.S., known as the Florida Funeral, Cemetery, and Consumer Services Act, generally regulates funeral and cemetery services.² The act authorizes the Board of Funeral, Cemetery, and Consumer Services within the Department of Financial Services (DFS) to regulate cemeteries, columbaria, cremation services and practices, cemetery companies, dealers and monument builders, funeral directors, and funeral establishments.³

Section 497.005(13), F.S., defines the term "cemetery" to mean:

a place dedicated to and used or intended to be used for the permanent interment of human remains or cremated remains. A cemetery may contain land or earth interment; mausoleum, vault, or crypt interment; a columbarium, ossuary, scattering garden, or other structure or place used or intended to be used for the

¹ Section 20.052(4)(d), F.S.

² See s. 497.001, F.S.

³ Sections 497.101, F.S., and 497.103, F.S.

interment or disposition of cremated remains; or any combination of one or more of such structures or places.

The act allows for the moving of graves – disinterment and reinterment.⁴ Disinterment and reinterment must be made in the physical presence of a licensed funeral director, unless reinterment occurs in the same cemetery.⁵ Further, the funeral director is to obtain written authorization from a legally authorized person or court of competent jurisdiction prior to any disinterment and reinterment. Section 497.005(43), F.S., defines the term “legally authorized person” by providing a priority listing which begins with the decedent (when written inter vivos authorizations and directions are provided by the decedent) and includes relatives of the decedent.⁶ Additionally, the definition provides for other persons who may qualify— such as a public health officer, medical examiner, or county commission – should a family member not exist or be available.⁷ Thus, if a legally authorized person is not available, a court of competent jurisdiction may provide the written authorization prior to the disinterment and reinterment of a dead human body.⁸

There is a large number of abandoned cemeteries in Florida.⁹ Section 497.284, F.S., governs abandoned cemeteries and authorizes counties and municipalities, upon notice to the DFS, to maintain and secure an abandoned cemetery or one that has not been maintained for more than six months. The solicitation of private funds and the expenditure of public funds are authorized for such maintenance and security.¹⁰ These efforts of maintenance and security are statutorily exempt from civil liabilities or penalties for damages to property at the cemetery.¹¹ Additionally, the county or municipality is permitted to maintain an action against the cemetery owner to recover costs for maintenance or security.¹²

Criminal Offenses Concerning Dead Bodies and Graves under Chapter 872, F.S.

In Florida, criminal offenses concerning dead bodies and graves are governed by ch. 872, F.S.¹³ Pursuant to s. 872.02(1), F.S., it is a third degree felony¹⁴ to willfully and knowingly destroy, mutilate, deface, injure, or remove any tomb containing human skeletal remains, any memorials, or anything protecting or ornamenting a tomb, including fences associated with a monument containing human skeletal remains.¹⁵ It is a second degree felony¹⁶ to willfully and knowingly

⁴ See Section 497.384, F.S.

⁵ Section 497.384(1), F.S.

⁶ Section 497.005(43), F.S.

⁷ *Id.*

⁸ Section 497.384(3), F.S.

⁹ See Department of State, Division of Historical Resources, *What are the applicable laws and regulations?*, available at <https://dos.myflorida.com/historical/archaeology/human-remains/abandoned-cemeteries/what-are-the-applicable-laws-and-regulations/> (last visited February 21, 2020).

¹⁰ *Id.*

¹¹ Section 497.284(2), F.S.

¹² Section 497.284(3), F.S.

¹³ Chapter 872, F.S., is entitled “Offenses Concerning Dead Bodies and Graves.”

¹⁴ A third degree felony is punishable by up to 5 years imprisonment and up to a \$5,000 fine. Sections 775.082 and 775.083, F.S.

¹⁵ Section 872.02(1), F.S.

¹⁶ A second degree felony is punishable by up to 15 years imprisonment and up to a \$10,000 fine. Sections 775.082 and 775.083, F.S.

disturb the contents of a grave or tomb.¹⁷ Section 872.02, F.S., specifies that the offenses described above do not apply to any:

- Person acting under the direction or authority of the Division of Historical Resources of the DOS;¹⁸
- Cemetery operating under ch. 497, F.S.;
- Cemetery removing or relocating the contents of a grave or tomb as a response to a natural disaster; or
- Person otherwise authorized by law to remove or disturb a tomb, monument, gravestone, burial mound, or similar structure, or its contents.

A “tomb” includes any mausoleum,¹⁹ columbarium,²⁰ or belowground crypt.²¹

The 1998 Task Force on Abandoned and Neglected Cemeteries

In 1998, prompted by the many neglected and abandoned cemeteries throughout Florida, the Legislature enacted the Cemetery Preservation and Consumer Protection Act (CPCPA).²² The CPCPA mandated and funded the creation of an 11-member Task Force on Abandoned and Neglected Cemeteries (the “1998 Task Force”) within the Department of Banking and Finance.²³ The CPCPA directed the 1998 Task Force to review and report on the status of neglected and abandoned cemeteries and, if necessary, propose legislation to counter this problem.²⁴

The 1998 Task Force submitted its final report on January 15, 1999.²⁵ The Task Force determined that the abandonment and neglect of cemeteries was “sufficiently widespread to warrant government intervention.”²⁶ Specifically, the 1998 Task Force found that:

- The data collected on some 3,580 cemeteries suggested 40 percent to 50 percent of the cemeteries in Florida are abandoned or neglected.
- Lack of funding appears to be a significant factor contributing to the neglect by private, unlicensed cemeteries.
- City and county representatives on the 1998 Task Force verified that neglected cemeteries create problems for citizens and local governments and burden governmental resources.
- Older neglected cemeteries may represent a loss of historic or archeological values.

¹⁷ Section 872.02(2), F.S.

¹⁸ The powers and duties of the Division of Historical Resources of the Department of State are set forth in s. 267.031, F.S. Subject to some limitations, a State Archaeologist, as employed by the Division, may assume jurisdiction over an unmarked human burial site in order to initiate efforts for the proper protection of the burial and the human skeletal remains and associated burial artifacts. See s. 872.05(4), (5), and (6), F.S.

¹⁹ Section 497.005(46), F.S., defines a “mausoleum” as “a structure or building that is substantially exposed above the ground and that is intended to be used for the entombment of human remains.”

²⁰ Section 497.005(18), F.S., defines a “columbarium” as “a structure or building that is substantially exposed above the ground and that is intended to be used for the inurnment of cremated remains.”

²¹ Section 872.02(4), F.S. Section 497.005(4), F.S., defines “belowground crypt” as consisting of “interment space in preplaced chambers, either side by side or multiple depth, covered by earth and sod.”

²² See ch. 98-268, L.O.F.

²³ *Id.* at s. 13.

²⁴ *Id.*

²⁵ *Final Report of Task Force on Abandoned and Neglected Cemeteries*, available at <https://www.coj.net/city-council/docs/brcemeteries-1999-statetaskforce-finalreport.aspx> (last visited February 21, 2020).

²⁶ *Id.* at p. 3.

- Legislation is needed to establish guidelines, definitions, methods of establishing care for neglected and abandoned cemeteries, which agencies will be responsible, the funding mechanism for such projects, as well as a permanent structure to continue the location, identification, protection, preservation, and care of such cemeteries.
- A grants-in-aid type program using matching funds would help ameliorate the problems created by abandoned and neglected cemeteries.
- Funding to address the problems and recommendations in the proposed legislation may be derived from: (1) a one-time appropriation by the legislature; (2) a fee on death certificates; (3) enabling legislation to permit cities and counties to include in their budgets funds for this purpose; and (4) the establishment of a nonprofit corporation within the Department of Banking and Finance to obtain donations.
- It is imperative to stop the proliferation of neglected and abandoned cemeteries.
- The legislature had already established in ch. 872, F.S., protection for all human burial sites and all human remains regardless of whether or not the site is abandoned.²⁷

The 1998 Task Force recommended that it be allowed to continue by either (i) “continu[ing] in its present form for a finite time” to more thoroughly examine the extent of the problems; or (ii) the nonprofit corporation suggested as part of proposed legislation “should continue these functions on a permanent basis.”²⁸ The 1998 Task Force also recommended to:

- Establish that local governments – combined with a statewide approach via the designated agency and nonprofit – are the best way to manage issues created by abandoned and neglected cemeteries.
- Establish that owners of unlicensed cemeteries have a duty to care for their cemeteries in such a manner as to avoid neglect.
- Proscribe abandonment and neglect of cemeteries.
- Establish that a copy of all burial transit permits be filed with the Clerk of Court in the county of burial.
- Establish an easement or right of entry to enter and inspect private cemeteries for officially designated persons other than the next of kin.
- Establish that unlicensed cemeteries be required to post a sign providing notice of the existence of a cemetery at the posted location.
- Prohibit the creation of new cemeteries except under the provisions of Part I of ch. 497, F.S., thereby insuring that a care and maintenance fund is established for each new cemetery.²⁹

The specific findings and recommendations of the 1998 Task Force have not been addressed by subsequent legislation.

²⁷ *Id.* at 7-8.

²⁸ *Id.* at 8.

²⁹ *Id.* at 8-9.

Zion Cemetery

Zion Cemetery, established in 1901, is believed to be Tampa's first cemetery for African-Americans with room for some 800 graves.³⁰ Zion Cemetery disappeared from public view and city maps by 1929.³¹ In 1951, the Tampa Housing Authority started construction on the Robles Park Apartments on land that includes part of the Zion Cemetery site, and construction crews found several unmarked graves and three caskets.³²

The Robles Park Village housing (still owned by the Tampa Housing Authority) and two other commercial businesses owned by two private sector individuals now stand on the land that once was the site of the African-American cemetery. Upon learning that the Zion Cemetery might still lie beneath at least a portion of its Robles Park Village Apartments, the Tampa Housing Authority organized a consultation committee and hired archaeologists to survey its property.³³ In late August 2019, archeologists used a ground-penetrating radar and discovered what they believe to be 126 caskets beneath the Tampa Housing Authority land.³⁴ As of January 2020, archaeologists have identified 314 graves in the 2.5 acre area of the Zion Cemetery: 144 under five buildings in the Robles Park Village; 55 under a wrecking company's tow lot; and 155 under warehouse property. More sites could be identified, as the ground-penetrating radar cannot detect every grave and cannot scan beneath buildings.³⁵

Other Rediscovered Abandoned Cemeteries in the Tampa Area

Due to the rediscovery of several abandoned cemeteries in the area, the Hillsborough County Commission is funding a forensic anthropologist at the University of South Florida to conduct deeper research into where other cemeteries may have been lost over time. The research will include review of historical records, maps, development records, and interviews with residents in the community. The nature of the difficulty with the search includes that some possible sites may be documented in less formal ways than official property records and may not have been evident on the landscape at the time.³⁶

³⁰ Paul Guzzo, *A community, not just Zion Cemetery, disappeared to build homes for whites*, TAMPA BAY TIMES, Nov. 4, 2019, available at <https://www.tampabay.com/news/hillsborough/2019/11/04/a-community-not-just-zion-cemetery-disappeared-to-build-homes-for-whites/#talk-wrapper> (last visited February 21, 2020).

³¹ *Id.*

³² Paul Guzzo, *Key dates in the history of Tampa's forgotten Zion Cemetery*, TAMPA BAY TIMES, Jun. 19, 2019 (Updated Aug. 28, 2019), available at <https://www.tampabay.com/florida/2019/06/23/key-dates-in-the-history-of-tampas-forgotten-zion-cemetery> (last visited February 21, 2020).

³³ Paul Guzzo, *Richard Gonzmart believes no coffins will be found on his Zion Cemetery land*, TAMPA BAY TIMES, Sep. 24, 2019, available at <https://www.tampabay.com/news/hillsborough/2019/09/24/richard-gonzmart-believes-no-coffins-will-be-found-on-his-zion-cemetery-land/> last visited February 21, 2020).

³⁴ *Id.*

³⁵ Paul Guzzo, *115 caskets found on Zion Cemetery land owned by Richard Gonzmart*, TAMPA BAY TIMES, Jan. 7, 2020 (updated Jan. 13, 2020), available at <https://www.tampabay.com/news/hillsborough/2020/01/07/115-caskets-found-on-zion-cemetery-land-owned-by-richard-gonzmart/> (last visited February 21, 2020).

³⁶ Emerald Morrow, *Hillsborough County gets serious about search for lost graves*, WTSP CHANNEL 10 NEWS, January 23, 2020, available at <https://www.wtsp.com/article/news/special-reports/erased/hillsborough-county-gets-serious-about-search-for-lost-graves/67-cc0cdc11-886f-4b05-93b8-c2b4aa6a280e>; and Lauren Rozyla, *USF researchers to help Hillsborough County search for forgotten gravesites*, WFTS TAMPA BAY, January 23, 2020, available at <https://www.abcactionnews.com/news/region-hillsborough/usf-researchers-to-help-hillsborough-county-search-for-forgotten-gravesites> (both sites last visited February 21, 2020).

Searches have recently begun on property within the MacDill Air Force Base for the Port Tampa Cemetery³⁷ and research on the existence and location of the Matri/Colón Cemetery is underway.³⁸

Ridgewood Cemetery

In October 2019, the Hillsborough County School District (HCSD) learned the old Ridgewood Cemetery may have been located at the southeast corner of the King High School campus, which is now occupied by a small building and open land used for the agricultural program.³⁹ Ridgewood was designated as a pauper's cemetery and at least 280 people – mostly African Americans – were interred between 1942 and 1954.⁴⁰

On October 28, the HCSD created an advisory committee, the Historical Response Committee, to determine how to handle the search for unmarked graves at King High School and what to do if they were found. The HCSD hired a geotechnical firm, Geoview, to conduct a survey on the south end of King High School campus using a ground-penetrating radar to look for any signs of the lost Richwood Cemetery on the campus.⁴¹ On November 20, 2019, the HCSD released the data of the ground-penetrating radar survey. The survey of the southern edge of the King High School campus showed evidence of burials, approximately 145 suspected graves. The scan performed on the northeast corner of the campus showed no evidence of burials or graves.⁴²

Historical records generally indicate that there were between 250 and 268 burials at Ridgewood Cemetery. Possible reasons why the radar survey only revealed a total of approximately 145 possible graves include:

- The radar may have more difficulty locating smaller coffins of infants and children.
- Some coffins may have decayed underground preventing detection by scan some 75 years later.
- Some graves may be under the agricultural workshop building.

³⁷ Stephanie Colombini, *Dogs Search For Lost African American Cemetery On MacDill Air Force Base*, WUSF PUBLIC MEDIA, February 18 2020, available at <https://wusfnews.wusf.usf.edu/post/dogs-search-lost-african-american-cemetery-macdill-air-force-base>; and Paul Guzzo, *Records show a black cemetery might lie beneath MacDill Air Force Base*, TAMPA BAY TIMES, Nov. 20, 2019, available at <https://www.tampabay.com/news/hillsborough/2020/01/07/115-caskets-found-on-zion-cemetery-land-owned-by-richard-gonzmart/> (both sites last visited February 21, 2020).

³⁸ Paul Guzzo, *It's called Dead Man's Field. Were bodies ever moved from West Tampa site?*, TAMPA BAY TIMES, Feb. 5, 2020, available at <https://www.tampabay.com/news/tampa/2020/02/05/its-called-deadmans-field-were-bodies-ever-moved-from-west-tampa-site/> (last visited February 21, 2020).

³⁹ Paul Guzzo, *Records show King High gym may have been built atop paupers cemetery*, TAMPA BAY TIMES, Oct. 22, 2019 (updated Oct. 23, 2019), available at <https://www.tampabay.com/news/education/2019/10/22/map-shows-king-high-gym-may-have-been-built-atop-paupers-cemetery> (last visited February 21, 2020).

⁴⁰ Lori Rozsa, *Lost lives, fresh heartache as a black cemetery is found buried under a high school*, WASHINGTON POST, November 24, 2019, available at https://www.washingtonpost.com/national/lost-lives-fresh-heartache-as-a-black-cemetery-is-found-buried-under-a-high-school/2019/11/24/5e755e4a-0ed4-11ea-bf62-eadd5d11f559_story.html (last visited February 21, 2020).

⁴¹ Jordan, Dave, *Forgotten Cemetery Under King High School? District Awaits Answers*, SPECTRUM NEWS 9, Oct. 28, 2019, available at <https://www.baynews9.com/fl/tampa/news/2019/10/28/forgotten-cemetery-under-king-high-school--district-awaits-answers> (last visited February 21, 2020).

⁴² Hillsborough County School District, Press Release, *School District Releases Findings from Scans on King High School Property*, Nov. 20, 2019, available at <https://www.sdhc.k12.fl.us/newsdesk/article/1578/school-district-releases-findings-from-scans-on-king-high-school-property> (last visited February 21, 2020).

- Some graves may have been moved to another cemetery.
- Limitations of radar technology.⁴³

The November press release indicates that HCSD will deliver Geoview’s findings to the “county medical examiner and the state archeologist” with the expectation that they will take the thirty days to review the findings.⁴⁴ HCSD indicates that if possession of the land is “turned back over to the school district,” it will work with members of the Historical Response Committee to “discuss proper ways to memorialize the individuals, how best to care for the space and learning opportunities for students at King High School and other schools.”⁴⁵

Fort Brooke Estuary Cemetery

Archeologists, in September 2018, uncovered three grave shafts with human remains during the development of the 50-plus acre Water Street Tampa project. The grave shafts were believed to be of an old military burial ground from the Seminole War era, known as Estuary Cemetery.⁴⁶ The archeologists’ July 2019 report announced that the three grave shafts had human remains, but it did not identify the ancestry and indicated that work could resume on the development site. However, not much more is known about the findings or what may have been discovered due to it being a private site.

III. Effect of Proposed Changes:

Section 1 creates the Task Force on Abandoned African-American Cemeteries to study the extent to which unmarked or abandoned African-American cemeteries and burial grounds exist throughout the state and develop and recommend strategies for identifying and recording cemeteries and burial grounds while preserving local history and ensuring dignity and respect for the deceased.

The task force is to be chaired by the Secretary of State, or his or her designee, and is composed of:

- A representative of the Bureau of Archaeological Research of the Division of Historical Resources, appointed by the Secretary of State;
- One person nominated by the President of the Florida State Conference of the National Association for the Advancement of Colored People and appointed by the Secretary of State;
- One representative of the Florida Council of Churches, nominated by the executive director of the council and appointed by the Secretary of State;
- One representative of the Florida African American Heritage Preservation Network, nominated by the executive director of the network and appointed by the Secretary of State;
- One representative of the Florida Public Archaeology Network, appointed by the Secretary of State;
- One representative of the cemetery industry, appointed by the Secretary of State;

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ Paul Guzzo, *More lost cemeteries will be found, historians say*, TAMPA BAY TIMES, Oct. 28, 2019 (Updated Jan. 13, 2020), available at <https://www.tampabay.com/news/tampa/2019/10/28/more-lost-cemeteries-will-be-found-historians-say> (last visited February 21, 2020).

- One member of the Senate, appointed by the President of the Senate;
- One member of the House of Representatives, appointed by the Speaker of the House of Representatives; and
- One elected official from a local government, appointed by the Secretary of State.

The task force is required to hold its first meeting by August 1, 2020, and meet as many times as it deems necessary to complete its duties. The task force is required to:

- Review the findings and recommendations made by the 1998 Task Force and any legislative or administrative action that was taken in response to the task force's findings and recommendations;
- Examine the adequacy of current practices regarding the preservation of unmarked and abandoned African-American cemeteries and burial grounds and identify any challenges unique to African-American cemeteries and burial grounds;
- Identify locations of unmarked and abandoned African-American cemeteries and burial grounds throughout the state and propose strategies, including any proposed legislation, for the preservation and evaluation of such sites; and
- Make recommendations regarding standards for the creation, placement, and maintenance of memorials at any identified locations of unmarked and abandoned African-American cemetery or burial ground throughout the state.

The task force is required to submit a report by March 1, 2021, detailing its findings and recommendations to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Minority Leader of the Senate, and the Minority Leader of the House of Representatives.

This section expires on July 1, 2021.

Section 2 requires the DOS, upon receiving consent of the property owners at the former Zion Cemetery site in Tampa, to partner with the University of South Florida (USF), the Florida Agricultural and Mechanical University (FAMU), and the Zion Cemetery Archaeological Committee formed under the auspices of the Tampa Housing Authority to continue an investigation to determine how many graves remain at the site. Any historical resource, record, archive, artifact, public research, or medical record recovered through the course of the investigation by USF or FAMU shall remain in the custody of either university for archiving and preservation until the DOS requests custody of such resource, record, archive, artifact, public research, or medical record.

This section requires the DOS is to contract with USF and FAMU for the identification and location of eligible next of kin of those buried at the site.

By January 1, 2021, the universities must provide the DOS with a list of possible descendants of those buried at the site and, to the extent possible, their contact information. For any identification of next of kin occurring on or after January 1, 2021, the universities must provide contact information of the next of kin to the DOS.

Section 3 provides that the Division of Historical Resources (Division) of the DOS must ensure that any abandoned African-American cemetery identified by the task force is listed on the Florida Master Site File. Upon such a cemetery's listing in the Florida Master Site, the division is required to – in lieu of the normal application process – seek placement of an Official Florida Historical Marker at a site with approval of the property owner. The bill permits a person or organization affiliated with an abandoned cemetery to assist the division in researching the history of such a site in the preparation of a historical marker's creation and placement. The costs for the creation and placement of a historical marker are to be borne by the division.

Section 4 requires the DOS, subject to appropriation, to create, place, and maintain a memorial at the site of the former Zion Cemetery in Tampa and at the site of the former Ridgewood Cemetery at C. Leon High School in Tampa.

Section 5 provides that the bill is effective July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:***Task Force***

Because the bill is silent as to compensation and travel expense, s. 20.052(4)(d), F.S., governs and the task force members will not be entitled to additional compensation but are authorized to receive per diem and reimbursement for travel expenses as provided in s. 112.061, F.S. These costs will be borne by the DOS as the appointing authority of the task force members.

The DOS will incur an indeterminate amount of administrative expenses as the agency providing administrative and technical support for the task force.

Cemeteries – Memorials and Placement of Florida Historical Markers

SB 2500, the Senate General Appropriations Bill, includes specific appropriations for the memorials at the Zion Cemetery and the Ridgewood Cemetery of \$50,000 of nonrecurring funds from the General Revenue Fund for each memorial.⁴⁷

The DOS will incur costs each time it is required to place an Official Florida Historical Marker at a site of a cemetery identified by the task force. Currently, the cost of a Florida Historical Marker is determined by the amount of text. For a marker with the same text on both sides of the marker, the cost is \$2,010. For a double-sided marker with different text appearing on both sides of the marker, the cost is \$2,330.⁴⁸

USF, FAMU, and the Zion Cemetery Archaeological Committee may incur an indeterminate amount of administrative expenses in partnering with the DOS to determine how many graves remain at the site of the former Zion Cemetery and the identification and location of decedents.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Based on the statements made in the HCSD November press release regarding notification to the medical examiner and state archeologist and the possible return of jurisdiction of the property to HCSD, it appears HCSD is treating the burials found on the King High School campus as “unmarked human burials” pursuant to s. 872.05, F.S. The term “unmarked human burial” is defined to mean:

⁴⁷ Specific Appropriation 3153A, proviso (*Fighting for the Forgotten: Zion Cemetery Memorial – Tampa (Senate Form 2574)* and *Fighting for the Forgotten: Ridgewood Cemetery Memorial – Tampa (Senate Form 2576)*), s. 6, SB 2500 (2020).

⁴⁸ See DOS, Division of Historical Resources, *Historical Markers FAQ*, available at <https://dos.myflorida.com/historical/about/division-faqs/marker/> (last visited February 21, 2020).

any human skeletal remains or associated burial artifacts or any location, including any burial mound or earthen or shell monument, where human skeletal remains or associated burial artifacts are discovered or believed to exist on the basis of archaeological or historical evidence, excluding any burial marked or previously marked by a tomb, monument, gravestone, or other structure or thing placed or designed as a memorial of the dead.⁴⁹

When an unmarked human burial is discovered – other than during an authorized archaeological excavation⁵⁰ – all disturbing activity of the burial must cease and the district medical examiner must be notified. Activity may not resume until authorized by the district medical examiner or the State Archaeologist.⁵¹ If the district medical examiner determines the unmarked human burial “may be involved in a legal investigation or represents the burial of an individual who has been dead less than 75 years,” he or she must “assume jurisdiction over and responsibility for the location of the burials.”⁵² The examiner is given 30 days after notification of the burial to determine whether he or she will maintain jurisdiction or refer the matter to the State Archaeologist.⁵³

If the district medical examiner finds the human burial is “not involved in a legal investigation and represents the burial of an individual who has been dead 75 years or more,” he or she must notify the State Archaeologist, and the Division of Historical Resources of the Department of State may assume jurisdiction over and responsibility for the burial.⁵⁴

The division is authorized to assume jurisdiction over and responsibility for an unmarked human burial in order to initiate efforts for the proper protection of the burial and the human remains and associated burial artifacts.⁵⁵ Upon assuming jurisdiction, the State Archaeologist must determine whether the burial is historically, archaeologically, or scientifically significant. If it is deemed to be significant, reinterment may not occur until the remains have been examined by a human skeletal analyst designated by the State Archaeologist.⁵⁶ Additionally, the State Archaeologist must make reasonable efforts to identify and locate a person who can establish kinship, tribal, community, or ethnic relationships with the remains which constitute the burial.⁵⁷ If unable to establish such relationships, he or she shall consult with persons with relevant experience.⁵⁸

⁴⁹ Section 872.05(2)(f), F.S.

⁵⁰ Section 872.05(5), F.S., provides for a similar process if an unmarked human burial is discovered during an authorized archeological excavation.

⁵¹ Section 872.05(4), F.S.

⁵² Section 872.05(4)(a), F.S.

⁵³ *Id.*

⁵⁴ Section 872.05(4)(c), F.S.

⁵⁵ Section 872.05(6), F.S.

⁵⁶ Section 872.05(6)(a), F.S.

⁵⁷ Section 872.05(6)(b), F.S.

⁵⁸ Section 872.05(6)(c), F.S.

The November press release states that HCSD provided notice to the medical examiner and State Archeologist on the same day as the release – November 21, 2019.⁵⁹ Thus, the medical examiner had 30 days (until December 23, 2019) to make a determination regarding jurisdiction and referral to the State Archeologist.⁶⁰ On December 20, 2019, the Hillsborough County Medical Examiner turned the matter over to the State Archeologist.⁶¹

VIII. Statutes Affected:

This bill does not amend the Florida Statutes.

IX. Additional Information:

- A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Recommended PCS/CS by Appropriations Subcommittee on Transportation, Tourism, and Economic Development on February 25, 2020:

The committee substitute:

- Increases the number of members of the task force from seven to ten.
- Requires the task force to make recommendations for standards for the creation, placement, and maintenance of a memorial at any identified locations of unmarked and abandoned African-American cemetery or burial ground throughout the state, instead of for memorials at specific locations.
- Removes the \$50,000 appropriation for the former Zion Cemetery in Tampa and \$50,000 appropriation for the former Ridgewood Cemetery at C. Leon King High School in Tampa, and instead requires the DOS to create such memorials subject to specific appropriation.

CS by Governmental Oversight and Accountability on December 9, 2019:

The committee substitute:

- Provides that the task force make a recommendation on the creation, placement, and maintenance of a memorial at the site of the former Ridgewood Cemetery in Tampa.
- Eliminates any reference to exhumation of remains.
- Requires the DOS to partner with FAMU and Zion Cemetery Archaeological Committee as well as USF to determine the number of graves that remain at the site.
- Requires any historical resource recovered by USF or FAMU must remain in the custody of either university until DOS takes custody.
- Requires DOS to contract with USF and FAMU for the identification and location of eligible next of kin.

⁵⁹ Hillsborough County School District, Press Release, *School District Releases Findings from Scans on King High School Property*, Nov. 20, 2019, available at <https://www.sdhc.k12.fl.us/newsdesk/article/1578/school-district-releases-findings-from-scans-on-king-high-school-property> (last visited February 21, 2020).

⁶⁰ Section 872.05(4)(a), F.S.

⁶¹ Hillsborough County, *Hillsborough County Medical Examiner Refers Ridgewood Cemetery Conclusions to State Archaeologist*, Dec. 20, 2019, available at <https://www.hillsboroughcounty.org/en/media-center/press-releases/2019/12/20/medical-examiner-refers-ridgewood-cemetery-conclusions-to-state-archaeologist> (last visited February 21, 2020).

- Requires the DOS to list in the Florida Master Site File any abandoned African-American Cemeteries identified by the task force. Upon such listing, the DOS must seek placement of an Official Florida Historical Marker at a site with the costs of the historical marker's creation and placement being borne by DOS.
- Appropriates \$100,000, with \$50,000 allocated for a memorial at the site of the former Zion Cemetery and \$50,000 allocated for a memorial at the site of the former Ridgewood Cemetery.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/25/2020	.	
	.	
	.	
	.	

Appropriations Subcommittee on Transportation, Tourism, and Economic Development (Cruz) recommended the following:

Senate Amendment (with title amendment)

Delete lines 95 - 170

and insert:

(h) One member of the Senate, appointed by the President of the Senate.

(i) One member of the House of Representatives, appointed by the Speaker of the House of Representatives.

(j) One elected official from a local government, appointed



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10 by the Secretary of State.

11 (3) The task force shall hold its first meeting by August
12 1, 2020. The task force may meet as many times as it deems
13 necessary to complete the duties prescribed in this section.

14 (4) The task force shall:

15 (a) Review the findings and recommendations made by the
16 Task Force on Abandoned and Neglected Cemeteries created
17 pursuant to chapter 98-268, Laws of Florida, and any legislative
18 or administrative action that was taken in response to the task
19 force's findings and recommendations.

20 (b) Examine the adequacy of current practices regarding the
21 preservation of unmarked and abandoned African-American
22 cemeteries and burial grounds and identify any challenges unique
23 to African-American cemeteries and burial grounds.

24 (c) Identify locations of unmarked and abandoned African-
25 American cemeteries and burial grounds throughout the state and
26 propose strategies, including any proposed legislation, for the
27 preservation and evaluation of such sites.

28 (d) Make recommendations regarding standards for the
29 creation, placement, and maintenance of a memorial at any
30 identified locations of unmarked and abandoned African-American
31 cemetery or burial ground throughout the state.

32 (5) By March 1, 2021, the task force shall submit a report
33 detailing its findings and recommendations to the Governor, the
34 President of the Senate, the Speaker of the House of
35 Representatives, the Minority Leader of the Senate, and the
36 Minority Leader of the House of Representatives.

37 (6) This section expires July 1, 2021.

38 Section 2. (1) (a) Upon receiving consent of the property



782640

39 owners at the former Zion Cemetery site in Tampa, the Department
40 of State shall partner with the University of South Florida, the
41 Florida Agricultural and Mechanical University, and the Zion
42 Cemetery Archaeological Committee formed under the auspices of
43 the Tampa Housing Authority, to continue an investigation to
44 determine how many graves remain at the site.

45 (b) Any historical resource, record, archive, artifact,
46 public research, or medical record that is recovered through the
47 course of the investigation by the University of South Florida
48 or the Florida Agricultural and Mechanical University shall
49 remain in the custody of either university for archiving and
50 preservation until the Department of State requests custody of
51 such resource, record, archive, artifact, public research, or
52 medical record.

53 (2) (a) The Department of State shall contract with the
54 University of South Florida and the Florida Agricultural and
55 Mechanical University for the identification and location of
56 eligible next of kin of those buried at the site.

57 (b) No later than January 1, 2021, the universities shall
58 provide the Department of State with a list of possible
59 descendants of those buried at the site and, to the extent
60 possible, their contact information.

61 (c) For any identification of next of kin occurring on or
62 after January 1, 2021, the universities must provide contact
63 information of the next of kin to the Department of State.

64 Section 3. The Division of Historical Resources of the
65 Department of State shall ensure that any abandoned African-
66 American cemetery identified by the Task Force on Abandoned
67 African-American Cemeteries is listed in the Florida Master Site



782640

68 File. Upon such a cemetery's listing in the Florida Master Site
69 File and in lieu of the normal application process for
70 historical markers, the division must seek placement of an
71 Official Florida Historical Marker at a site so long as the
72 approval of the owner of the property where the marker will be
73 placed has been obtained. A person or an organization affiliated
74 with an abandoned cemetery may assist the division in
75 researching the history of such a site in the preparation of a
76 historical marker's creation and placement. The costs for the
77 creation and placement of a historical marker authorized
78 pursuant to this section shall be borne by the division.

79 Section 4. Subject to specific appropriation, the
80 Department of State shall create, place, and maintain a memorial
81 at the site of the former Zion Cemetery in Tampa and at the site
82 of the former Ridgewood Cemetery at C. Leon King High School in
83 Tampa.

84
85 ===== T I T L E A M E N D M E N T =====

86 And the title is amended as follows:

87 Delete lines 31 - 32

88 and insert:

89 historical markers be borne by the division; subject
90 to legislative appropriation, requiring the department
91 to create, place, and maintain memorials at certain
92 sites; providing an effective date.

By the Committee on Governmental Oversight and Accountability;
and Senators Cruz, Gibson, and Rouson

585-02004-20

2020220c1

1 A bill to be entitled
2 An act relating to abandoned cemeteries; creating the
3 Task Force on Abandoned African-American Cemeteries;
4 specifying the purpose of the task force; requiring
5 the Department of State to provide administrative and
6 staff support; specifying the composition of the task
7 force; providing meeting requirements; prescribing
8 duties of the task force; requiring the task force to
9 submit a report to the Governor and the Legislature by
10 a specified date; providing for expiration of the task
11 force; requiring the department to partner with
12 specified entities to undertake an investigation of
13 the former Zion Cemetery site; specifying custody of
14 certain historical resources, records, archives,
15 artifacts, research, and medical records; requiring
16 the department to contract with the University of
17 South Florida and the Florida Agricultural and
18 Mechanical University for the identification and
19 location of eligible next of kin; requiring the
20 universities to provide certain information regarding
21 descendants to the department by a specified date;
22 directing the Division of Historical Resources of the
23 department to ensure the listing of certain cemeteries
24 in the Florida Master Site File; requiring the
25 division to seek placement of historical markers at
26 certain abandoned cemeteries, subject to certain
27 limitations; authorizing certain persons and
28 organizations to assist the division in researching
29 the history of such cemeteries; specifying that costs

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

585-02004-20

2020220c1

30 associated with the creation and placement of such
31 historical markers be borne by the division; providing
32 appropriations; providing an effective date.
33

34 WHEREAS, until the conclusion of the Civil War, millions of
35 African Americans in the United States, including Florida, were
36 enslaved, and

37 WHEREAS, following the end of slavery, African Americans
38 continued to be subject to various discriminatory practices,
39 including restrictions on burying the dead which resulted in
40 segregated cemeteries and burial grounds, and

41 WHEREAS, unlike predominantly white cemeteries and burial
42 grounds, African-American cemeteries and burial grounds were not
43 subject to regulations and recordkeeping necessary to protect
44 the dignity of the deceased, and

45 WHEREAS, as a result, many abandoned African-American
46 cemeteries and burial grounds have been inadvertently discovered
47 following years of disrepair and neglect when land is being
48 redeveloped or has been sold, and

49 WHEREAS, to this day, abandoned African-American cemeteries
50 throughout this state continue to be uncovered, as evidenced by
51 recent reports regarding the former Zion Cemetery site in the
52 Tampa Heights neighborhood and the former Ridgewood Cemetery on
53 the grounds of C. Leon King High School, both in the City of
54 Tampa, and

55 WHEREAS, the State of Florida recognizes its obligation to
56 identify and properly record abandoned African-American
57 cemeteries and burial grounds in order to preserve history,
58 better inform development decisions, and ensure dignity and

Page 2 of 6

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

585-02004-20

2020220c1

59 respect for the deceased, NOW, THEREFORE,

60
61 Be It Enacted by the Legislature of the State of Florida:

62
63 Section 1. (1) The Task Force on Abandoned African-American
64 Cemeteries, a task force as defined in s. 20.03(8), Florida
65 Statutes, is created adjunct to the Department of State for the
66 express purpose of studying the extent to which unmarked or
67 abandoned African-American cemeteries and burial grounds exist
68 throughout the state and developing and recommending strategies
69 for identifying and recording cemeteries and burial grounds
70 while also preserving local history and ensuring dignity and
71 respect for the deceased. Except as otherwise provided in this
72 section, the task force shall operate in a manner consistent
73 with s. 20.052, Florida Statutes. The department shall provide
74 administrative and staff support relating to the functions of
75 the task force.

76 (2) The task force is composed of the following members:

77 (a) The Secretary of State, or his or her designee, who
78 shall serve as chair.

79 (b) A representative of the Bureau of Archaeological
80 Research of the Division of Historical Resources, appointed by
81 the Secretary of State.

82 (c) One person nominated by the President of the Florida
83 State Conference of the National Association for the Advancement
84 of Colored People and appointed by the Secretary of State.

85 (d) One representative of the Florida Council of Churches,
86 nominated by the executive director of the council and appointed
87 by the Secretary of State.

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88 (e) One representative of the Florida African American
89 Heritage Preservation Network, nominated by the executive
90 director of the network and appointed by the Secretary of State.

91 (f) One representative of the Florida Public Archaeology
92 Network, appointed by the Secretary of State.

93 (g) One representative of the cemetery industry, appointed
94 by the Secretary of State.

95 (3) The task force shall hold its first meeting by August
96 1, 2020. The task force may meet as many times as it deems
97 necessary to complete the duties prescribed in this section.

98 (4) The task force shall:

99 (a) Review the findings and recommendations made by the
100 Task Force on Abandoned and Neglected Cemeteries created
101 pursuant to chapter 98-268, Laws of Florida, and any legislative
102 or administrative action that was taken in response to the task
103 force's findings and recommendations.

104 (b) Examine the adequacy of current practices regarding the
105 preservation of unmarked and abandoned African-American
106 cemeteries and burial grounds and identify any challenges unique
107 to African-American cemeteries and burial grounds.

108 (c) Identify locations of unmarked and abandoned African-
109 American cemeteries and burial grounds throughout the state and
110 propose strategies, including any proposed legislation, for the
111 preservation and evaluation of such sites.

112 (d) Make recommendations regarding the creation, placement,
113 and maintenance of a memorial at the sites of the former Zion
114 Cemetery and the former Ridgewood Cemetery in Tampa.

115 (5) By March 1, 2021, the task force shall submit a report
116 detailing its findings and recommendations to the Governor, the

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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2020220c1

117 President of the Senate, the Speaker of the House of
 118 Representatives, the Minority Leader of the Senate, and the
 119 Minority Leader of the House of Representatives.

120 (6) This section expires July 1, 2021.

121 Section 2. (1) (a) Upon receiving consent of the property
 122 owners at the former Zion Cemetery site in Tampa, the Department
 123 of State shall partner with the University of South Florida, the
 124 Florida Agricultural and Mechanical University, and the Zion
 125 Cemetery Archaeological Committee formed under the auspices of
 126 the Tampa Housing Authority, to continue an investigation to
 127 determine how many graves remain at the site.

128 (b) Any historical resource, record, archive, artifact,
 129 public research, or medical record that is recovered through the
 130 course of the investigation by the University of South Florida
 131 or the Florida Agricultural and Mechanical University shall
 132 remain in the custody of either university for archiving and
 133 preservation until the Department of State requests custody of
 134 such resource, record, archive, artifact, public research, or
 135 medical record.

136 (2) (a) The Department of State shall contract with the
 137 University of South Florida and the Florida Agricultural and
 138 Mechanical University for the identification and location of
 139 eligible next of kin of those buried at the site.

140 (b) No later than January 1, 2021, the universities shall
 141 provide the Department of State with a list of possible
 142 descendants of those buried at the site and, to the extent
 143 possible, their contact information.

144 (c) For any identification of next of kin occurring on or
 145 after January 1, 2021, the universities must provide contact

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146 information of the next of kin to the Department of State.

147 Section 3. The Division of Historical Resources of the
 148 Department of State shall ensure that any abandoned African-
 149 American cemetery identified by the Task Force on Abandoned
 150 African-American Cemeteries is listed in the Florida Master Site
 151 File. Upon such a cemetery's listing in the Florida Master Site
 152 File and in lieu of the normal application process for
 153 historical markers, the division must seek placement of an
 154 Official Florida Historical Marker at a site so long as the
 155 approval of the owner of the property where the marker will be
 156 placed has been obtained. A person or an organization affiliated
 157 with an abandoned cemetery may assist the division in
 158 researching the history of such a site in the preparation of a
 159 historical marker's creation and placement. The costs for the
 160 creation and placement of a historical marker authorized
 161 pursuant to this section shall be borne by the division.

162 Section 4. For the 2020-2021 fiscal year, the sum of
 163 \$100,000 in nonrecurring funds is appropriated from the General
 164 Revenue Fund to the Department of State for the purpose of
 165 implementing this act. Of such sum, \$50,000 shall be allocated
 166 for the creation, placement, and maintenance of a memorial at
 167 the site of the former Zion Cemetery in Tampa, and \$50,000 shall
 168 be allocated for the creation, placement, and maintenance of a
 169 memorial at the site of the former Ridgewood Cemetery at C. Leon
 170 King High School in Tampa.

171 Section 5. This act shall take effect July 1, 2020.



The Florida Senate

Committee Agenda Request

To: Senator Travis Hutson, Chair
Appropriations Subcommittee on Transportation, Tourism, and Economic
Development

Subject: Committee Agenda Request

Date: December 16, 2019

I respectfully request that **Senate Bill #220**, relating to Abandoned Cemeteries, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in blue ink, appearing to read "Janet Cruz", written over a horizontal line.

Senator Janet Cruz
Florida Senate, District 18

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Transportation, Tourism, and Economic Development

BILL: PCS/CS/SB 1086 (399798)

INTRODUCER: Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Infrastructure and Security Committee; and Senator Diaz

SUBJECT: Vehicle and Vessel Registration Data and Functionality

DATE: February 27, 2020 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Proctor</u>	<u>Miller</u>	<u>IS</u>	<u>Fav/CS</u>
2.	<u>Wells</u>	<u>Hrdlicka</u>	<u>ATD</u>	<u>Recommend: Fav/CS</u>
3.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>

Please see Section IX. for Additional Information:
COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1086 requires the Department of Highway Safety and Motor Vehicles (DHSMV) to provide tax collectors and their approved vendors with access to data and interface functionality that other third parties receive from the DHSMV related to the registration of motor vehicles, mobile homes, and vessels. The access must only be used for purposes that fulfill the tax collector’s statutory duties under chs. 320 and 328, F.S. The bill requires the approved vendors to enter into memorandums of understanding with the DHSMV, which include protection of consumer privacy and data collection.

The bill authorizes a tax collector to determine additional service charges that a privately owned license plate agent may collect. Such additional service charges must be itemized and disclosed to the person paying the charges to the agent. The bill also requires the tax collector and its approved license plate agent to enter into a memorandum of understanding with the DHSMV regarding the use of the Florida Real Time Vehicle Information System.

The bill allows the use of fees collected to fund the costs of the Florida Real Time Vehicle Information System to be used for costs to integrate the system with technology systems provided by vendors contracted with the tax collector to provide services.

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

II. Present Situation:

Tax Collector Service Charges

County tax collector offices process registrations of motor vehicles, mobile homes, and vessels;¹ applications for title for motor vehicles, mobile homes, and vessels;² and issuance of driver licenses.³ The tax collectors are authorized to collect and retain a service charge to perform these duties.⁴ Additionally, a tax collector may impose an additional service charge of up to 50 cents on any transaction handled at a tax collector's branch office of processing applications for issuance or transfer of license plates, mobile home stickers, or validation stickers; duplicate issuance of a registration certificate;⁵ issuance of license plate validation stickers, vessel decals, and mobile home stickers from an automated vending facility or printer dispenser machine;⁶ applications for issuance, duplication, or transfer of any certificate of title of a motor vehicle or mobile home;⁷ applications for vessel registration.⁸

Although not specifically authorized in statute, with DHSMV approval some tax collectors use third party agents to conduct transactions on behalf of the tax collector.⁹ In certain counties, by ordinance of the county, these agents are authorized to collect an additional fee for services provided. These additional fees can range from \$2 to \$25 for services rendered.¹⁰ For example, Broward County's current ordinance allows a "private auto tag agency" to charge a fee for its services; the agency must post the fee schedule, approved by the board of county commissioners, for the information of its customers, which clearly identifies statutory fees, the agency's fees, and total fees that customer would pay.¹¹ Miami-Dade's current ordinance allows operators of private branch agencies or limited branch agencies to charge fees for services rendered, which are set forth in a fee schedule.¹² Both ordinances require a receipt to be provided to a customer that shows all the details of the transaction.

Florida Real Time Vehicle Information System

The DHSMV maintains the Florida Real Time Vehicle Information System (FRVIS) that facilitates the collection of taxes and fees for tags, titles, and registrations associated with motor

¹ Sections 320.03, 328.48, and 328.73, F.S.

² See ss. 319.23 and 328.01, F.S.

³ Chapter 2010-163, Laws of Florida, and s. 322.02(1), F.S.

⁴ See ss. 320.04, 319.32(2), and 328.72(7), F.S.

⁵ Section 320.04(1)(a), F.S.

⁶ Section 320.04(1)(b), F.S.

⁷ Section 319.(2)(a), F.S.

⁸ Section 328.48, F.S.

⁹ See Florida Senate, Committee on Transportation, *Services Provided by License Tag Agents*, Interim Project Report 2007-138, October 2006. References to such "agents" appear in ss. 320.03, 320.04(1)(b), and 328.15(1), F.S.

¹⁰ *Id.*

¹¹ Section 20-251 (*Fees generally; supplies of accountable items; taxes.*), Broward County, Code of Ordinances.

¹² Section 2-123 (*Fees, amounts, collection, disposition.*), Miami-Dade County, Code of Ordinances.

vehicles and vessels.¹³ The system provides real-time access to information related to the tags, titles, and registrations.

The FRVIS is composed of two processing environments. The first is a distributed environment that consists of the servers at local tax collector and tag agent offices that process tag, title, and registration transactions throughout the state. The second environment is the host portion that consists of the back-end processing that is conducted centrally at the DHSMV's primary data center.¹⁴

A fee of 50 cents is collected on every license registration and vessel decal registration sold, which revenue is used to cover the costs of the FRVIS.¹⁵ The fees are collected and deposited into the Highway Safety Operation Trust fund "to be used to exclusively fund the system."¹⁶ This includes purchasing system equipment and software, paying personnel associated with maintenance and programming, and paying the costs of networks used in tax collector offices, including ancillary technology to integrate FRVIS with other tax collection systems.¹⁷

According to the DHSMV, the FRVIS processed approximately 413.1 million transactions for the collection of approximately \$3.091 billion in revenue from taxes and fees associated with tags, titles, and registrations for motor vehicles and vessels during Fiscal Year 2018-2019, including amounts retained by local tax collector and tag agent offices.¹⁸ These funds, together with all other sources of the DHSMV's revenue, are distributed through the FRVIS to various state agencies, including the DHSMV, and non-state entities in accordance with governing Florida Statutes.

In addition to residential street addresses, the DHSMV is authorized to collect and store (in the FRVIS) e-mail addresses. E-mail addresses may be used, in lieu of the United States Postal Service, to provide certain renewal notices, including registration renewal notices, driver license renewal notices, and vessel registration renewal notices.¹⁹ Currently, s. 119.0712(2)(c), F.S., provides public records exemptions for email addresses collected by the DHSMV related to driver licenses, motor vehicle titles, motor vehicle registrations, and identification cards.²⁰

¹³ Florida Auditor General, Department of Highway Safety and Motor Vehicles, *Florida Real Time Vehicle Information System (FRVIS): Information Technology Operational Audit*, at 1, Report No. 2014-183 (April 2014), available at https://flauditor.gov/pages/pdf_files/2014-183.pdf (last visited February 16, 2020).

¹⁴ *Id.* at 1-2.

¹⁵ Section 320.03(5) and 328.73(3), F.S.

¹⁶ Section 320.03(5), F.S.

¹⁷ Section 320.03(5), F.S.

¹⁸ Email from Kevin Jacobs, Deputy Legislative Affairs Director, Department of Highway Safety and Motor Vehicles to staff of the Senate Infrastructure and Security Committee, *RE: FRVIS* (January 16, 2020) (on file with the Senate Infrastructure and Security Committee).

¹⁹ Sections 319.40, 320.95, 322.08(10), 328.30, and 328.80, F.S.

²⁰ *See* ss. 319.40, 320.95(2), and 322.08(9), F.S.

Registration Duties of Tax Collectors

Motor Vehicles

Tax collectors are authorized agents of the DHSMV that issue registration certificates, registration license plates, validation stickers, and mobile home stickers to applicants.²¹ The DHSMV may require each tax collector to give a bond, payable to the DHSMV, conditioned that the tax collector faithfully and truly perform the duties imposed upon him or her according to the requirements of law and the rules and regulations of the DHSMV.²² Each tax collector must keep a full and complete record and account of all validation stickers, mobile home stickers, or other property received from the DHSMV.²³

Vessels

Tax collectors must issue registration certificates and vessel numbers and decals to applicants, subject to the requirements of law and in accordance with the rules of the DHSMV.²⁴ Each tax collector must keep a full and complete record and account of all vessel decals or other property received from the DHSMV and must make prompt remittance of moneys collected at the times and in the manner prescribed by law.²⁵

Access to FRVIS and Protection of Personal Information

Local tax collector and tag agent offices throughout the state process tag, title, and registration transactions through the FRVIS.²⁶ The FRVIS is required to be installed in every tax collector's and license tag agent's office in accordance with a schedule established by the DHSMV in consultation with the tax collectors and contingent upon funds being made available for the system by the state.²⁷

Typically only agents of the DHSMV have access to the FRVIS. However, many tax collectors hire vendors or other third-parties to assist with providing online services, mailing information, processing payments, deploying kiosks, and performing other duties. The DHSMV states that when requested it provides access to data, both in real-time and through batch processes, to a tax collector's vendors for the purpose of providing support to the tax collector. The DHSMV provides tax collectors and the tax collectors' third-party agents with access to most, but not all, customer data available through the FRVIS through memorandums of understanding (MOU).²⁸ The MOU specifies how the data will be used and protected and ensures compliance with state and federal laws that protect personal identifying information.²⁹

²¹ Section 320.03(1), F.S.

²² Section 320.03(2), F.S.

²³ Section 320.03(3), F.S.

²⁴ Section 328.73(1), F.S.

²⁵ Section 328.73(2), F.S.

²⁶ *Id.* at 1-2.

²⁷ Section 320.03(4)(b), F.S.

²⁸ Department of Highway Safety and Motor Vehicles, *2020 Agency Legislative Bill Analysis SB 1086* (January 13, 2020) (on file with the Senate Committee on Infrastructure and Security).

²⁹ Personal information is protected by Florida law and the federal Driver's Privacy Protection Act (18 U.S.C. s. 2725). The federal law restricts public access to social security numbers, driver license or identification card numbers, names, addresses, telephone numbers, and medical or disability information contained in motor vehicle and driver license records. Department

The DHSMV “practices data minimization, which is the practice of providing personal information to agents and vendors only when it is directly relevant and necessary to accomplish a specified purpose. Once the specified purpose has been completed, the data is securely destroyed or otherwise rendered unreadable. Data minimization decreases risks of data loss and breaches.”³⁰

However, some tax collectors state that their ability to analyze data from the DHSMV is limited because they are unable to run searches on real-time bulk data in the FRVIS because they are only authorized to look up customer vehicle or vessel data individually in real-time data. Tax collectors must therefore run any bulk data searches on batched bulk data from the previous business day.³¹

III. Effect of Proposed Changes:

Additional Service Charges

The bill amends ss. 319.32, 320.04, and 328.72, F.S., to authorize a tax collector to determine additional services charges to be collected by privately owned license plate agents approved by the tax collector. The tax collector must do this “in exercising her or her authority to contract with a license plate agent.” This appears to be the only specific reference to such authority in Florida statutes.

The additional service charges must be itemized and disclosed to the person paying the service charges to the license plate agent. The bill does not specify which transactions may be subject to service charge, any limitations on the amount of such service charges per transaction, or the use and retention of such revenues.

The tax collector is required to enter into a contract with the license plate agent regarding the disclosure of the additional service charges; the bill does not require the contract to contain any other provisions, such as setting the additional service charge amounts.

Access to FRVIS

The bill amends s. 320.03(5), F.S., to requires each county tax collector and its approved license plate agent to enter into a memorandum of understanding with the DHSMV regarding use of FRVIS.

Other Tax Collection Systems

Under current law, the fee collected to fund the cost of the FRVIS can be used to pay the costs of networks *used in tax collectors offices*. These cost of networks used in tax collector offices

of Highway Safety and Motor Vehicles, *Privacy Statement – Driver Privacy Protection Act*, available at <https://www.flhsmv.gov/privacy-statement/driver-privacy-protection-act/> (last visited February 18, 2020).

³⁰ Department of Highway Safety and Motor Vehicles, *2020 Agency Legislative Bill Analysis SB 1086* (January 13, 2020) (on file with the Senate Committee on Infrastructure and Security).

³¹ Information on file with staff of the Senate Infrastructure and Security Committee.

include ancillary technology to integrate FRVIS with other tax collection systems. The bill amends ss. 320.03 and 328.73, F.S., to authorize “other tax collection systems” to include technology systems *provided by vendors* that contract with tax collectors to provide in-person and online transactions of motor vehicle and mobile home registration certificates, registration license plates, and validation stickers; and vessel registration certificates and vessel numbers and decals. However, the bill excludes electronic filing systems from inclusion as “other tax collection systems.”

It appears that the bill expands the use of the state revenues for use to pay the costs of networks used outside of tax collector offices by vendors of the tax collectors, possibly to integrate these private systems with FRVIS.

Access to Data and Functionality

The bill amends ss. 320.03 and 328.73, F.S., requiring the DHSMV, upon a tax collector’s request, to provide the tax collector and its approved vendors with access to the same data and interface functionality that other third parties receive from the DHSMV. The data and functionality must only be used for purposes of fulfilling the tax collector’s statutory duties under chs. 320 and 328, F.S.

Accessible information includes, but is not limited to, bulk data for vehicle and vessel registrations and the most current address information and email addresses of applicants. The department and each county tax collector’s approved vendor must enter into a memorandum of understanding, which includes protection of consumer privacy and data collection.

Effective Date

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

To the extent the bill authorizes the imposition of a fee for services by license plate agents of tax collectors while addressing other subjects, the bill may be unconstitutional as a violation the single-subject requirement for the imposition, authorization, or raising

of a state tax or fee under Article VII, Section 19 of the Florida Constitution. Under that section, a “state tax or fee imposed, authorized, or raised under this section must be contained in a separate bill that contains no other subject.” A “fee” is defined by the Florida Constitution to mean “any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.”³²

E. Other Constitutional Issues:

The bill authorizes tax collectors to determine the application of additional service charges and the amount of any service charges that may be imposed that will be collected by private owned license plate agents. The bill *may* be interpreted to authorize tax collectors, either acting as agents of the DHSMV in such transactions or under their county powers, to make such determinations without guidance or limitation. The lack of guidance or limitation may raise a concern that the bill violates the nondelegation doctrine, which requires that “fundamental and primary policy decisions ... be made by members of the legislature who are elected to perform those tasks, and [that the] administration of legislative programs must be pursuant to some minimal standards and guidelines ascertainable by reference to the enactment establishing the program.”³³

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Estimated revenues from the collection of additional service charges is unknown at this time. The bill does not specify if the tax collector, the privately owned license plate agent, or both parties can retain the additional service charge. Currently, such charges vary from county to county, for those counties that allow an agent to conduct transactions and retain the revenues.

B. Private Sector Impact:

Vendors that contract with county tax collectors to provide services may benefit from the ability to collect additional service charges and be able to access data and interface functionality of FRVIS.

C. Government Sector Impact:

Tax collectors may see a positive indeterminate fiscal impact as a result of having real-time access to data and interface functionality, and this may result in provision of more efficient service to customers.

The DHSMV may incur indeterminate programming costs to implement data access and interface functionality for tax collectors and tax collector-approved vendors.³⁴

³² FLA. CONST. art. VII, s. 19(d)(1).

³³ *Askew v. Cross Key Waterways*, 372 So.2d 913, 925 (Fla.1978).

³⁴ Department of Highway Safety and Motor Vehicles, *2020 Agency Legislative Bill Analysis SB 1086* (January 13, 2020) (on file with the Senate Infrastructure and Security Committee).

It is unknown if any funds will be expended to integrate FRVIS with technology systems provided by vendors contracted with tax collectors for services. The use of such revenues for this purpose is not required by the bill.

VI. Technical Deficiencies:

Line 152 references s. 320.95, F.S., while amending the statute related to vessel registrations in ch. 328, F.S. This reference should be changed to s. 328.30, F.S.

VII. Related Issues:

The bill adds the term “license plate agent” to the chapters of Florida statutes dealing with motor vehicle and mobile home titles, motor vehicle and mobile home registrations, and vessel registrations. The term is undefined, and use of the term in statutes dealing with titles and vessels may lead to some confusion.

The DHSMV provided the following comments regarding the bill as originally filed:³⁵

The DHSMV does not need any further statutory authority to provide data or functionality to tax collector agents or vendors.³⁶

The...bill is written broadly and requires the [DHSMV] to provide tax collectors, tax collector agents, and tax collector vendors with access to the same data and functionality that all other third parties receive from the [DHSMV] related to motor vehicle and vessel registration. The bill also requires the [DHSMV] to provide customers’ residential and email addresses to tax collectors and their approved agents and vendors, which is not something the [DHSMV] currently does. Based on the broad language of the bill, the [DHSMV] requests clarification of the following:

- 1) Would the personal identifying information (“PII”) provided to the agents and vendors of a specific tax collector be limited to data relating to customers residing in that tax collector’s county? For example, if an agent or vendor does business on behalf of the Leon County Tax Collector, would the [DHSMV] be required to provide the agent or vendor with the PII of citizens in other counties if requested?
- 2) Could the [DHSMV] continue the practice of data minimization with respect to providing PII to agents and vendors? In other words, could the [DHSMV] refuse to provide PII to a tax collector’s agent or vendor unless it is directly relevant and necessary to accomplish a specified purpose related to carrying out the statutorily mandated functions of the tax collector?
- 3) As a follow-up to question two above, could the [DHSMV] also limit the agent or vendor’s use of the data and functionality to services provided on behalf of the tax collector, or would the vendor be free to use the data or functionality for any lawful commercial purpose?
- 4) Could the [DHSMV] limit the data released based on a business use case provided by the tax collector?

³⁵ *Id.*

³⁶ Section 320.03(4), F.S.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 319.32, 320.03, 320.04, 328.72, and 328.73.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Recommended PCS/CS by Appropriations Subcommittee on Transportation, Tourism, and Economic Development on February 25, 2020:

The committee substitute:

- Requires tax collectors who enter into contracts with license plate agents to determine additional services charges that will be collected by the agents for services provided and enter into a contract with such agents that about the disclosure of such charges.
- Authorizes use of fees collected to cover costs related to FRVIS to be used for costs of technology systems of tax collector vendors to integrate with FRVIS.
- Removes the requirement that the DHSMV provide “real-time” access to data and specifies that access must include the same “interface” functionality as FRVIS and includes “bulk data.”
- Limits access to the data and functionality only for the purposes of fulfilling the tax collector’s statutory duties under chs. 320 and 328, F.S.
- Prohibits the reselling or use of the data and functionality for other purposes.
- Requires the tax collector’s approved vendor to enter into a contract with the DHSMV.
- Requires tax collectors and their approved license plate agents to enter into a memorandum of understanding with the DHSMV regarding the use of the Florida Real Time Vehicle Information System.

CS by Infrastructure and Security on January 21, 2020:

- Removes the ability of the DHSMV to require a tax collector’s approved agent or vendor that requests real-time access to the DHSMV data to enter into a memorandum of understanding, which may not be more restrictive than any memorandum of understanding between the department and any other third-party vendor; and
- Requires the DHSMV to provide tax collectors acting on behalf of the DHSMV, and tax collector-approved agents and vendors, real-time access to both the same data and functionality that all other third parties receive from the department related to motor vehicle and mobile home registration certificates, registration license plates, validation stickers, and vessel registration certificates and vessel numbers and decals, including, but not limited to, the most current address information and electronic mail addresses of applicants.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/25/2020	.	
	.	
	.	
	.	

Appropriations Subcommittee on Transportation, Tourism, and Economic Development (Diaz) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (c) is added to subsection (2) of section 319.32, Florida Statutes, to read:

319.32 Fees; service charges; disposition.-

(2)

(c) In exercising his or her authority to contract with a license plate agent, the tax collector shall determine the



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11 additional service charges that shall be collected by privately
12 owned license plate agents approved by the tax collector and
13 shall be fully itemized and disclosed to the customer. The
14 license plate agent shall enter into a contract with the tax
15 collector regarding the disclosure of additional service
16 charges.

17 Section 2. Subsection (5) of section 320.03, Florida
18 Statutes, is amended to read:

19 320.03 Registration; duties of tax collectors;
20 International Registration Plan.—

21 (5) In addition to the fees required under s. 320.08, a fee
22 of 50 cents shall be charged on every license registration sold
23 to cover the costs of the Florida Real Time Vehicle Information
24 System. The fees collected shall be deposited into the Highway
25 Safety Operating Trust Fund to be used exclusively to fund the
26 system. The fee may only be used to fund the system equipment,
27 software, personnel associated with the maintenance and
28 programming of the system, and networks used in the offices of
29 the county tax collectors as agents of the department and the
30 ancillary technology necessary to integrate the system with
31 other tax collection systems. Other tax collection systems may
32 include technology systems provided by vendors contracted with
33 the tax collector for in-person transactions of motor vehicle
34 and mobile home registration certificates, registration license
35 plates, and validation stickers and online motor vehicle and
36 mobile home registration renewals and validation stickers. For
37 purposes of this subsection, other tax collection systems do not
38 include electronic filing systems pursuant to s. 320.03(10).
39 Upon a tax collector's request, the department shall provide the



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40 tax collector and his or her approved vendors with the same data
41 access and interface functionality that other third parties
42 receive from the department, including, but not limited to, bulk
43 data for vehicle registrations and each applicant's current
44 residential address and electronic mail address collected
45 pursuant to s. 320.95. Such data and functionality may be used
46 only for purposes of fulfilling the tax collector's statutory
47 duties and may not be resold or used for any other purpose. The
48 department shall administer this program upon consultation with
49 the Florida Tax Collectors, Inc., to ensure that each county tax
50 collector's office is technologically equipped and functional
51 for the operation of the Florida Real Time Vehicle Information
52 System and that tax collectors' approved vendors protect
53 customer privacy and data collection. Tax collectors and their
54 approved license plate agents shall enter into a memorandum of
55 understanding with the department regarding use of the Florida
56 Real Time Vehicle Information system in accordance with
57 paragraph (4) (b). Any designated revenue collected to support
58 functions of the county tax collectors and not used in a given
59 year must remain exclusively in the trust fund as a carryover to
60 the following year.

61 Section 3. Present subsection (3) of section 320.04,
62 Florida Statutes, is renumbered as subsection (4), and a new
63 subsection (3) is added to that section to read:

64 320.04 Registration service charge.—

65 (3) In exercising his or her authority to contract with a
66 license plate agent, the tax collector shall determine the
67 additional service charges that shall be collected by privately
68 owned license plate agents approved by the tax collector and



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69 shall be fully itemized and disclosed to the customer. The
70 license plate agent shall enter into a contract with the tax
71 collector regarding the disclosure of additional service
72 charges.

73 Section 4. Subsection (7) of section 328.72, Florida
74 Statutes, is amended to read:

75 328.72 Classification; registration; fees and charges;
76 surcharge; disposition of fees; fines; marine turtle stickers.—

77 (7) SERVICE FEE.—

78 (a) In addition to other registration fees, the vessel
79 owner shall pay the tax collector a \$2.25 service fee for each
80 registration issued, replaced, or renewed. Except as provided in
81 subsection (15), all fees, other than the service charge,
82 collected by a tax collector must be remitted to the department
83 not later than 7 working days following the last day of the week
84 in which the money was remitted. Vessels may travel in salt
85 water or fresh water.

86 (b) In exercising his or her authority to contract with a
87 license plate agent, the tax collector shall determine the
88 additional service charges that shall be collected by privately
89 owned license plate agents approved by the tax collector and
90 shall be fully itemized and disclosed to the customer. The
91 license plate agent shall enter into a contract with the tax
92 collector regarding the disclosure of additional service
93 charges.

94 Section 5. Subsection (1) of section 328.73, Florida
95 Statutes, is amended to read:

96 328.73 Registration; duties of tax collectors.—

97 (1) The tax collectors in the counties of the state, as



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98 authorized agents of the department, shall issue registration
99 certificates and vessel numbers and decals to applicants,
100 subject to the requirements of law and in accordance with rules
101 of the department. Other tax collection systems may include
102 technology systems provided by vendors contracted with the tax
103 collector for in-person and online vessel registration
104 certificates and vessel numbers and decals. Upon a tax
105 collector's request, the department shall provide the tax
106 collector and his or her approved vendors with the same data
107 access and interface functionality that other third parties
108 receive from the department, including, but not limited to, bulk
109 data for vessel registrations and each applicant's current
110 residential address and electronic mail address collected
111 pursuant to s. 320.95. Such data and functionality may be used
112 only for purposes of fulfilling the tax collector's statutory
113 duties and may not be resold or used for any other purpose.

114 Section 6. This act shall take effect July 1, 2020.

115
116 ===== T I T L E A M E N D M E N T =====

117 And the title is amended as follows:

118 Delete everything before the enacting clause
119 and insert:

120 A bill to be entitled

121 An act relating to vehicle and vessel registration
122 data and functionality; amending s. 319.32, F.S.;
123 requiring the tax collector to determine service
124 charges collected by privately owned license plate
125 agents for motor vehicle titles; requiring a license
126 plate agent to enter into a contract with the tax



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127 collector; amending s. 320.03, F.S.; specifying tax
128 collection systems for which certain fees may be used
129 for integration with the Florida Real Time Vehicle
130 Information System; requiring the Department of
131 Highway Safety and Motor Vehicles to provide tax
132 collectors and their approved vendors with the same
133 data access and interface functionality as provided to
134 other third parties; specifying authorized uses for
135 such data and functionality; requiring tax collectors
136 and their approved license plate agents to enter into
137 a memorandum of understanding with the department;
138 amending s. 320.04, F.S.; requiring the tax collector
139 to determine service charges collected by privately
140 owned license plate agents for motor vehicle
141 registrations; requiring a license plate agent to
142 enter into a contract with the tax collector; amending
143 s. 328.72, F.S.; requiring the tax collector to
144 determine service charges collected by privately owned
145 license plate agents for vessel registrations and
146 titles; requiring a license plate agent to enter into
147 a contract with the tax collector; amending s. 328.73,
148 F.S.; requiring the department to provide tax
149 collectors and their approved vendors with the same
150 data access and interface functionality as provided to
151 other third parties; specifying authorized uses for
152 such data and functionality; providing an effective
153 date.



684820

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/25/2020	.	
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Appropriations Subcommittee on Transportation, Tourism, and Economic Development (Diaz) recommended the following:

Senate Amendment to Amendment (182606) (with title amendment)

Delete lines 31 - 53
and insert:

other tax collection systems. Other tax collection systems may include technology systems provided by vendors contracted with the tax collector for in-person transactions of motor vehicle and mobile home registration certificates, registration license plates, and validation stickers and online motor vehicle and



684820

11 mobile home registration renewals and validation stickers. Upon
12 the tax collector's request, the department shall provide the
13 tax collector and their approved vendors with the same data
14 access and interface functionality that other third parties
15 receive from the department, including, but not limited to, bulk
16 data for vehicle registrations and each applicant's current
17 residential address and electronic mail address collected
18 pursuant to s. 320.95. Such data and functionality shall be used
19 only for purposes of fulfilling the tax collector's statutory
20 duties, and it may not be resold or used for any other purpose
21 under this chapter. For purposes of this subsection, other tax
22 collection systems do not include electronic filing systems
23 pursuant to s. 320.03. The department shall administer this
24 program upon consultation with the Florida Tax Collectors, Inc.,
25 to ensure that each county tax collector's office is
26 technologically equipped and functional for the operation of the
27 Florida Real Time Vehicle Information System and that tax
28 collectors' approved vendors enter into a memorandum of
29 understanding with the department. Tax collectors and their

30
31 ===== T I T L E A M E N D M E N T =====

32 And the title is amended as follows:

33 Delete lines 135 - 136

34 and insert:

35 such data and functionality; providing construction;
36 requiring tax collectors and their vendors and
37 approved license plate agents to enter into



774030

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/25/2020	.	
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Appropriations Subcommittee on Transportation, Tourism, and
Economic Development (Diaz) recommended the following:

Senate Amendment (with title amendment)

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Delete everything after the enacting clause
and insert:

Section 1. Paragraph (c) is added to subsection (2) of
section 319.32, Florida Statutes, to read:



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9 319.32 Fees; service charges; disposition.-

10 (2)

11 (c) In exercising his or her authority to contract with a
12 license plate agent, the tax collector shall determine the
13 additional service charges to be collected by privately owned
14 license plate agents approved by the tax collector. Additional
15 service charges must be itemized and disclosed to the person
16 paying the service charges to the license plate agent. The
17 license plate agent shall enter into a contract with the tax
18 collector regarding the disclosure of additional service
19 charges.

20 Section 2. Subsection (5) of section 320.03, Florida
21 Statutes, is amended to read:

22 320.03 Registration; duties of tax collectors;
23 International Registration Plan.-

24 (5) In addition to the fees required under s. 320.08, a fee
25 of 50 cents shall be charged on every license registration sold
26 to cover the costs of the Florida Real Time Vehicle Information
27 System. The fees collected shall be deposited into the Highway
28 Safety Operating Trust Fund to be used exclusively to fund the
29 system. The fee may only be used to fund the system equipment,
30 software, personnel associated with the maintenance and
31 programming of the system, and networks used in the offices of
32 the county tax collectors as agents of the department and the
33 ancillary technology necessary to integrate the system with
34 other tax collection systems. Other tax collection systems may
35 include technology systems provided by vendors contracted with
36 the tax collector for in-person transactions of motor vehicle
37 and mobile home registration certificates, registration license



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38 plates, and validation stickers and online motor vehicle and
39 mobile home registration renewals and validation stickers. Upon
40 a tax collector's request, the department shall provide the tax
41 collector and its approved vendors with the same data access and
42 interface functionality that other third parties receive from
43 the department, including, but not limited to, bulk data for
44 vehicle registrations and each applicant's current residential
45 address and electronic mail address collected pursuant to s.
46 320.95. Such data and functionality shall be used only for
47 purposes of fulfilling the tax collector's statutory duties
48 under this chapter and may not be resold or used for any other
49 purpose. For purposes of this subsection, other tax collection
50 systems do not include electronic filing systems pursuant to s.
51 320.03. The department shall administer this program upon
52 consultation with the Florida Tax Collectors, Inc., to ensure
53 that each county tax collector's office is technologically
54 equipped and functional for the operation of the Florida Real
55 Time Vehicle Information System. The department and each county
56 tax collector's approved vendor shall enter into a memorandum of
57 understanding, which includes protection of consumer privacy and
58 data collection. Each county tax collector and its approved
59 license plate agents shall enter into a memorandum of
60 understanding with the department regarding use of the Florida
61 Real Time Vehicle Information system in accordance with
62 paragraph (4) (b). Any designated revenue collected to support
63 functions of the county tax collectors and not used in a given
64 year must remain exclusively in the trust fund as a carryover to
65 the following year.

66 Section 3. Present subsection (3) of section 320.04,



774030

67 Florida Statutes, is renumbered as subsection (4), and a new
68 subsection (3) is added to that section to read:

69 320.04 Registration service charge.—

70 (3) In exercising his or her authority to contract with a
71 license plate agent, the tax collector shall determine the
72 additional service charges to be collected by privately owned
73 license plate agents approved by the tax collector. Additional
74 service charges must be itemized and disclosed to the person
75 paying the service charges to the license plate agent. The
76 license plate agent shall enter into a contract with the tax
77 collector regarding the disclosure of additional service
78 charges.

79 Section 4. Subsection (7) of section 328.72, Florida
80 Statutes, is amended to read:

81 328.72 Classification; registration; fees and charges;
82 surcharge; disposition of fees; fines; marine turtle stickers.—

83 (7) SERVICE FEE.—

84 (a) In addition to other registration fees, the vessel
85 owner shall pay the tax collector a \$2.25 service fee for each
86 registration issued, replaced, or renewed. Except as provided in
87 subsection (15), all fees, other than the service charge,
88 collected by a tax collector must be remitted to the department
89 not later than 7 working days following the last day of the week
90 in which the money was remitted. Vessels may travel in salt
91 water or fresh water.

92 (b) In exercising his or her authority to contract with a
93 license plate agent, the tax collector shall determine the
94 additional service charges to be collected by privately owned
95 license plate agents approved by the tax collector. Additional



96 service charges must be itemized and disclosed to the person
97 paying the service charges to the license plate agent. The
98 license plate agent shall enter into a contract with the tax
99 collector regarding the disclosure of additional service
100 charges.

101 Section 5. Subsection (1) of section 328.73, Florida
102 Statutes, is amended to read:

103 328.73 Registration; duties of tax collectors.—

104 (1) The tax collectors in the counties of the state, as
105 authorized agents of the department, shall issue registration
106 certificates and vessel numbers and decals to applicants,
107 subject to the requirements of law and in accordance with rules
108 of the department. Other tax collection systems may include
109 technology systems provided by vendors contracted with the tax
110 collector for in-person and online vessel registration
111 certificates and vessel numbers and decals. Upon a tax
112 collector's request, the department shall provide the tax
113 collector and its approved vendors with the same data access and
114 interface functionality that other third parties receive from
115 the department, including, but not limited to, bulk data for
116 vessel registrations and each applicant's current residential
117 address and electronic mail address collected pursuant to s.
118 320.95. Such data and functionality shall be used only for
119 purposes of fulfilling the tax collector's statutory duties
120 under this chapter and may not be resold or used for any other
121 purpose. The department and each county tax collector's approved
122 vendor shall enter into a memorandum of understanding, which
123 includes protection of consumer privacy and data collection.

124 Section 6. This act shall take effect July 1, 2020.



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===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to vehicle and vessel registration
data and functionality; amending s. 319.32, F.S.;
requiring the tax collector to determine service
charges collected by privately owned license plate
agents for motor vehicle titles; requiring a license
plate agent to enter into a contract with the tax
collector; amending s. 320.03, F.S.; specifying tax
collection systems for which certain fees may be used
for integration with the Florida Real Time Vehicle
Information System; requiring the Department of
Highway Safety and Motor Vehicles to provide tax
collectors and their approved vendors with the same
data access and interface functionality as provided to
other third parties; specifying authorized uses for
such data and functionality; providing construction;
requiring tax collectors and their vendors and
approved license plate agents to enter into a
memorandum of understanding with the department;
amending s. 320.04, F.S.; requiring the tax collector
to determine service charges collected by privately
owned license plate agents for motor vehicle
registrations; requiring a license plate agent to
enter into a contract with the tax collector; amending



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154 s. 328.72, F.S.; requiring the tax collector to
155 determine service charges collected by privately owned
156 license plate agents for vessel registrations and
157 titles; requiring a license plate agent to enter into
158 a contract with the tax collector; amending s. 328.73,
159 F.S.; requiring the department to provide tax
160 collectors and their approved vendors with the same
161 data access and interface functionality as provided to
162 other third parties; specifying authorized uses for
163 such data and functionality; requiring tax collectors
164 and their vendors and approved license plate agents to
165 enter into a memorandum of understanding with the
166 department; providing an effective date.

By the Committee on Infrastructure and Security; and Senator
Diaz

596-02447-20

20201086c1

A bill to be entitled

An act relating to vehicle and vessel registration data and functionality; amending ss. 320.03 and 328.73, F.S.; requiring the Department of Highway Safety and Motor Vehicles to provide tax collectors and their approved agents and vendors with real-time access to certain vehicle and vessel registration data and functionality in the same manner as provided to other third parties; providing an effective date.

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

Section 1. Paragraph (b) of subsection (4) of section 320.03, Florida Statutes, is amended to read:

320.03 Registration; duties of tax collectors; International Registration Plan.—

(4)

(b) The Florida Real Time Vehicle Information System shall be installed in every tax collector's and license tag agent's office in accordance with a schedule established by the department in consultation with the tax collectors and contingent upon funds being made available for the system by the state. For the purpose of enhancing customer services provided by tax collectors on behalf of the department, the department shall provide tax collectors and their approved agents and vendors with real-time access to the same data and functionality that all other third parties receive from the department related to motor vehicle and mobile home registration certificates, registration license plates, and validation stickers, including,

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

596-02447-20

20201086c1

but not limited to, each applicant's current residential address and each applicant's current electronic mail address collected pursuant to s. 320.95.

Section 2. Subsection (1) of section 328.73, Florida Statutes, is amended to read:

328.73 Registration; duties of tax collectors.—

(1) The tax collectors in the counties of the state, as authorized agents of the department, shall issue registration certificates and vessel numbers and decals to applicants, subject to the requirements of law and in accordance with rules of the department. For the purpose of enhancing customer services provided by tax collectors on behalf of the department, the department shall provide tax collectors and their approved agents and vendors with real-time access to the same data and functionality that all other third parties receive from the department related to vessel registration certificates and vessel numbers and decals, including, but not limited to, each applicant's current residential address and each applicant's current electronic mail address collected pursuant to s. 328.30.

Section 3. This act shall take effect July 1, 2020.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

THE FLORIDA SENATE APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/26

Meeting Date

1086

Bill Number (if applicable)

774030

Amendment Barcode (if applicable)

Topic _____

Name DAVID RAMBA

Job Title _____

Address 120 S MAROE

Street

Phone _____

Tau

FL

32301

City

State

Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FLORIDA AUTO DEALERS ASSOC.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.



The Florida Senate

Committee Agenda Request

To: Senator Travis Hutson, Chair
Appropriations Subcommittee on Transportation, Tourism, and Economic

Subject: Committee Agenda Request

Date: January 27, 2020

I respectfully request that **Senate Bill # 1086**, relating to Vehicle and Vessel Registration Data and Functionality, be placed on the:

- Committee agenda at your earliest possible convenience.
- Next committee agenda.

A handwritten signature in black ink, appearing to read "M. Diaz, Jr.", written over a horizontal line.

Senator Manny Diaz, Jr.
Florida Senate, District 36

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Transportation, Tourism, and Economic Development

BILL: PCS/SB 7054 (315656)

INTRODUCER: Appropriations Subcommittee on Transportation, Tourism, and Economic Development; and Infrastructure and Security Committee

SUBJECT: Transportation

DATE: February 27, 2020 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Price	Miller		IS Submitted as Committee Bill
1.	McAuliffe	Hrdlicka	ATD	Recommend: Fav/CS
2.			AP	

Please see Section IX. for Additional Information:
 COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 7054 revises a number of transportation-related provisions. Specifically, effective July 1, 2023, the bill:

- Repeals the Florida Rail Enterprise (FRE) from within the Florida Department of Transportation (FDOT), requiring the current and new rail-related duties to be the responsibility of the FDOT. New rail-related duties include responsibility for ensuring general rail safety and coordinating efforts to enhance passenger rail safety.
- Reallocates to the State Transportation Trust Fund (STTF) \$60 million currently allocated to the FRE from documentary tax stamp funds, to be used for rail projects and rail safety improvements.
- Adds projects necessary to identify or address needed or desirable safety improvements to passenger rail systems in this state to the FDOT’s authorized uses of documentary stamp tax allocations.
- Makes a number of conforming revisions in various sections of law, primarily to replace all occurrences of the term “enterprise” with “department,” meaning the FDOT.

In addition, the bill:

- Increases from \$275 to \$350 million the authorized debt service cap on Right-of-Way Acquisition and Bridge Construction Bonds issued to finance or refinance the cost of acquiring real property for state roads or to finance or refinance the cost of bridge construction.

- Removes the expiration date for the annual \$5 million in funding from the STTF for the Intermodal Logistics Center Infrastructure Support Program.
- Creates provisions modeled after the Move Over Law for road and bridge maintenance or construction vehicles and provides penalties for violations.
- Prohibits, upon the issuance of a hurricane watch that affects the waters of marinas located in a deepwater seaport, vessels under 500 gross tons from remaining in the waters of such marinas that have been deemed not suitable for refuge during a hurricane.
- Excludes airports from the prohibition against using the same entity to perform design services and construction engineering and inspection (CEI) services on the same project, as are seaports under current law.
- Requires airports and seaports by January 1, 2021, to adopt conflict of interest controls for contracting with an entity to perform both design and CEI services on the same seaport or airport project.
- Authorizes portable radar speed display units to display flashing red and blue lights when placed in advance of a work zone where workers are present for the purpose of road or bridge maintenance or construction on roads with a posted speed limit of 55 miles per hour.
- Requires the FDOT to offer a right of first refusal to previous property owners from whom the FDOT acquired property when the FDOT has determined the property is not needed for a transportation facility and in specified instances.
- Revises the date to August 1 for MPO submission of project priorities for purposes of developing the FDOT's tentative work program and MPO transportation improvement programs.
- Removes the expiration date for Legislative Budget Commission (LBC) chair and vice chair authority to approve amendments to the FDOT's work program that transfer fixed capital outlay appropriations between categories or increase an appropriation category.
- Increases from \$200 to \$295 million the amount of liability insurance required to be purchased by the FDOT for coverage of claims against AMTRAK arising out of the FDOT's passenger rail systems, in accordance with federal law.
- Repeals the Economic Development Transportation Project program and makes conforming revisions to related statutes.
- Repeals the prohibition on the Central Florida Expressway Authority from constructing any extensions, additions, or improvements to the expressway system in Lake County without the prior consent of the secretary of the FDOT.
- Removes obsolete references to a general revenue service charge from specified collected revenue deposited into the STTF.
- Conforms state law to federal terminology with respect to a required document submitted by each person applying for a permit to construct or alter an airport obstruction, which documents must be reviewed by the FDOT.

The fiscal impact of the bill is indeterminate.

Except as otherwise provided, the bill takes effect July 1, 2020.

II. Present Situation:

For ease of organization, the present situation is discussed below in conjunction with the effect of proposed changes.

III. Effect of Proposed Changes:

FDOT Organization and the Florida Rail Enterprise (Sections 1, 2, 17, and 19)

Present Situation

The FDOT, created in s. 20.23, F.S., as a decentralized agency and headed by the FDOT secretary, is organized into seven geographic districts headed by district secretaries, as well as a turnpike enterprise and a rail enterprise, each of which are headed by an executive director. The FRE executive director reports directly to the FDOT secretary, and the headquarters of the FRE is in Leon County.¹

As delegated by the FDOT's secretary, the FRE executive director is responsible for developing and operating the high-speed and passenger rail systems established in ch. 341, F.S.; directing funding for passenger rail systems under s. 341.303, F.S.; and coordinating publicly funded passenger rail operations, including freight rail interoperability issues.²

With respect to high-speed rail, the FRE operates pursuant to the Florida Rail Enterprise Act, located in ss. 341.8201-341.842, F.S. The act, among other powers and duties, requires the FRE to "locate, plan, design, finance, construct, maintain, own, operate, and manage the high-speed rail system in this state."³ The FDOT is the only governmental entity authorized to acquire, construct, maintain, or operate the high-speed rail system, except upon specific authorization of the Legislature.⁴

Except as provided in the Consultants' Competitive Negotiation Act,⁵ the FRE is exempt from the FDOT's policies, procedures, and standards, subject to the FDOT secretary's authority to apply any such policies, procedures, and standards to the FRE as the secretary deems appropriate.⁶

The FRE, a single budget entity, submits its budget to the Legislature along with the FDOT's budget. All passenger rail funding is included in the FRE's budget.⁷

¹ Section 20.23(4)(a), F.S.

² Section 20.23(4)(f), F.S.

³ Section 341.822, F.S.

⁴ Section 341.8225, F.S.

⁵ Section 287.055, F.S. The act relates to agency acquisition of professional architectural, engineering, landscape architectural, or survey and mapping services.

⁶ Section 20.23(4)(f)2., F.S. Florida's Turnpike Enterprise (FTE) is likewise exempt, subject to the FDOT secretary's same authority, under s. 20.23(4)(e)2., F.S.

⁷ Section 341.303(6)(a), F.S.

Documentary Stamp Tax

A portion of the documentary stamp tax levied under ch. 201, F.S.,⁸ is distributed to the State Transportation Trust Fund (STTF).⁹ Funds are allocated and must be used for certain purposes. Of the funds allocated to the Transportation Regional Incentive Program (TRIP),¹⁰ the first \$60 million of the funds are redirected annually to the FRE for the purposes established in s. 341.303(5), F.S.¹¹

Rail Funding

For the 2019-2020 fiscal year, the FRE was authorized one position and a budget of approximately \$266.8 million. Of that amount, \$106.8 million was for public transit development grants, \$154.8 million for rail development grants, and \$3.7 million for intermodal development grants.¹²

Section 341.303(5), F.S., authorizes the FDOT, through the FRE, to use funds allocated to the FRE from documentary stamp taxes to fund:

- Up to 50 percent of the nonfederal share of the costs of any eligible¹³ passenger rail capital improvement project.
- Up to 100 percent of planning and development costs related to the provision of a passenger rail system.
- The high-speed rail system.
- Projects necessary to identify or address anticipated impact of increased freight rail traffic resulting from the implementation of passenger rail systems.

Effect of Proposed Changes

The bill repeals the FRE and assigns the responsibilities, powers, and duties of the FRE back to the FDOT. The effective date of these sections of the bill is delayed until July 1, 2023, consistent with the bill's reallocation of documentary stamp tax funding, discussed below.

Section 1 bill amends s. 20.23, F.S., effective July 1, 2023, to repeal references to the FRE within the FDOT's organization, as well as references to an FRE executive director, its headquarters, and its exemption from FDOT policies, procedures, and standards. Rather than delegating responsibility for rail systems, passenger rail funding, and publicly-funded passenger rail operations to the FRE executive director, the bill assigns those responsibilities, including responsibility for rail safety, to the FDOT.

⁸ The tax is levied on certain documents, such as deeds; bonds; notes and written obligations to pay money; and mortgages, liens, and other evidence of indebtedness.

⁹ Section 201.15(4)(a), F.S.

¹⁰ Section 339.2819, F.S.

¹¹ Section 201.15(4)(a)4., F.S.

¹² Specific Appropriations 1953-1961, s. 5, ch. 2019-115, L.O.F.

¹³ Any project necessary to carry out the FDOT's duties and responsibilities provided in s. 341.302, F.S., that is consistent with the approved local government comprehensive plan of the unit of government of the areas served by the rail service, and that is contained in the adopted work program, is eligible for funding in accordance with the identified participation rates, per s. 341.303(2), F.S.

Section 17 amends s. 341.302, F.S., effective July 1, 2023, relating to the FDOT's development and implementation of a statewide rail program in conjunction with other governmental entities, to repeal reference to the FRE. This section also repeals the FDOT duty to promote and facilitate the implementation of advanced rail systems, including high-speed rail and magnetic levitation systems, and replaces it with the duty to coordinate the development, general rail safety, and operation of publicly funded passenger rail systems in this state. Responsibility for the high-speed rail system would remain with the FDOT. See the "Conforming Revisions" subheading below.

Documentary Stamp Tax

Section 2 amends s. 201.15(4)(a)4., F.S., continuing the current reallocation to the FRE of the first \$60 million of funds allocated to the TRIP for three fiscal years, 2020-2021, 2021-2022, and 2022-2023. This reallocation to the FRE expires on July 1, 2023. Beginning in the 2023-2024 fiscal year, the bill annually transfers the same \$60 million to the State Transportation Trust Fund to be used for rail projects and rail safety improvements as provided in s. 341.303(5), F.S.

Rail Funding

Section 19 amends s. 341.303(5), F.S., effective July 1, 2023, adding to the FDOT's currently authorized uses of the documentary stamp tax allocations projects necessary to identify or address needed or desirable safety improvements to passenger rail systems in this state. The bill repeals s. 341.303(6), F.S., to remove designation of the FRE as a single budget entity, direction to submit the FRE budget along with the FDOT's, inclusion of all passenger rail funding in the FRE budget entity, and provisions relating to unexpended funds appropriated or provided for the FRE. Funding for projects and activities authorized under s. 341.303(5), F.S., would be included in the FDOT's budget.

Conforming Revisions (Section 20-22 and 26-31)

Effective July 1, 2023, the bill revises the following sections of the Florida Rail Enterprise Act relating to high-speed rail to conform to the repeal of the FRE and the revised documentary stamp tax funding:

- **Section 20** repeals s. 341.8201, F.S., which is the short title for the act, citing ss. 341.8201-341.842, F.S., as the "Florida Rail Enterprise Act."
- **Section 21** amends s. 341.8203, F.S., relating to definitions for purposes of ss. 341.822-341.842, F.S., to repeal the definition of "enterprise" (meaning the FRE), replace all occurrences of the term "enterprise" with "department", and revise a cross-reference.
- **Section 22** amends s. 341.822, F.S., relating to powers and duties of the FRE, to repeal references to the FRE, replace all occurrences of the term "enterprise" with "department," and revise a cross-reference. The following provisions of the statute related to the FRE are also repealed:
 - FRE authority to employ procurement methods available to the FDOT;
 - FRE executive director authority to appoint staff; and
 - Reference to the FRE's conferred powers as supplemental to the existing powers of the FDOT.

Effective July 1, 2023, the following sections of the Florida Rail Enterprise Act are also amended to replace all occurrences of the term “enterprise” with “department” and to revise cross-references:

- **Section 26** amends s. 341.825, F.S., relating to communication facilities and permits to construct such facilities within a new or existing high-speed rail system.
- **Section 27** amends s. 341.836, F.S., relating to associated development of a high-speed rail system.
- **Section 28** amends s. 341.838, F.S., relating to authority to charge and collect fares, rents, and fees for use of a high-speed rail system.
- **Section 29** amends s. 341.839, F.S., relating to supplemental and additional powers not subject to approval or consent of other governing bodies.
- **Section 30** amends s. 341.840, F.S., relating to tax exemptions for tangible personal and real property related to a high-speed rail system.

Section 31 amends s. 343.58(4), F.S., effective July 1, 2023, relating to FDOT funding for the South Florida Regional Transportation Authority, to prohibit such funding from documentary stamp tax funds dedicated to the “State Transportation Trust Fund” rather than to the FRE.

Debt Service Cap on Right-of-Way Acquisition and Bridge Construction Bonds (Section 3)

Present Situation

Section 215.605, F.S., authorizes the issuance of state bonds to finance or refinance the cost of acquiring real property for state roads or to finance or refinance the cost of state bridge construction. Except for bonds issued to refinance previously issued bonds, the Legislature must authorize bonds, which must be issued pursuant to the State Bond Act.¹⁴

Section 206.46, F.S., authorizes the FDOT to transfer up to 7 percent of the revenues deposited into the STTF in each fiscal year into the Right-of-Way Acquisition and Bridge Construction Trust Fund to meet outstanding or proposed bond obligations; or, at a minimum, an amount sufficient to pay for the debt service coverage of outstanding bonds.¹⁵ The annual transfer amount, however, may not exceed that which is necessary to provide the required debt service coverage levels for a maximum debt service of \$275 million. Thus, debt service may not exceed seven percent of the revenues deposited into the STTF or \$275 million, whichever is less.

The FDOT notes that no adjustment has been made to the \$275 million cap since 2007. The FDOT provided information that based on the FDOT’s most recent bond sale and Revenue Estimating Conference projections, the limit on debt service based on the 7-percent-of-revenue threshold would have been \$287 million in Fiscal Year 2019-2020 (based on revenues of \$4.1 billion), growing to \$350 million in Fiscal Year 2028-2029 (based on revenues of \$5 billion). Additionally, the FDOT advises that under the current statutory limit, the \$275 million cap leaves the FDOT with only about \$100 million of available bonding capacity.¹⁶

¹⁴ Sections 215.57-215.83, F.S.

¹⁵ The transfer is required to be payable primarily from the motor and diesel fuel taxes transferred to the STTF.

¹⁶ See the FDOT’s 2020 Legislative Proposal, *Change the Right-of-Way Acquisition and Bridge Construction Bonds Debt Service Cap* (on file in the Senate Infrastructure and Security Committee).

Effect of Proposed Changes

Section 3 of the bill amends s. 206.46, F.S., to increase the maximum debt service coverage level from \$275 million to \$350 million. Thus, under the bill, debt service could not exceed 7 percent of the revenues deposited into the STTF or \$350 million, whichever is less.

Intermodal Logistics Center (ILC) Infrastructure Support Program (Section 7)

Present Situation

The ILC Infrastructure Support Program within the FDOT provides funds for roads, rail facilities, or other means for the conveyance or shipment of goods through a seaport. The FDOT is authorized to provide funds to assist with local government projects or projects performed by private entities that meet the public purpose of enhancing transportation for the conveyance or shipment of goods through a seaport to or from an intermodal logistics center.¹⁷

Section 311.101(3), F.S., provides the following criteria that the FDOT must consider when evaluating projects:

- The ability of the project to serve a strategic state interest and to facilitate the cost-effective and efficient movement of goods.
- The extent to which the project contributes to economic activity, including job creation, increased wages, and revenues, and efficiently interacts with and supports the transportation network.
- A commitment of a funding match; the amount of investment or commitments made by the owner or developer of the existing or proposed facility; and the extent to which the owner has commitments, including agreements, with private sector businesses planning to locate operations at the ILC.
- Demonstrated local financial support and commitment to the project.

At least \$5 million per year must be made available from the STTF to fund the program, and the FDOT is directed to provide up to 50 percent of project costs for eligible projects.¹⁸ The minimum funding requirement is currently set to expire on July 1, 2020. The FDOT points to the ILC program as having leveraged local and private funding, enabling completion of 12 unique projects since 2013 that are geographically dispersed around the state.¹⁹

Effect of Proposed Changes

Section 7 amends s. 311.101(7), F.S., to remove the July 1, 2020, expiration date for the required minimum annual \$5 million from the STTF to fund the ILC program, thereby making the minimum annual funding permanent.

¹⁷ Section 311.101, F.S. The term “intermodal logistics center” is defined as “a facility or group of facilities serving as a point of intermodal transfer of freight in a specific area physically separated from a seaport where activities relating to transport, logistics, good distribution, consolidation, or value-added activities and services are designed to support or be supported by conveyance or shipping through one or more seaports listed in s. 311.09.” The term includes an “inland port.”

¹⁸ Section 311.101(6) and (7), F.S.

¹⁹ See the FDOT’s 2020 Legislative Proposal, *Intermodal Logistics Center (ILC) Infrastructure Support Program* (on file in the Senate Infrastructure and Security Committee).

Road and Bridge Maintenance and Construction Vehicles: Worker and Traveler Safety (Section 11)

Present Situation

According to the Centers for Disease Control and Prevention, from 2003 to 2017, 1,844 workers lost their lives at road construction sites. Over that period of time, Texas had the most work deaths at road construction sites with 218, followed by Florida with 132 deaths. Additionally, transportation incidents accounted for 76 percent of roadway work zone fatal occupational injuries during the period from 2011-2017. In 60 percent of these cases, a vehicle struck a worker in the work zone.²⁰

Under the Florida Move Over Law, if an emergency vehicle, a sanitation vehicle, a utility service vehicle, or a wrecker is working along the roadside, every other driver must vacate the lane closest to the vehicle when driving on a highway with two or more lanes traveling in the direction of the vehicle. If such movement cannot be safely accomplished, the driver must reduce speed to 20 miles per hour less than the posted speed limit when the posted speed limit is 25 miles per hour or greater; or travel at five miles per hour when the posted speed limit is 20 miles per hour or less, when driving on a two-lane road.²¹ Every pedestrian using the road right-of-way must yield the right-of-way until the authorized emergency vehicle has passed. However, the Move Over Law does not currently apply to road and bridge maintenance or construction vehicles.

The FDOT advises that maintenance and construction activities on roadways generally require temporary traffic control²² to provide safety for both workers and others traveling through work zones.²³ However, for short duration work activities that do not require lane or shoulder closures, such as fence repair or tree trimming,²⁴ advance signs and channeling devices²⁵ may be omitted due to the risk for accident when setting up the signs and devices.²⁶

The FDOT employs additional strategies to reduce work zone fatalities. Among those strategies, the FDOT uses portable radar speed display units, which are a subset of portable changeable

²⁰ Centers for Disease Control and Prevention, The National Institute for Occupational Safety and Health, *Highway Work Zone Safety*, page last reviewed October 3, 2019, available at

<https://www.cdc.gov/niosh/topics/highwayworkzones/default.html> (last visited February 17, 2020).

²¹ Section 316.126(1)(b), F.S.

²² According to the Manual on Uniform Traffic Control Devices (MUTCD), adopted by the FDOT pursuant to direction in s. 316.0745, F.S., “temporary traffic control” refers to the needs and control of all road users, including motorists, bicyclists, and pedestrians within the highway or on private roads open to public travel, and is an essential part of highway construction, utility work, maintenance operations, and the management of traffic incidents. Temporary traffic control “provides for continuity of the movement of motor vehicle, bicycle, and pedestrian traffic (including accessible passage); transit operations; and access to property and utilities.” See the MUTCD, Part 6, Chapter 6A, Section 6A.01, available at <https://mutcd.fhwa.dot.gov/pdfs/2009r1r2/part6.pdf> (last visited February 17, 2020).

²³ See the FDOT’s 2020 Legislative Proposal, *Move Over Law*, (on file in the Senate Infrastructure and Security Committee).

²⁴ See the FDOT email to House Transportation & Infrastructure Committee staff, January 31, 2020 (on file in the Senate Infrastructure and Security Committee).

²⁵ The FDOT notes that “Channelizing devices for temporary traffic control are cones, drums, barricades, etc.” *Id.* A search of the FDOT’s website reveals that these devices are referred to as both “channeling” and “channelizing” devices.

²⁶ See the FDOT’s 2020 Legislative Proposal, *Move Over Law* (on file in the Senate Infrastructure and Security Committee).

message signs and are trailer-mounted regulatory speed limit signs with flashing lights used to inform motorists of a new speed limit for a work zone.²⁷

The Manual on Uniform Traffic Control Devices (MUTCD), adopted by the FDOT pursuant to direction in s. 316.0745, F.S., describes portable changeable message signs as temporary traffic control devices installed for temporary use with the flexibility to display a variety of messages, including advising drivers when traffic speed is expected to drop substantially.²⁸ As defined by the MUTCD, warning lights used in a temporary traffic control zone, in either a steady burn or a flashing mode, are yellow in color.²⁹ In addition, the MUTCD provides that “[i]f a changeable message sign displaying approach speeds is installed, the legend YOUR SPEED XX MPH or such similar legend should be displayed. The color of the changeable message legend should be a yellow legend on a black background or the reverse of these colors.”³⁰

Florida law expressly prohibits any vehicle *or equipment*, except police vehicles, to show or display blue lights, with the exception of Department of Corrections vehicles when responding to emergencies.³¹ Road or street maintenance equipment, road or street maintenance vehicles, road service vehicles, refuse collection vehicles, petroleum tankers, and mail carrier vehicles are authorized to display amber lights when in operation or a hazard exists.³² Additionally, road maintenance and construction equipment and vehicles may display flashing white lights or flashing white strobe lights when in operation and where a hazard exists.³³ However, a search of the MUTCD, the national standard for traffic control devices and current Florida law, and of other relevant Florida statutes, reveals no authorization for the display of flashing red and blue lights on portable radar speed display units.

Effect of Proposed Changes

Section 11 creates s. 334.275, F.S., specific to road or bridge maintenance or construction vehicles engaged in the performance of maintenance or construction for a governmental entity,³⁴ tracking the current Move Over Law. Notwithstanding any other provision of law, if a road or bridge maintenance or construction vehicle displaying warning lights is on the roadside without advanced signs or channeling devices, every other driver must vacate the lane closest to the maintenance or construction vehicle when driving on a highway with two or more lanes traveling in the direction of the vehicle. If such movement cannot be safely accomplished, the driver must reduce speed to 20 miles per hour less than the posted speed limit when the posted speed limit is 25 miles per hour or greater; or travel at five miles per hour when the posted speed limit is 20 miles per hour or less, when driving on a two-lane road vehicles.

²⁷ Federal Highway Administration, Work Zone Mobility and Safety Program, *FDOT's Work Zone Fatality Reduction Strategies*, slide 9, available at <https://ops.fhwa.dot.gov/wz/workersafety/wzfrwebinar/fl/index.htm> (last visited February 17, 2020).

²⁸ MUTCD, Part 6, Chapter 6A, Section 6F.60.

²⁹ MUTCD, Section 1A.13, definition of “warning light” at 251, available at <https://mutcd.fhwa.dot.gov/pdfs/2009r1r2/part2b.pdf> (last visited February 17, 2020).

³⁰ MUTCD, Section 2B.13, available at <https://mutcd.fhwa.dot.gov/pdfs/2009r1r2/mutcd2009r1r2edition.pdf> (last visited February 17, 2020).

³¹ Section 316.2397(2), F.S.

³² Section 316.2397(4), F.S.

³³ Section 316.2397(5), F.S.

³⁴ The bill defines “governmental entity” as the FDOT; any transportation authority created under chs. 343, 348, or 349, F.S.; publicly owned and used airports; seaports; a county; or a municipality. Section 334.27(1), F.S.

Every pedestrian using the road right-of-way is required to yield the right-of-way to an authorized road or bridge maintenance or construction vehicle. Additionally, as is the case in the Move Over Law, the bill provides that the new section of law does not:

- Diminish or enlarge any rules of evidence or liability in any case involving the operation of a road or bridge maintenance or construction vehicle.
- Relieve the driver of an authorized road or bridge maintenance or construction vehicle from the duty to drive with due regard for the safety of all persons using the highway.

In addition, the bill authorizes portable radar speed display units, in advance of a work zone where workers are present for the purpose of road or bridge maintenance or construction and with a posted speed limit of 55 miles per hour or more, to show or display flashing red and blue lights. This provision appears to be inconsistent with MUTCD requirements adopted pursuant to s. 316.0745, F.S.

The bill requires the Department of Highway Safety and Motor Vehicles to include the requirements of the new section of law in its educational awareness campaign relating to the Move Over Act and in all newly printed driver license educational materials.

Similar to the Move Over Law, a violation of the new section of law is a noncriminal traffic infraction, punishable pursuant to ch. 318, F.S., as either a moving violation³⁵ for driver infractions or as a pedestrian violation³⁶ for pedestrian infractions.

Deepwater Seaports and Marinas (Section 9)

Present Situation

Under Florida law, a “port” means a port authority or district.³⁷ Ports are created by and given authority under general or special law. Each port, in agreement with the United States Coast Guard (Coast Guard), state pilots, and other ports in its operating port area, is required to adopt guidelines for minimum bottom clearance for each berth and channel, for the movement of vessels, and for radio communications of vessel traffic for all commercial vessels entering and leaving its harbor channels.³⁸ There are 14 deepwater seaports in Florida.³⁹

Pursuant to Florida law, each port may regulate vessel movements within its jurisdiction, whether involving public or private facilities or areas, by:

- Scheduling vessels for use of berths, anchorages, or other facilities at the port.

³⁵ Section 318.18(3)(a), F.S., generally imposes a \$60 penalty, plus any applicable court costs or fees.

³⁶ Section 318.18(1)(a), F.S., imposes a \$15 penalty for all infractions of pedestrian regulations, plus any applicable court costs or fees.

³⁷ Section 313.21, F.S.; *see also* s. 315.02, F.S. “Port authority” means a port authority in Florida created by or pursuant to the provisions of any general or special law or any district or board of county commissioners acting as a port authority under or pursuant to the provisions of any general or special law. “Port district” means any district created by or pursuant to the provisions of any general or special law and authorized to own or operate any port facilities.

³⁸ Section 313.23, F.S.

³⁹ Florida Ports Council, *Seaports*, available at <https://flaports.org/seaports/> (last visited February 25, 2020).

- Ordering and enforcing a vessel, at its own expense and risk, to vacate or change position at a berth, anchorage, or facility, whether public or private, in order to facilitate navigation, commerce, protection of other vessels or property, or dredging of channels or berths.
- Designating port facilities for the loading or discharging of vessels.
- Assigning berths at wharves for arriving vessels.⁴⁰

Ports are authorized to establish fees and compensation for the services regulating vessel movements provided by the port.⁴¹

A port may impose and collect a penalty from a vessel that unnecessarily delays in moving under an order to vacate or change position. This penalty may not exceed \$1,000 per hour or fraction thereof, plus 150 percent of the demurrage costs incurred by a waiting vessel, until the order is complied with.⁴²

A marina is a licensed commercial facility that provides secured public moorings or dry storage for vessels on a leased basis.⁴³ Some deepwater seaports have marinas at the port for storing vessels weighing less than 500 tons. For example, there are five marinas within Port Canaveral, with approximately 260 wet slips hosted on port property for recreational vessels under 500 gross tons.⁴⁴

Some marina docking contracts contain “safe haven” or “hurricane” clauses. These clauses provide that, when a hurricane watch is issued, boat owners must immediately remove their vessels and all personal property from the marina and seek safe haven somewhere else. Failure to comply with this requirement, according to the clauses, will result in the boat owner being liable for all damage to docks, piers, other vessels, or any other property damage directly caused by the owner's vessel or resulting from its presence in the marina.⁴⁵

Florida enacted a law designed to prevent marinas from using safe haven clauses as a basis for recovering their property damage from vessel owners after a hurricane.⁴⁶ Florida law emphasizes the protection of life over property by prohibiting marinas from requiring vessel owners to remove their vessels from a marina following the issuance of a hurricane watch or warning.⁴⁷

However, after a tropical storm or hurricane watch has been issued, a marina owner or operator, or their employee or agent, may take reasonable actions to further secure a vessel within the marina to minimize damage to the vessel and to protect marina property, private property, and

⁴⁰ Section 313.22(1), F.S.

⁴¹ Section 313.22(2), F.S.

⁴² Section 313.22(3), F.S.

⁴³ Section 327.02(25), F.S.

⁴⁴ Email from Caitlin Lewis, Government Relations Manager, Canaveral Port Authority, to Senate Environment and Natural Resources Committee (Jan. 22, 2020), available at http://www.flsenate.gov/Committees/Show/EN/MeetingPacket/4857/8671_MeetingPacket_4857.03.20.pdf on page 218-219 (last visited February 25, 2020).

⁴⁵ Mercante, James, *Hurricanes and Act of God: When the Best Defense is a Good Offense*, 18 U.S.F. MAR. L.J. (2006).

⁴⁶ Section 327.59, F.S.

⁴⁷ Section 327.59(1), F.S.

the environment.⁴⁸ The owner or operator may charge a reasonable fee for such services.⁴⁹ A marina owner may include this in a contractual agreement with a vessel owner.⁵⁰ Marina owners are not able to be held liable for damage to a vessel from a storm or hurricane, but may be liable for damage due to intentional acts or negligence when removing or securing a vessel.⁵¹

Port conditions are set by the Coast Guard Captain of the Port of a sector, or regulated area. There are five levels of port conditions.⁵² Port condition “Yankee” means a gale force winds of 34 knots or 39 miles per hour.

Burklow & Associates, Inc. v. Belcher is the only Florida state court decision that specifically mentions Florida’s marina evacuation statute.⁵³ A marina owner sued owners of 16 stored vessels for damages allegedly caused by the vessel owners’ failure to move their vessels after a hurricane warning was issued as was required by their marina contracts.⁵⁴ The court upheld the state statute and found that the vessel owners had no duty, contractually or otherwise, to move their vessels following the issuance of a hurricane watch or warning.⁵⁵ The court’s analysis pointed to the clear legislative policy “to ensure that protecting lives and safety of vessel owners is placed before interests of protecting property” when a hurricane approaches.⁵⁶

Effect of Proposed Changes

Section 9 amends s. 327.59, F.S., to prohibit, upon the issuance of a hurricane watch that affects the waters of marinas located in a deepwater seaport, vessels under 500 gross tons from remaining in the waters of such marinas that have been deemed not suitable for refuge during a hurricane.

The bill requires that vessel owners promptly remove their vessels from the waterways upon issuance of an evacuation order by the deepwater seaport. If the Coast Guard Captain of the Port sets the port condition to “Yankee” and a vessel owner has failed to remove his or her vessel from the waterway, a marina owner, operator, employee, or agent, regardless of any existing contractual provisions between the marina owner and vessel owner, is required to remove the vessel, or cause the vessel to be removed, if reasonable, from its slip. The marina owner may charge the vessel owner a reasonable fee for the service of removing the vessel.

The bill provides that a marina owner, operator, employee, or agent may not be held liable for any damage incurred to the vessel from a hurricane and is held harmless from removing the vessel from the waterways. However, the bill does not provide immunity to the marina owner, operator, employee, or agent for any damage caused by intentional acts or negligence when removing a vessel.

⁴⁸ Section 327.59(2), F.S.

⁴⁹ *Id.*

⁵⁰ Section 327.59(3), F.S.

⁵¹ Section 327.59(4), F.S.

⁵² 33 C.F.R. s. 165.720; 33 C.F.R. 165.781; *see also* Brazos Pilots Association, *Hurricane Season Port Conditions and Categories*, available at <http://www.brazospilots.com/Hurricane-Season.pdf> (last visited February 25, 2020).

⁵³ 719 So.2d 31 (Fla. Dist. Ct. App. 1998).

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

The bill provides that after a hurricane watch has been issued, if an owner or operator of a vessel has not removed the vessel pursuant to an order from the seaport, the owner or operator may be subject to a fine, which must be imposed and collected by the deepwater seaport that issued the evacuation order. The amount of the fine may not exceed three times the cost associated with removing the vessel from the waterway.

Airport Conflict of Interest in Contracting (Section 12)

Present Situation

Under current law, a contractor⁵⁷ or its affiliate⁵⁸ qualified with the FDOT may not also qualify to provide testing services, construction, engineering, and inspection (CEI) services to the FDOT.⁵⁹ This limitation does not apply to any design-build prequalification⁶⁰ and does not apply when the FDOT otherwise determines by written order entered at least 30 days before advertisement that the limitation is not in the public's best interests with respect to a particular contract for testing services and CEI services.

The FDOT has adopted procedures governing conflicts of interest involving professional services consultant contracts and design-build contracts. The procedure contains a set of matrixes illustrating the variety of scenarios encountered with prime or subcontractors and when the FDOT would consider the arrangement a conflict.⁶¹

In 2019, the Legislature passed HB 905,⁶² which provided that for a construction project wholly or partially funded by the FDOT and administered by a local governmental entity, the same entity may not perform both design services and CEI services. That bill exempted ports from that provision.⁶³

Effect of Proposed Changes

Section 12 amends s. 337.14(7), F.S., to exempt airports from the requirement that the same entity may not perform both design services and CEI services for a project wholly or partially funded by FDOT and administered by a local governmental entity. This exemption is identical to the one currently in place for seaports.

⁵⁷ Section 337.165(1)(d), F.S., defines the term "contractor" as any person who bids or applies to bid on work let by the department or any counterpart agency of any other state or of the federal government or who provides professional services to the FDOT or other such agency. The term includes the officers, directors, executives, shareholders active in management, employees, and agents of the contractor.

⁵⁸ Section 337.165(1)(a), F.S., defines the term "affiliate" as a predecessor or successor of a contractor under the same, or substantially the same, control or a group of business entities which are connected or associated so that one entity controls or has the power to control each of the other business entities. The term includes the officers, directors, executives, shareholders active in management, employees, and agents of the affiliate. The ownership by one business entity of a controlling interest in another business entity or a pooling of equipment or income among business entities shall be prima facie evidence that one business entity is an affiliate of another.

⁵⁹ Section 337.14(7), F.S.

⁶⁰ Design-build prequalification is pursuant to s. 337.11(7), F.S.

⁶¹ FDOT, Topic No.: 375-030-006-c, *Conflict of Interest Procedure for Department Contracts*, effective August 17, 2015, available at <https://www.fdot.gov/procurement/pubsmenu.shtml> (last visited February 26, 2020).

⁶² Chapter 2019-153, L.O.F.

⁶³ Section 311.09, F.S., lists Florida ports including the 15 deepwater ports and Port Citrus.

The bill also requires that by January 1, 2021, each airport and seaport must adopt controls for the oversight and prevention of conflicts of interest for providers of both design services and CEI services for the same seaport or airport project.

Conflict of interest controls must include:

- Conflict of interest guidance and policies for contracting entities.
- Conflict of interest identification, disclosure, and mitigation requirements for both the seaport or airport staff and the provider's staff.
- Management and oversight resources and guidance.
- Monitoring and evaluating compliance with applicable federal and state laws and regulations.
- Training requirements and programs for seaport or airport staff and the provider's staff on contract management.

The bill requires that such conflict of interest controls be incorporated into any contract entered into by a seaport or an airport with a provider of both design and CEI services. The contract must clearly define each party's roles, responsibilities, and duties for the project.

These requirements only apply to contracts executed after January 1, 2021, when a vendor is providing design and CEI services on the same project. Upon the request of a seaport or an airport, the FDOT may provide technical assistance in developing the conflict of interest controls.

Disposal of Real Property (Section 13)

Present Situation

The FDOT is authorized to convey any land, building, or other real or personal property it acquired if the FDOT determines the property is not needed for a transportation facility.⁶⁴ In such cases, the FDOT may dispose of the property through negotiations, sealed competitive bids, auctions, or any other means the FDOT deems to be in its best interest. The FDOT must advertise the disposal of property valued by the FDOT at greater than \$10,000.⁶⁵

If the FDOT determines the property requires significant costs to be incurred or that continued ownership of the property exposes the FDOT to significant liability risks, the FDOT may use the projected maintenance costs over the next ten years to offset the property's value in establishing a value for disposal of the property, even if that value is zero.⁶⁶

If the property is to be used for a public purpose, the property may be conveyed without consideration to a governmental entity.⁶⁷ The FDOT is authorized, but not required, to first offer

⁶⁴ Section 337.25(1) and (4), F.S.

⁶⁵ Section 337.25(4), F.S.

⁶⁶ Section 337.25(4)(d), F.S.

⁶⁷ Section 337.25(4)(b), F.S.

the property (“right of first refusal”) to the local government or other political subdivision in whose jurisdiction the property is situated except in the following situations:

- If the property was donated for transportation purposes and a transportation facility has not been constructed for at least five years, plans have not been prepared for the construction of such facility, and the property is not located in a transportation corridor, a governmental entity in whose jurisdiction the property lies may authorize reconveyance of the donated property for no consideration to the original donor or the donor’s heirs, successors, assigns, or representatives.⁶⁸
- If the property was originally acquired specifically to provide replacement housing for persons displaced by transportation projects, the FDOT may negotiate for the sale of such property as replacement housing.⁶⁹
- If in the FDOT’s discretion a sale to a person other than an abutting property owner would be inequitable, the property may be sold to the abutting owner for the FDOT’s current estimate of value.⁷⁰

Effect of Proposed Changes

Section 13 amends s. 337.25(4), F.S., requiring the FDOT, notwithstanding any provision of that section to the contrary, to afford a right of first refusal to the previous property owner (the owner from whom the FDOT originally acquired the property) for the FDOT’s current estimate of value except in the following situations:

- If the property was donated for transportation purposes and a transportation facility has not been constructed for at least five years, plans have not been prepared for the construction of such facility, and the property is not located in a transportation corridor, a governmental entity in whose jurisdiction the property lies may authorize reconveyance of the donated property for no consideration to the original donor or the donor’s heirs, successors, assigns, or representatives.⁷¹
- If the property was originally acquired specifically to provide replacement housing for persons displaced by transportation projects, the FDOT may negotiate for the sale of such property as replacement housing.⁷²

In cases of property to be used for a public purpose, in cases of property requiring significant costs to be incurred or exposing the FDOT to significant liability risks, or in cases in which the FDOT determines that a sale to any person other than an abutting property owner would be inequitable, the FDOT would be required to offer a right of first refusal to the previous property owner before being authorized to offer the property to the local government or other political subdivision in whose jurisdiction the property is located or to the abutting property owner.

The bill requires the FDOT to offer the previous property owner the right of first refusal in writing, by certified mail or hand delivery, and the offer of the right is effective upon the property owner’s receipt. The offer must provide the previous owner a minimum of 30 days to exercise the right. The previous owner must send notice of exercise of the right to the FDOT by

⁶⁸ Section 337.25(4)(a), F.S.

⁶⁹ Section 337.25(4)(c), F.S.

⁷⁰ Section 337.25(4)(e), F.S.

⁷¹ Section 337.25(4)(a), F.S.

⁷² Section 337.25(4)(c), F.S.

certified mail or hand delivery, effective upon dispatch. Once the right is exercised, the previous owner has 90 days to close on the property.

Metropolitan Planning Organization Project Priority Submissions to the FDOT (Sections 14 and 15)

Present Situation

The FDOT's adopted work program is the 5-year work program adopted by the FDOT pursuant to s. 339.135, F.S. In developing the adopted work program, each of the FDOT districts submits an annual district work program, which is the 5-year listing of transportation projects planned for each fiscal year, to the FDOT's central office for review and development of the tentative work program. The tentative work program is the 5-year listing of all transportation projects planned for each fiscal year which is developed by the FDOT's central office based on the district work programs.⁷³ Each year, a new fifth year is added for purposes of developing the tentative and adopted work programs.

With respect to development of the tentative work program, as outlined in s. 339.135(4), F.S., the district work program is developed cooperatively with the various metropolitan planning organizations (MPOs) around the state and must include, to the maximum extent feasible, the project priorities submitted by the MPOs to the FDOT's districts by October 1 of each year. The FDOT and an MPO may agree in writing to vary the submission date.⁷⁴

The FDOT advises that during a "normal" work program development cycle, submission of MPO project priorities by October 1 allows sufficient time for development of the tentative work program cycle. However, because the Legislature meets beginning in January in even-numbered years,⁷⁵ the tentative work program cycle is "compressed" by two months, creating a need for earlier submission of project information. The FDOT notes that no failure to submit a priority list has occurred, but earlier submission has been provided as a courtesy, rather than a mandate.⁷⁶

The MPOs are also required, in cooperation with the state and affected public transportation operators, to develop a transportation improvement program for the area within the jurisdiction of the MPO. Similar to work program development, each MPO is required to submit to the appropriate FDOT district a list of project priorities by October 1 of each year. Again, the FDOT and an MPO may agree in writing to vary the submission date. The MPO-approved lists must be used by the FDOT districts in developing the district work programs.⁷⁷

Effect of Proposed Changes

Section 14 and Section 15, respectively, amend s. 339.135(4)(c) and s. 339.175(8)(b), F.S., to revise from October 1 to August 1 the deadline for MPOs to submit their project priority lists for

⁷³ Section 339.135(1), F.S.

⁷⁴ Section 339.135(4)(c)2., F.S.

⁷⁵ Article III, s. 3(b), Florida Constitution.

⁷⁶ See the FDOT's 2020 Legislative Proposal, *Advance MPO Deadline to Submit Project Priorities* (on file in the Senate Infrastructure and Security Committee).

⁷⁷ Section 339.175(8), F.S.

purposes of developing the FDOT's tentative work program and for purposes of development of MPO transportation improvement programs.

Work Program Amendments (Section 14)

Present Situation

Current law authorizes the FDOT to amend its adopted work program and provides procedures for such amendments.⁷⁸ However, any work program amendment that transfers fixed capital outlay appropriations between categories or increases an appropriation category is subject to approval by the Legislative Budget Commission (LBC).

Prior to 2016, if a meeting of the LBC could not be held within 30 days after the FDOT submitted an amendment, the chair and vice chair of the LBC could approve the amendment.⁷⁹ In 2016, the Legislature repealed the authorization for LBC chair and vice chair approval if the LBC could not meet.⁸⁰ In 2019, this authorization was reinstated with an expiration date of July 1, 2020.⁸¹

Effect of Proposed Changes

Section 14 amends s. 339.135(7)(g), F.S., to remove the expiration of authorization for LBC chair and vice chair approval of the identified amendments to the FDOT's adopted work program, thereby making the provision permanent.

Passenger Rail Insurance Limits (Section 18)

Present Situation

Current law authorizes the FDOT to purchase liability insurance for its rail program, which may not exceed \$200 million and which may include coverage for the FDOT, certain freight rail operators, the National Railroad Passenger Corporation (AMTRAK), commuter rail service providers, governmental entities, or any ancillary development.⁸²

In 1997, federal law set the amount of passenger rail liability coverage for AMTRAK at \$200 million.⁸³ In 2015, the federal government required the liability coverage amount to be adjusted to reflect changes based on the consumer price index and required the adjustment every five years.⁸⁴ In 2016, the liability coverage amount was increased to \$294.3 million.⁸⁵

⁷⁸ Section 339.135(7), F.S.

⁷⁹ Section 339.135(7)(g), F.S. (2015).

⁸⁰ Section 16, ch. 2016-181, L.O.F.

⁸¹ Section 101, ch. 2019-116, L.O.F.

⁸² Section 341.302(17)(b), F.S.

⁸³ 49 U.S.C. s. 28103.

⁸⁴ As directed by s. 11415 of the FAST Act, Pub. L. No. 114-94 (114th Congress). Codified at 49 U.S.C. s. 28103 note.

⁸⁵ Federal Register, Vol. 81, No. 6, Monday, January 11, 2016, *Adjustment to Rail Passenger Transportation Liability Cap*, FR 2016-301, available at https://www.apta.com/wp-content/uploads/Resources/gap/fedreg/Documents/DOT-OST_Adjustment%20to%20Rail%20Passenger%20Transportation%20Liability%20Cap_Noticef.pdf (last visited February 17, 2020).

Effect of Proposed Changes

Section 18 amends s. 341.302(17)(b), F.S., increasing the required liability insurance coverage amount for the FDOT’s passenger rail systems from \$200 to \$295 million, consistent with the currently required federal rail liability insurance coverage amount.

Economic Development Transportation Projects (Sections 16, 24, 25, and 32)

Present Situation

The Economic Development Transportation Project program (also known as the “Road Fund”) is an incentive program intended to encourage specific businesses to locate, expand, or remain in the state.⁸⁶ Under this program, the FDOT, in consultation with the Department of Economic Opportunity (DEO) and Enterprise Florida, Inc., may make and approve expenditures and contract with the appropriate governmental body⁸⁷ for the direct costs of eligible transportation projects.⁸⁸

The FDOT, in consultation with the DEO, reviews each transportation project for approval and funding, and the FDOT must approve a project for it to be eligible for funding. The criteria the FDOT must consider in reviewing projects include: the cost per job created or retained, average wages for jobs created, capital investment by the business, local commitment, and local unemployment and poverty rates.⁸⁹

The program is appropriated on a non-recurring basis in the STTF and, according to the FDOT, in the absence of appropriation, the projects have to be deferred or deleted, causing a disruption in the tentative work program.⁹⁰ Recently, the FDOT has only programmed \$5 million for this program in its tentative work program. In the past 3 years, the General Appropriations Act has not appropriated any funds to the program; instead, individual local projects were appropriated in the budget.⁹¹ According to the FDOT, the program has been underutilized because the Legislature has used a unique budget category for local projects.⁹²

Effect of Proposed Changes

Section 16 repeals s. 339.2821, F.S., containing the Economic Development Transportation Project program (“Road Fund”).

⁸⁶ Section 339.2821, F.S.

⁸⁷ Defined in s. 339.2821(1)(b)1., F.S., to mean “an instrumentality of the state or a county, municipality, district, authority, board, or commission, or an agency thereof, within which jurisdiction the transportation project is located and which is responsible to the [FDOT] for the transportation project.”

⁸⁸ Section 339.2821(1)(b)2., F.S., defines “transportation project” to mean “a transportation facility, as defined in s. 334.03, F.S., which the [FDOT], in consultation with the Department of Economic Opportunity, deems necessary to facilitate the economic development and growth of the state.”

⁸⁹ Section 339.2821(2), F.S.

⁹⁰ FDOT, Economic Development Transportation Fund Fact Sheet. *See also* the FDOT’s 2020 Legislative Proposal, *Deletion of Road Fund (SED)*. (Both documents on file in the Senate Infrastructure and Security Committee).

⁹¹ *See* Specific Appropriation 1921A, s. 5, ch. 2017-70, L.O.F.; Specific Appropriation 1906A, s. 5, ch. 2018-9, L.O.F.; and Specific Appropriation 1989A, s. 5, ch. 2019-115, L.O.F.

⁹² *See* the FDOT’s 2020 Legislative Proposal, *Deletion of Road Fund (SED)*.

The bill also removes references to the program in the following statutes to conform to the repeal of the program:

- **Section 24** amends s. 288.0656(7)(a), F.S., relating to the Rural Economic Development Initiative, to remove reference to “transportation projects under s. 339.2821.”
- **Section 25** amends s. 339.08(1), F.S., relating to use of moneys in the STTF, to remove authorization to pay the cost of economic development transportation projects in accordance with s. 339.2821, F.S.
- **Section 32** amends s. 377.809(4)(a), F.S., relating to the Energy Economic Zone Pilot Program, to remove a reference to business eligibility for priority funding under s. 339.2821, F.S.

The FDOT has stated that if the program is repealed, then this “would release FDOT from having to program associated projects into the 5-year Work Program totaling \$5 million.”⁹³

Central Florida Expressway Authority (Section 23)

Present Situation

Part III of ch. 348, F.S., creates the Central Florida Expressway Authority (CFX). It is a multi-county, special district that has the right to acquire, hold, construct, improve, maintain, operate, own, and lease in the capacity of lessor the Central Florida Expressway System.⁹⁴ It is the successor to the Orlando-Orange County Expressway Authority. The areas served by the CFX include Lake, Orange, Osceola, and Seminole Counties.⁹⁵

Section 348.754 (1)(c), F.S., prohibits the CFX from constructing any extensions, additions, or improvements to the expressway system in Lake County without obtaining prior consent of the secretary of the FDOT “to ensure the continued financial feasibility of the portion of the Wekiva Parkway to be constructed by the department.” The Wekiva Parkway is a cooperative effort between the FDOT and the CFX. The Wekiva Parkway (SR 429) will connect to SR 417, completing a beltway around central Florida. In 2018, 13 miles of the parkway were open to traffic. The entire Wekiva Parkway is scheduled to be open to traffic in 2022.⁹⁶

Effect of Proposed Changes

Section 23 amends s. 348.754, F.S., to repeal the requirement that the CFX may not, without the prior consent of the secretary of the FDOT, construct any extensions, additions, or improvements to the expressway system in Lake County. The CFX may expand the system into Lake County without obtaining the FDOT secretary’s approval for such expansion.

⁹³ *Id.*

⁹⁴ Section 348.754(1)(a), F.S.

⁹⁵ *Id.*

⁹⁶ FDOT, *Wekiva Parkway*, available at <http://www.wekivaparkway.com/> (Last visited February 24, 2020).

Obsolete References to the General Revenue Service Charge (Sections 4, 5, 6, and 8)

Present Situation

Section 215.20(1), F.S., appropriates from revenue deposited into most state trust funds⁹⁷ an 8 percent service charge, which represents the estimated pro rata share of the cost of general government. All such appropriations are deposited into the General Revenue Fund.

Section 215.211(1), F.S., however, eliminated the service charge beginning July 1, 2000, for taxes distributed under:

- Section 206.606(1), F.S., relating to the distribution of motor and diesel fuel taxes;
- Section 212.0501(6), F.S., relating to taxes on diesel fuel used in self-propelled off-road equipment for business purposes; and
- Section 319.32(5), F.S., relating to the disposition of fees from certificate of title transactions.

Additionally, s. 215.211(2), F.S., eliminated the service charge beginning July 1, 2001, on taxes distributed under s. 206.608, F.S., relating to the State Comprehensive Enhanced Transportation System Tax.

Although the service charge on the specified taxes has been eliminated, references to the service charge remain in statute for the described taxes or fees.

Effect of Proposed Changes

Sections 4, 5, 6, and 8, respectively, remove the obsolete references to the General Revenue service charge that remain in ss. 206.606(1), 206.608, 212.0501(6), and 319.32(5), F.S.

Airport Zoning Regulations – Technical Revision (Section 10)

Section 333.03, F.S., requires every political subdivision having an airport hazard area⁹⁸ within its territorial limits to adopt, administer, and enforce airport protection zoning regulations for such airport hazard area. That statute contains minimum requirements for airport protection zoning regulations, including the requirement for documentation showing compliance with the federal requirement for notification of proposed construction or alteration of structures and “a valid aeronautical study” submitted by each person applying for a permit for the construction or alteration of any obstruction.

Effect of Proposed Changes

Section 10 amends s. 333.03(1)(c), F.S., to replace the reference to “a valid aeronautical study” with the federal terminology, “a final valid determination of the Federal Aviation Administration.”

⁹⁷ Section 215.22, F.S., sets out a list of items and trust funds that are exempt from the service charge, including trust funds administered by the Department of Transportation.

⁹⁸ An “airport hazard” is “an obstruction to air navigation which affects the safe and efficient use of navigable airspace or the operation of planned or existing air navigation and communication facilities.” Section 333.01(3), F.S. An “airport hazard area” is “any area of land or water upon which an airport hazard might be established.” Section 333.01(4), F.S.

The FDOT advises “[t]his revision will advance the agency’s mission by clarifying the federal document to be provided to the FDOT for review and comment on the local government permit application. This is a technical change in language only. It will not change the manner in which [FDOT] perform[s] these functions.”⁹⁹

Effective Date

The bill is effective July 1, 2020, except as otherwise provided.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None. The bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenue in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Drivers and pedestrians who violate the new Move Over Law related to road or bridge maintenance or construction vehicles engaged in the performance of maintenance or construction for a governmental entity may be subject to a noncriminal traffic infraction.

⁹⁹ See the FDOT’s 2020 Legislative Proposal, *Airport Determination Terminology* (on filed in the Senate Infrastructure and Security Committee.)

Vessel owners may incur increased costs from moving their vessels pursuant to a movement order, from fees charged by a marina owner for the service of moving a vessel, or due to penalties incurred from noncompliance with a movement order.

C. Government Sector Impact:

The FDOT may incur administrative expenses in Fiscal Year 2023-2024 associated with the removal of the FRE from the FDOT's organization and with the FDOT secretary's naming of a departmental entity to which the secretary must delegate rail responsibilities. However, the amount of any such expenses should be minimal, as the FDOT currently funds the expenses of both the FRE and its Rail Office.

Local governments may lose opportunities to receive conveyance of surplus property from the FDOT without consideration if the previous owners exercise the right of first refusal provided in the bill.

The FDOT may incur unknown expenses associated with purchasing additional rail liability insurance. However, the cost of any such additional insurance is unknown and, under current law, the costs to the FDOT would be shared with any covered freight rail operator, AMTRAK, commuter rail service providers, governmental entities, or ancillary development.

Ports may see a positive fiscal impact due to increased collection of penalties from vessel owners that do not comply with a movement order and cost savings associated with prevention of damage to port facilities and infrastructure.

Local governments operating airports may see a reduction in expenditures by being able to use the same entity to provide both design and CEI services. Because the cost savings is associated with specific projects, this reduction in expenditures is indeterminate.

Any impact on expenditures or toll revenues are unknown related to the provisions that remove the prohibition on the CFX to expand the system into Lake County. The CFX may expand the system into Lake County without obtaining the FDOT secretary's approval for such expansion. The CFX 2040 Master Plan includes information about new conceptual projects that expand into Lake County, including the Lake/Orange Connector, and discusses two major economic development initiatives of the county that may impact the county's transportation needs.¹⁰⁰

The FDOT has stated that the repeal of the Economic Development Transportation Project ("Road Fund") program "would release FDOT from having to program associated projects into the 5-year Work Program totaling \$5 million" for each year of the work program.¹⁰¹ These funds would instead be programmed into the work program in other categories.

¹⁰⁰ CFX, *Visioning + 2040 Master Plan*, at pp. 13-14 and 42, May 5, 2016, available at https://www.cfxway.com/wp-content/uploads/2016/06/2040MasterPlan-5_5_16.pdf (last visited February 27, 2020).

¹⁰¹ *Id.*

The Department of Highway Safety and Motor Vehicles will incur costs to include the requirements of the new Move Over Law for road or bridge maintenance or construction vehicles in the department's educational awareness campaign relating to the Move Over Act and in all newly printed driver license educational materials.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 20.23, 201.15, 206.46, 206.606, 206.608, 212.0501, 288.0656, 311.101, 319.32, 327.59, 333.03, 337.14, 337.25, 339.08, 339.135, 339.175, 341.302, 341.303, 341.8203, 341.822, 341.825, 341.836, 341.838, 341.839, 341.840, 343.58, 348.754, and 377.809.

This bill creates section 334.275 of the Florida Statutes.

This bill repeals the following sections of the Florida Statutes: 339.2821 and 341.8201.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Recommended CS by Appropriations Subcommittee on Transportation, Tourism, and Economic Development on February 25, 2020:

The committee substitute:

- Clarifies that the rail-related responsibilities are those of the FDOT.
- Prohibits, upon the issuance of a hurricane watch that affects the waters of marinas located in a deepwater seaport, vessels under 500 gross tons from remaining in the waters of such marinas that have been deemed not suitable for refuge during a hurricane.
- Excludes airports from the prohibition against using the same entity to perform design services and CEI services on the same project, as are seaports under current law.
- Requires airports and seaports by January 1, 2021, to adopt conflict of interest controls for contracting with an entity to perform both design and CEI services on the same seaport or airport project.
- Repeals the prohibition on the Central Florida Expressway Authority from constructing any extensions, additions, or improvements to the expressway system in Lake County without the prior consent of the secretary of the FDOT.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/25/2020	.	
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Appropriations Subcommittee on Transportation, Tourism, and Economic Development (Lee) recommended the following:

Senate Amendment (with title amendment)

Delete lines 102 - 109

and insert:

(f)~~1-~~ The department shall have responsibility for developing and operating the high-speed and passenger rail systems established in chapter 341, directing funding for passenger rail systems under s. 341.303, ensuring general rail safety, coordinating efforts to enhance passenger rail safety in the state, and coordinating publicly funded passenger rail



182020

11 operations in the state, including freight rail interoperability
12 issues, ~~shall be delegated by the secretary~~

13

14 ===== T I T L E A M E N D M E N T =====

15 And the title is amended as follows:

16 Delete lines 4 - 5

17 and insert:

18 Transportation; providing duties for the department

19 related to rail systems; revising



274560

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/25/2020	.	
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Appropriations Subcommittee on Transportation, Tourism, and Economic Development (Lee) recommended the following:

Senate Amendment (with title amendment)

Between lines 332 and 333

insert:

Section 9. Subsection (1) of section 327.59, Florida Statutes, is amended, and subsection (5) is added to that section, to read:

327.59 Marina evacuations.—

(1) Except as provided in this section ~~After June 1, 1994,~~ marinas may not adopt, maintain, or enforce policies pertaining



274560

11 to evacuation of vessels which require vessels to be removed
12 from marinas following the issuance of a hurricane watch or
13 warning, in order to ensure that protecting the lives and safety
14 of vessel owners is placed before interests of protecting
15 property.

16 (5) Upon the issuance of a hurricane watch affecting the
17 waters of marinas located in a deepwater seaport, vessels under
18 500 gross tons may not remain in the waters of such marinas that
19 have been deemed not suitable for refuge during a hurricane.
20 Vessel owners shall promptly remove their vessels from the
21 waterways upon issuance of an evacuation order by the deepwater
22 seaport. If the United States Coast Guard captain of the port
23 sets the port condition to "Yankee" and a vessel owner has
24 failed to remove a vessel from the waterway, the marina owner,
25 operator, employee, or agent, regardless of any existing
26 contractual provisions between the marina owner and the vessel
27 owner, shall remove the vessel, or cause the vessel to be
28 removed, if reasonable, from its slip and may charge the vessel
29 owner a reasonable fee for any such services rendered. A marina
30 owner, operator, employee, or agent may not be held liable for
31 any damage incurred to a vessel from a hurricane and is held
32 harmless as a result of such actions to remove the vessel from
33 the waterways. Nothing in this section may be construed to
34 provide immunity to a marina owner, operator, employee, or agent
35 for any damage caused by intentional acts or negligence when
36 removing a vessel pursuant to this section. After the hurricane
37 watch has been issued, the owner or operator of any vessel that
38 has not been removed from the waterway of the marina, pursuant
39 to an order from the deepwater seaport, may be subject to a



274560

40 fine, which must be imposed and collected by the deepwater
41 seaport that issued the evacuation order if assessed, in an
42 amount not exceeding three times the cost associated with
43 removing the vessel from the waterway.

44

45 ===== T I T L E A M E N D M E N T =====

46 And the title is amended as follows:

47 Delete line 26

48 and insert:

49 Transportation Trust Fund; amending s. 327.59, F.S.;

50 prohibiting vessels under a specified weight from

51 remaining in certain marinas that have been deemed

52 unsuitable for refuge during a hurricane after the

53 issuance of a hurricane watch; requiring a marina

54 owner, operator, employee, or agent to remove

55 specified vessels under certain circumstances;

56 providing that such owner, operator, employee, or

57 agent may charge the vessel owner a reasonable fee for

58 such removal and may not be held liable for any

59 damages as a result of such removal; providing

60 construction; providing that the owners or operators

61 of certain vessels may be subject to a fine that the

62 deepwater seaport issuing an evacuation order is

63 required to impose and collect; amending s. 333.03,

64 F.S.;



822698

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/25/2020	.	
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Appropriations Subcommittee on Transportation, Tourism, and Economic Development (Lee) recommended the following:

Senate Amendment (with title amendment)

Between lines 398 and 399

insert:

Section 11. Subsection (7) of section 337.14, Florida Statutes, is amended to read:

337.14 Application for qualification; certificate of qualification; restrictions; request for hearing.—

(7) (a) A "contractor" as defined in s. 337.165(1) (d) or his or her "affiliate" as defined in s. 337.165(1) (a) qualified with



822698

11 the department under this section may not also qualify under s.
12 287.055 or s. 337.105 to provide testing services, construction,
13 engineering, and inspection services to the department. This
14 limitation does not apply to any design-build prequalification
15 under s. 337.11(7) and does not apply when the department
16 otherwise determines by written order entered at least 30 days
17 before advertisement that the limitation is not in the best
18 interests of the public with respect to a particular contract
19 for testing services, construction, engineering, and inspection
20 services. This subsection does not authorize a contractor to
21 provide testing services, or provide construction, engineering,
22 and inspection services, to the department in connection with a
23 construction contract under which the contractor is performing
24 any work.

25 (b) Notwithstanding any other provision of law to the
26 contrary, for a project that is wholly or partially funded by
27 the department and administered by a local governmental entity,
28 except for a seaport listed in s. 311.09 or an airport as
29 defined in s. 332.004, the entity performing design and
30 construction engineering and inspection services may not be the
31 same entity.

32 1. By January 1, 2021, each seaport and airport shall adopt
33 necessary controls for oversight and prevention of conflicts of
34 interest when an entity is engaged to provide design services
35 and to provide construction engineering and inspection services
36 for the same seaport or airport project.

37 2. Conflict of interest controls must, at a minimum,
38 address:

39 a. Conflict of interest guidance and policies for



822698

40 contracting entities.
41 b. Conflict of interest identification, disclosure, and
42 mitigation requirements for both the seaport or airport staff
43 and the entity's staff.
44 c. Management and oversight resources and guidance.
45 d. Monitoring and evaluating compliance with applicable
46 federal and state laws and regulations.
47 e. Training requirements and programs for seaport or
48 airport staff and the entity's staff on contract management.
49 3. Conflict of interest controls required by subparagraphs
50 1. and 2. shall be incorporated by reference into any contract
51 entered into by a seaport or an airport under this paragraph.
52 The contract must also clearly define each contracting party's
53 roles, responsibilities, and duties for a project.
54 4. The requirements of this paragraph apply only to
55 contracts executed after January 1, 2021, under which an entity
56 is providing design services and construction engineering and
57 inspection services on the same project.
58 5. Upon the request of a seaport or an airport, the
59 department may provide technical assistance in developing the
60 conflict of interest controls required by this paragraph.

61
62 ===== T I T L E A M E N D M E N T =====

63 And the title is amended as follows:
64 Between lines 43 and 44
65 insert:
66 amending s. 337.14, F.S.; expanding an exception to a
67 certain prohibition on contracting to include airport
68 projects; requiring seaports and airports, by a



822698

69 specified date, to adopt conflict of interest
70 controls; specifying requirements for such controls;
71 requiring that such controls be incorporated by
72 reference in certain contracts entered into by
73 seaports and airports; providing applicability;
74 authorizing the department to provide technical
75 assistance upon the request of a seaport or an
76 airport;



167288

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/25/2020	.	
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Appropriations Subcommittee on Transportation, Tourism, and Economic Development (Taddeo) recommended the following:

Senate Amendment (with title amendment)

Between lines 463 and 464

insert:

Section 12. Subsection (3) of section 338.166, Florida Statutes, is amended to read:

338.166 High-occupancy toll lanes or express lanes.—

(3) Any remaining toll revenue from the high-occupancy toll lanes or express lanes shall be used by the department for the construction, maintenance, or improvement of any road or any



167288

11 public transportation project on the State Highway System within
12 the county or counties in which the toll revenues were collected
13 or to support express bus service on the facility where the toll
14 revenues were collected.

15

16 ===== T I T L E A M E N D M E N T =====

17 And the title is amended as follows:

18 Delete line 48

19 and insert:

20 first refusal; amending s. 338.166, F.S.; expanding
21 purposes for which the department is required to use
22 remaining toll revenue from high-occupancy toll lanes
23 or express lanes; amending s. 339.135, F.S.;

24 conforming



566528

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/25/2020	.	
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Appropriations Subcommittee on Transportation, Tourism, and
Economic Development (Lee) recommended the following:

Senate Amendment (with title amendment)

Between lines 1179 and 1180

insert:

Section 21. Subsection (1) of section 348.754, Florida
Statutes, is amended to read:

348.754 Purposes and powers.—

(1) (a) The authority created and established under this
part is granted and has the right to acquire, hold, construct,
improve, maintain, operate, own, and lease in the capacity of



566528

11 lessor the Central Florida Expressway System, hereinafter
12 referred to as "system." Except as otherwise specifically
13 provided by law, including paragraph (2)(n), the area served by
14 the authority shall be within the geographical boundaries of
15 Orange, Seminole, Lake, Brevard, and Osceola Counties.

16 (b) In the construction of the Central Florida Expressway
17 System, the authority may construct any extensions, additions,
18 or improvements to the system or appurtenant facilities,
19 including all necessary approaches, roads, bridges, avenues of
20 access, rapid transit, trams, fixed guideways, thoroughfares,
21 and boulevards with any changes, modifications, or revisions of
22 the project which are deemed desirable and proper.

23 ~~(c) Notwithstanding any other provision of this section to~~
24 ~~the contrary, to ensure the continued financial feasibility of~~
25 ~~the portion of the Wekiva Parkway to be constructed by the~~
26 ~~department, the authority may not, without the prior consent of~~
27 ~~the secretary of the department, construct any extensions,~~
28 ~~additions, or improvements to the expressway system in Lake~~
29 ~~County.~~

30
31 ===== T I T L E A M E N D M E N T =====

32 And the title is amended as follows:

33 Delete line 71

34 and insert:

35 the state; amending s. 348.754, F.S.; deleting a
36 provision prohibiting the Central Florida Expressway
37 Authority from constructing extensions, additions, or
38 improvements to the Central Florida Expressway System
39 in Lake County without the consent of the Secretary of



566528

40 Transportation; amending ss. 288.0656, 339.08,
41 341.825,

By the Committee on Infrastructure and Security

596-03448-20

20207054__

1 A bill to be entitled
 2 An act relating to transportation; amending s. 20.23,
 3 F.S.; revising the organization of the Department of
 4 Transportation; revising and providing for the
 5 delegation of certain responsibilities; revising
 6 provisions relating to the operation of a rail
 7 enterprise; amending s. 201.15, F.S.; revising uses
 8 for distributions made under the State Transportation
 9 Trust Fund in specified fiscal years; providing for
 10 the expiration of a specified provision; beginning in
 11 a specified fiscal year, requiring the allocation of a
 12 certain amount of funds to the State Transportation
 13 Trust Fund to be used for rail safety; amending s.
 14 206.46, F.S.; revising a limitation on an annual
 15 transfer from the State Transportation Trust Fund to
 16 the Right-of-Way Acquisition and Bridge Construction
 17 Trust Fund; amending ss. 206.606, 206.608, and
 18 212.0501, F.S.; removing a requirement for deduction
 19 of certain service charges before the distribution of
 20 certain moneys; amending s. 311.101, F.S.; deleting
 21 the scheduled expiration of funding for the Intermodal
 22 Logistics Center Infrastructure Support Program;
 23 amending s. 319.32, F.S.; removing a requirement for
 24 deduction of certain service charges before depositing
 25 fees for a certificate of title into the State
 26 Transportation Trust Fund; amending s. 333.03, F.S.;
 27 requiring airport protection zoning regulations to
 28 require certain permit applicants to submit a final
 29 valid determination from the Federal Aviation

Page 1 of 53

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

596-03448-20

20207054__

30 Administration; creating s. 334.275, F.S.; requiring a
 31 driver to vacate lanes or reduce vehicle speed on
 32 certain highways under certain conditions; providing
 33 an exception; authorizing portable radar speed display
 34 units to show or display certain lights under
 35 specified conditions; requiring the Department of
 36 Highway Safety and Motor Vehicles to include certain
 37 requirements in its specified educational awareness
 38 campaign and in driver license educational materials;
 39 requiring pedestrians using road rights-of-way to
 40 yield the right-of-way to authorized road or bridge
 41 maintenance or construction vehicles; providing an
 42 exception; providing applicability; providing
 43 construction; providing noncriminal penalties;
 44 amending s. 337.25, F.S.; requiring the Department of
 45 Transportation to afford a right of first refusal to
 46 certain individuals under specified circumstances;
 47 providing requirements and procedures for the right of
 48 first refusal; amending s. 339.135, F.S.; conforming
 49 provisions to changes made by the act; deleting the
 50 scheduled expiration of provisions relating to
 51 approval of amendments submitted to the Legislative
 52 Budget Commission by the department; amending s.
 53 339.175, F.S.; revising the date by which a
 54 metropolitan planning organization must submit a list
 55 of project priorities to the appropriate department
 56 district; repealing s. 339.2821, F.S., relating to
 57 economic development transportation projects; amending
 58 s. 341.302, F.S.; revising the maximum amount of

Page 2 of 53

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

596-03448-20

20207054__

59 liability insurance the department may purchase;
 60 revising department responsibilities regarding rail
 61 systems; amending s. 341.303, F.S.; revising
 62 department funding authority regarding rail systems;
 63 conforming provisions to changes made by the act;
 64 repealing s. 341.8201, F.S., relating to the "Florida
 65 Rail Enterprise Act" short title; amending s.
 66 341.8203, F.S.; revising definitions; amending s.
 67 341.822, F.S.; requiring the department, rather than
 68 the Florida Rail Enterprise, to locate, plan, design,
 69 finance, construct, maintain, own, operate,
 70 administer, and manage the high-speed rail system in
 71 the state; amending ss. 288.0656, 339.08, 341.825,
 72 341.836, 341.838, 341.839, 341.840, 343.58, and
 73 377.809, F.S.; conforming provisions to changes made
 74 by the act; providing effective dates.

75
 76 Be It Enacted by the Legislature of the State of Florida:

77
 78 Section 1. Effective July 1, 2023, paragraphs (a) and (f)
 79 of subsection (4) of section 20.23, Florida Statutes, are
 80 amended to read:

81 20.23 Department of Transportation.—There is created a
 82 Department of Transportation which shall be a decentralized
 83 agency.

84 (4) (a) The operations of the department shall be organized
 85 into seven districts, each headed by a district secretary, and a
 86 turnpike enterprise ~~and a rail enterprise, each enterprise~~
 87 headed by an executive director. The district secretaries and

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88 the executive director ~~directors~~ shall be registered
 89 professional engineers in accordance with ~~the provisions of~~
 90 chapter 471 or the laws of another state, or, in lieu of
 91 professional engineer registration, a district secretary or the
 92 executive director may hold an advanced degree in an appropriate
 93 related discipline, such as a Master of Business Administration.
 94 The headquarters of the districts shall be located in Polk,
 95 Columbia, Washington, Broward, Volusia, Miami-Dade, and
 96 Hillsborough Counties. The headquarters of the turnpike
 97 enterprise shall be located in Orange County. ~~The headquarters~~
 98 ~~of the rail enterprise shall be located in Leon County.~~ In order
 99 to provide for efficient operations and to expedite the
 100 decisionmaking process, the department shall provide for maximum
 101 decentralization to the districts.

102 (f) ~~1-~~ The responsibility for developing and operating the
 103 high-speed and passenger rail systems established in chapter
 104 341, directing funding for passenger rail systems under s.
 105 341.303, ensuring general rail safety, coordinating efforts to
 106 enhance passenger rail safety in the state, and coordinating
 107 publicly funded passenger rail operations in the state,
 108 including freight rail interoperability issues, shall be
 109 delegated to a departmental entity to be named by the secretary
 110 ~~to the executive director of the rail enterprise, who shall~~
 111 ~~serve at the pleasure of the secretary. The executive director~~
 112 ~~shall report directly to the secretary, and the rail enterprise~~
 113 ~~shall operate pursuant to ss. 341.8201-341.842.~~

114 ~~2. To facilitate the most efficient and effective~~
 115 ~~management of the rail enterprise, including the use of best~~
 116 ~~business practices employed by the private sector, the rail~~

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117 ~~enterprise, except as provided in s. 287.055, shall be exempt~~
 118 ~~from departmental policies, procedures, and standards, subject~~
 119 ~~to the secretary having the authority to apply any such~~
 120 ~~policies, procedures, and standards to the rail enterprise from~~
 121 ~~time to time as deemed appropriate.~~

122 Section 2. Paragraph (a) of subsection (4) of section
 123 201.15, Florida Statutes, is amended to read:

124 201.15 Distribution of taxes collected.—All taxes collected
 125 under this chapter are hereby pledged and shall be first made
 126 available to make payments when due on bonds issued pursuant to
 127 s. 215.618 or s. 215.619, or any other bonds authorized to be
 128 issued on a parity basis with such bonds. Such pledge and
 129 availability for the payment of these bonds shall have priority
 130 over any requirement for the payment of service charges or costs
 131 of collection and enforcement under this section. All taxes
 132 collected under this chapter, except taxes distributed to the
 133 Land Acquisition Trust Fund pursuant to subsections (1) and (2),
 134 are subject to the service charge imposed in s. 215.20(1).
 135 Before distribution pursuant to this section, the Department of
 136 Revenue shall deduct amounts necessary to pay the costs of the
 137 collection and enforcement of the tax levied by this chapter.
 138 The costs and service charge may not be levied against any
 139 portion of taxes pledged to debt service on bonds to the extent
 140 that the costs and service charge are required to pay any
 141 amounts relating to the bonds. All of the costs of the
 142 collection and enforcement of the tax levied by this chapter and
 143 the service charge shall be available and transferred to the
 144 extent necessary to pay debt service and any other amounts
 145 payable with respect to bonds authorized before January 1, 2017,

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146 secured by revenues distributed pursuant to this section. All
 147 taxes remaining after deduction of costs shall be distributed as
 148 follows:

149 (4) After the required distributions to the Land
 150 Acquisition Trust Fund pursuant to subsections (1) and (2) and
 151 deduction of the service charge imposed pursuant to s.
 152 215.20(1), the remainder shall be distributed as follows:

153 (a) The lesser of 24.18442 percent of the remainder or
 154 \$541.75 million in each fiscal year shall be paid into the State
 155 Treasury to the credit of the State Transportation Trust Fund.
 156 Of such funds, \$75 million for each fiscal year shall be
 157 transferred to the General Revenue Fund. Notwithstanding any
 158 other law, the remaining amount credited to the State
 159 Transportation Trust Fund shall be used for:

160 1. Capital funding for the New Starts Transit Program,
 161 authorized by Title 49, U.S.C. s. 5309 and specified in s.
 162 341.051, in the amount of 10 percent of the funds;

163 2. The Small County Outreach Program specified in s.
 164 339.2818, in the amount of 10 percent of the funds;

165 3. The Strategic Intermodal System specified in ss. 339.61,
 166 339.62, 339.63, and 339.64, in the amount of 75 percent of the
 167 funds after deduction of the payments required pursuant to
 168 subparagraphs 1. and 2.; and

169 4.a. The Transportation Regional Incentive Program
 170 specified in s. 339.2819, in the amount of 25 percent of the
 171 funds after deduction of the payments required pursuant to
 172 subparagraphs 1. and 2.

173 b. In fiscal years 2020-2021, 2020-2022, and 2022-2023, the
 174 first \$60 million of the funds allocated pursuant to this

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175 subparagraph ~~must shall~~ be allocated annually to the Florida
176 Rail Enterprise for the purposes established in s. 341.303(5).
177 This sub-subparagraph expires July 1, 2023.

178 c. Beginning in the 2023-2024 fiscal year, the first \$60
179 million of the funds allocated pursuant to this subparagraph
180 must be allocated annually to the State Transportation Trust
181 Fund to be used for rail projects and rail safety improvements
182 as provided in s. 341.303(5).

183 Section 3. Subsection (2) of section 206.46, Florida
184 Statutes, is amended to read:

185 206.46 State Transportation Trust Fund.—

186 (2) Notwithstanding any other ~~provision provisions~~ of law,
187 from the revenues deposited into the State Transportation Trust
188 Fund a maximum of 7 percent in each fiscal year shall be
189 transferred into the Right-of-Way Acquisition and Bridge
190 Construction Trust Fund created in s. 215.605~~7~~, as needed to meet
191 the requirements of the documents authorizing the bonds issued
192 or proposed to be issued under ss. 215.605 and 337.276 or at a
193 minimum amount sufficient to pay for the debt service coverage
194 requirements of outstanding bonds. Notwithstanding the 7 percent
195 annual transfer authorized in this subsection, the annual amount
196 transferred under this subsection shall not exceed an amount
197 necessary to provide the required debt service coverage levels
198 for a maximum debt service not to exceed ~~\$350~~ \$275 million. Such
199 transfer shall be payable primarily from the motor and diesel
200 fuel taxes transferred to the State Transportation Trust Fund
201 from the Fuel Tax Collection Trust Fund.

202 Section 4. Subsection (1) of section 206.606, Florida
203 Statutes, is amended to read:

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204 206.606 Distribution of certain proceeds.—

205 (1) Moneys collected pursuant to ss. 206.41(1) (g) and
206 206.87(1) (e) shall be deposited in the Fuel Tax Collection Trust
207 Fund. Such moneys, after deducting ~~the service charges imposed~~
208 ~~by s. 215.207~~, the refunds granted pursuant to s. 206.41~~7~~ and the
209 administrative costs incurred by the department in collecting,
210 administering, enforcing, and distributing the tax, which
211 administrative costs may not exceed 2 percent of collections,
212 shall be distributed monthly to the State Transportation Trust
213 Fund, except that:

214 (a) Each fiscal year, \$6.3 ~~\$6.30~~ million shall be
215 transferred to the Fish and Wildlife Conservation Commission ~~in~~
216 ~~each fiscal year~~ and deposited in the Invasive Plant Control
217 Trust Fund to be used for aquatic plant management, including
218 nonchemical control of aquatic weeds, research into nonchemical
219 controls, and enforcement activities. The commission shall
220 allocate at least \$1 million of such funds to the eradication of
221 melaleuca.

222 (b) Annually, \$2.5 million shall be transferred to the
223 State Game Trust Fund in the Fish and Wildlife Conservation
224 Commission and used for recreational boating activities and
225 freshwater fisheries management and research. The transfers must
226 be made in equal monthly amounts beginning on July 1 of each
227 fiscal year. The commission shall annually determine where unmet
228 needs exist for boating-related activities~~7~~, and may fund such
229 activities in counties where, due to the number of vessel
230 registrations, sufficient financial resources are unavailable.

231 1. A minimum of \$1.25 million shall be used to fund local
232 projects to provide recreational channel marking and other

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233 uniform waterway markers, public boat ramps, lifts, and hoists,
 234 marine railways, and other public launching facilities, derelict
 235 vessel removal, and other local boating-related activities. In
 236 funding the projects, the commission shall give priority
 237 consideration to:

238 a. Unmet needs in counties having populations of 100,000 or
 239 fewer.

240 b. Unmet needs in coastal counties having a high level of
 241 boating-related activities from individuals residing in other
 242 counties.

243 2. The remaining \$1.25 million may be used for recreational
 244 boating activities and freshwater fisheries management and
 245 research.

246 3. The commission may adopt rules to administer a Florida
 247 Boating Improvement Program.

248 The commission shall prepare and make available on its ~~Internet~~
 249 website an annual report outlining the status of its Florida
 250 Boating Improvement Program, including the projects funded, and
 251 a list of counties the whose needs of which are unmet due to
 252 insufficient financial resources from vessel registration fees.

253 (c) ~~0.65 percent~~ Of the moneys collected pursuant to s.
 254 206.41(1)(g), 0.65 percent shall be transferred to the
 255 Agricultural Emergency Eradication Trust Fund.

256 (d) Each fiscal year, \$13.4 million ~~in fiscal year 2007-~~
 257 ~~2008 and each fiscal year thereafter~~ of the moneys attributable
 258 to the sale of motor and diesel fuel at marinas shall be
 259 transferred from the Fuel Tax Collection Trust Fund to the
 260 Marine Resources Conservation Trust Fund in the Fish and
 261

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262 Wildlife Conservation Commission.

263 Section 5. Section 206.608, Florida Statutes, is amended to
 264 read:

265 206.608 State Comprehensive Enhanced Transportation System
 266 Tax; deposit of proceeds; distribution.—Moneys received pursuant
 267 to ss. 206.41(1)(f) and 206.87(1)(d) shall be deposited in the
 268 Fuel Tax Collection Trust Fund~~, and, after deducting the service~~
 269 ~~charge imposed in chapter 215 and~~ administrative costs incurred
 270 by the department in collecting, administering, enforcing, and
 271 distributing the tax, which administrative costs may not exceed
 272 2 percent of collections, shall be distributed as follows:

273 (1) ~~0.65 percent~~ Of the proceeds of the tax levied pursuant
 274 to s. 206.41(1)(f), 0.65 percent shall be transferred to the
 275 Agricultural Emergency Eradication Trust Fund.

276 (2) The remaining proceeds of the tax levied pursuant to s.
 277 206.41(1)(f) and all of the proceeds from the tax imposed by s.
 278 206.87(1)(d) shall be transferred into the State Transportation
 279 Trust Fund~~, and may be used only for projects in the adopted~~
 280 work program in the district in which the tax proceeds are
 281 collected~~, and,~~ to the maximum extent feasible, such moneys
 282 shall be programmed for use in the county where collected.
 283 However, ~~no~~ revenue from the taxes imposed pursuant to ss.
 284 206.41(1)(f) and 206.87(1)(d) in a county may not shall be
 285 expended unless the projects funded with such revenues have been
 286 included in the work program adopted pursuant to s. 339.135.

287 Section 6. Subsection (6) of section 212.0501, Florida
 288 Statutes, is amended to read:

289 212.0501 Tax on diesel fuel for business purposes;
 290 purchase, storage, and use.—

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291 (6) All taxes required to be paid on fuel used in self-
 292 propelled off-road equipment shall be deposited in the Fuel Tax
 293 Collection Trust Fund, ~~to be distributed, after deduction of the~~
 294 ~~general revenue service charge pursuant to s. 215.20,~~ to the
 295 State Transportation Trust Fund. The department shall, each
 296 month, make a transfer, from general revenue collections, equal
 297 to such use tax reported on dealers' sales and use tax returns.

298 Section 7. Subsection (7) of section 311.101, Florida
 299 Statutes, is amended to read:

300 311.101 Intermodal Logistics Center Infrastructure Support
 301 Program.—

302 (7) ~~Beginning in fiscal year 2014 2015,~~ At least \$5 million
 303 per fiscal year shall be made available from the State
 304 Transportation Trust Fund for the program. The Department of
 305 Transportation shall include projects proposed to be funded
 306 under this section in the tentative work program developed
 307 pursuant to s. 339.135(4). ~~This subsection expires on July 1,~~
 308 ~~2020.~~

309 Section 8. Subsection (5) of section 319.32, Florida
 310 Statutes, is amended to read:

311 319.32 Fees; service charges; disposition.—

312 (5) (a) Forty-seven dollars of each fee collected, except
 313 for fees charged on a certificate of title for a motor vehicle
 314 for hire registered under s. 320.08(6), for each applicable
 315 original certificate of title and each applicable duplicate copy
 316 of a certificate of title, ~~after deducting the service charges~~
 317 ~~imposed by s. 215.20,~~ shall be deposited into the State
 318 Transportation Trust Fund. Deposits to the State Transportation
 319 Trust Fund pursuant to this paragraph may not exceed \$200

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320 million in any fiscal year, and any collections in excess of
 321 that amount during the fiscal year shall be paid into the
 322 General Revenue Fund.

323 (b) All fees collected pursuant to subsection (3) shall be
 324 paid into the Nongame Wildlife Trust Fund. Twenty-one dollars of
 325 each fee, except for fees charged on a certificate of title for
 326 a motor vehicle for hire registered under s. 320.08(6), for each
 327 applicable original certificate of title and each applicable
 328 duplicate copy of a certificate of title, ~~after deducting the~~
 329 ~~service charges imposed by s. 215.20,~~ shall be deposited into
 330 the State Transportation Trust Fund. All other fees collected by
 331 the department under this chapter shall be paid into the General
 332 Revenue Fund.

333 Section 9. Paragraph (c) of subsection (1) of section
 334 333.03, Florida Statutes, is amended to read:

335 333.03 Requirement to adopt airport zoning regulations.—

336 (1)

337 (c) Airport protection zoning regulations adopted under
 338 paragraph (a) must, at a minimum, require:

339 1. A permit for the construction or alteration of any
 340 obstruction, ~~+~~

341 2. Obstruction marking and lighting for obstructions, ~~+~~

342 3. Documentation showing compliance with the federal
 343 requirement for notification of proposed construction or
 344 alteration of structures and a final valid determination from
 345 the Federal Aviation Administration aeronautical study submitted
 346 by each person applying for a permit, ~~+~~

347 4. Consideration of the criteria in s. 333.025(6), ~~+~~ when
 348 determining whether to issue or deny a permit, ~~+~~ ~~and~~

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349 5. That approval of a permit not be based solely on the
350 determination by the Federal Aviation Administration that the
351 proposed structure is not an airport hazard.

352 Section 10. Section 334.275, Florida Statutes, is created
353 to read:

354 334.275 Road and bridge maintenance and construction
355 vehicle safety.—

356 (1) Notwithstanding any other provision of law:

357 (a) If a road or bridge maintenance or construction vehicle
358 displaying warning lights is on the roadside without advanced
359 signs or channeling devices, the driver of every other vehicle,
360 as soon as it is safe, shall vacate the lane closest to the road
361 or bridge maintenance or construction vehicle when driving on an
362 interstate highway or other highway with two or more lanes
363 traveling in the direction of the road or bridge maintenance or
364 construction vehicle, except when otherwise directed by a law
365 enforcement officer. If such movement cannot be safely
366 accomplished, the driver of every other vehicle shall slow to a
367 speed that is 20 miles per hour less than the speed limit when
368 the speed limit is 25 miles per hour or greater; or travel at 5
369 miles per hour when the posted speed limit is 20 miles per hour
370 or less, when driving on a two-lane road, except when otherwise
371 directed by a law enforcement officer.

372 (b) Portable radar speed display units in advance of a work
373 zone on roadways with a posted speed limit of 55 miles per hour
374 or more may show or display flashing red and blue lights when
375 workers are present in the work zone for the purpose of road or
376 bridge maintenance or construction.

377 (2) The Department of Highway Safety and Motor Vehicles

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378 shall include the requirements of this section in its
379 educational awareness campaign relating to the Move Over Act and
380 in all newly printed driver license educational materials.

381 (3) Every pedestrian using the road right-of-way shall
382 yield the right-of-way to an authorized road or bridge
383 maintenance or construction vehicle, unless otherwise directed
384 by a law enforcement officer.

385 (4) This section applies to maintenance or construction
386 being performed for a governmental transportation entity as
387 defined in s. 334.27(1).

388 (5) This section does not diminish or enlarge any rules of
389 evidence or liability in any case involving the operation of a
390 road or bridge maintenance or construction vehicle.

391 (6) This section does not relieve the driver of an
392 authorized road or bridge maintenance or construction vehicle
393 from the duty to drive with due regard for the safety of all
394 persons using the highway.

395 (7) A violation of this section is a noncriminal traffic
396 infraction, punishable pursuant to chapter 318 as either a
397 moving violation for infractions of paragraph (1) (a) or as a
398 pedestrian violation for infractions of subsection (5).

399 Section 11. Subsection (4) of section 337.25, Florida
400 Statutes, is amended to read:

401 337.25 Acquisition, lease, and disposal of real and
402 personal property.—

403 (4) The department may convey, in the name of the state,
404 any land, building, or other property, real or personal, which
405 was acquired under subsection (1) and which the department has
406 determined is not needed for the construction, operation, and

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407 maintenance of a transportation facility. When such a
 408 determination has been made, property may be disposed of through
 409 negotiations, sealed competitive bids, auctions, or any other
 410 means the department deems to be in its best interest, with due
 411 advertisement for property valued by the department at greater
 412 than \$10,000. A sale may not occur at a price less than the
 413 department's current estimate of value, except as provided in
 414 paragraphs (a)-(d). The department may afford a right of first
 415 refusal to the local government or other political subdivision
 416 in the jurisdiction in which the parcel is situated, except in a
 417 conveyance transacted under paragraph (a), paragraph (c), or
 418 paragraph (e). Notwithstanding any provision of this section to
 419 the contrary, before any conveyance under this subsection may be
 420 made, except a conveyance under paragraph (a) or paragraph (c),
 421 the department shall first afford a right of first refusal to
 422 the previous property owner for the department's current
 423 estimate of value of the property. The right of first refusal
 424 must be made in writing and sent to the previous owner via
 425 certified mail or hand delivery, effective upon receipt. The
 426 right of first refusal must provide the previous owner with a
 427 minimum of 30 days to exercise the right in writing and must be
 428 sent to the originator of the offer by certified mail or hand
 429 delivery, effective upon dispatch. If the previous owner
 430 exercises his or her right of first refusal, the previous owner
 431 has a minimum of 90 days to close on the property.

432 (a) If the property has been donated to the state for
 433 transportation purposes and a transportation facility has not
 434 been constructed for at least 5 years, plans have not been
 435 prepared for the construction of such facility, and the property

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436 is not located in a transportation corridor, the governmental
 437 entity may authorize reconveyance of the donated property for no
 438 consideration to the original donor or the donor's heirs,
 439 successors, assigns, or representatives.

440 (b) If the property is to be used for a public purpose, the
 441 property may be conveyed without consideration to a governmental
 442 entity.

443 (c) If the property was originally acquired specifically to
 444 provide replacement housing for persons displaced by
 445 transportation projects, the department may negotiate for the
 446 sale of such property as replacement housing. As compensation,
 447 the state shall receive at least its investment in such property
 448 or the department's current estimate of value, whichever is
 449 lower. It is expressly intended that this benefit be extended
 450 only to persons actually displaced by the project. Dispositions
 451 to any other person must be for at least the department's
 452 current estimate of value.

453 (d) If the department determines that the property requires
 454 significant costs to be incurred or that continued ownership of
 455 the property exposes the department to significant liability
 456 risks, the department may use the projected maintenance costs
 457 over the next 10 years to offset the property's value in
 458 establishing a value for disposal of the property, even if that
 459 value is zero.

460 (e) If, at the discretion of the department, a sale to a
 461 person other than an abutting property owner would be
 462 inequitable, the property may be sold to the abutting owner for
 463 the department's current estimate of value.

464 Section 12. Paragraph (c) of subsection (4) and paragraph

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465 (g) of subsection (7) of section 339.135, Florida Statutes, are
466 amended to read:

467 339.135 Work program; legislative budget request;
468 definitions; preparation, adoption, execution, and amendment.—

469 (4) FUNDING AND DEVELOPING A TENTATIVE WORK PROGRAM.—

470 (c)1. For purposes of this section, the board of county
471 commissioners shall serve as the metropolitan planning
472 organization in those counties that ~~which~~ are not located in a
473 metropolitan planning organization and shall be involved in the
474 development of the district work program to the same extent as a
475 metropolitan planning organization.

476 2. The district work program shall be developed
477 cooperatively from the outset with the various metropolitan
478 planning organizations of the state and include, to the maximum
479 extent feasible, the project priorities of metropolitan planning
480 organizations which have been submitted to the district by
481 August ~~October~~ 1 of each year pursuant to s. 339.175(8) (b);
482 however, the department and a metropolitan planning organization
483 may, in writing, cooperatively agree to vary this submittal
484 date. To assist the metropolitan planning organizations in
485 developing their lists of project priorities, the district shall
486 disclose to each metropolitan planning organization any
487 anticipated changes in the allocation or programming of state
488 and federal funds which may affect the inclusion of metropolitan
489 planning organization project priorities in the district work
490 program.

491 3. Before ~~Prior to~~ submittal of the district work program
492 to the central office, the district shall provide the affected
493 metropolitan planning organization with written justification

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494 for any project proposed to be rescheduled or deleted from the
495 district work program which project is part of the metropolitan
496 planning organization's transportation improvement program and
497 is contained in the last 4 years of the previous adopted work
498 program. By no later than 14 days after submittal of the
499 district work program to the central office, the affected
500 metropolitan planning organization may file an objection to such
501 rescheduling or deletion. When an objection is filed with the
502 secretary, the rescheduling or deletion may not be included in
503 the district work program unless the inclusion of such
504 rescheduling or deletion is specifically approved by the
505 secretary. The Florida Transportation Commission shall include
506 such objections in its evaluation of the tentative work program
507 only when the secretary has approved the rescheduling or
508 deletion.

509 (7) AMENDMENT OF THE ADOPTED WORK PROGRAM.—

510 (g)1. A ~~Any~~ work program amendment that ~~which~~ also requires
511 the transfer of fixed capital outlay appropriations between
512 categories within the department or the increase of an
513 appropriation category is subject to the approval of the
514 Legislative Budget Commission.

515 2. If a meeting of the Legislative Budget Commission cannot
516 be held within 30 days after the department submits an amendment
517 to the Legislative Budget Commission, the chair and vice chair
518 of the Legislative Budget Commission may authorize such
519 amendment to be approved pursuant to s. 216.177. ~~This~~
520 ~~subparagraph expires July 1, 2020.~~

521 Section 13. Paragraph (b) of subsection (8) of section
522 339.175, Florida Statutes, is amended to read:

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523 339.175 Metropolitan planning organization.-
 524 (8) TRANSPORTATION IMPROVEMENT PROGRAM.—Each M.P.O. shall,
 525 in cooperation with the state and affected public transportation
 526 operators, develop a transportation improvement program for the
 527 area within the jurisdiction of the M.P.O. In the development of
 528 the transportation improvement program, each M.P.O. must provide
 529 the public, affected public agencies, representatives of
 530 transportation agency employees, freight shippers, providers of
 531 freight transportation services, private providers of
 532 transportation, representatives of users of public transit, and
 533 other interested parties with a reasonable opportunity to
 534 comment on the proposed transportation improvement program.

535 (b) Each M.P.O. annually shall prepare a list of project
 536 priorities and shall submit the list to the appropriate district
 537 of the department by August ~~October~~ 1 of each year; however, the
 538 department and a metropolitan planning organization may, in
 539 writing, agree to vary this submittal date. Where more than one
 540 M.P.O. exists in an urbanized area, the M.P.O.'s shall
 541 coordinate in the development of regionally significant project
 542 priorities. The list of project priorities must be formally
 543 reviewed by the technical and citizens' advisory committees, and
 544 approved by the M.P.O., before it is transmitted to the
 545 district. The approved list of project priorities must be used
 546 by the district in developing the district work program and must
 547 be used by the M.P.O. in developing its transportation
 548 improvement program. The annual list of project priorities must
 549 be based upon project selection criteria that, at a minimum,
 550 consider the following:

551 1. The approved M.P.O. long-range transportation plan.~~7~~

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552 2. The Strategic Intermodal System Plan developed under s.
 553 339.64.
 554 3. The priorities developed pursuant to s. 339.2819(4).
 555 4. The results of the transportation management systems.~~7~~
 556 ~~and~~
 557 5. The M.P.O.'s public-involvement procedures.

558 Section 14. Section 339.2821, Florida Statutes, is
 559 repealed.

560 Section 15. Paragraph (b) of subsection (17) of section
 561 341.302, Florida Statutes, is amended to read:
 562 341.302 Rail program; duties and responsibilities of the
 563 department.—The department, in conjunction with other
 564 governmental entities, including the rail enterprise and the
 565 private sector, shall develop and implement a rail program of
 566 statewide application designed to ensure the proper maintenance,
 567 safety, revitalization, and expansion of the rail system to
 568 assure its continued and increased availability to respond to
 569 statewide mobility needs. Within the resources provided pursuant
 570 to chapter 216, and as authorized under federal law, the
 571 department shall:

572 (17) In conjunction with the acquisition, ownership,
 573 construction, operation, maintenance, and management of a rail
 574 corridor, have the authority to:

575 (b) Purchase liability insurance, which amount shall not
 576 exceed \$295 ~~\$200~~ million, and establish a self-insurance
 577 retention fund for the purpose of paying the deductible limit
 578 established in the insurance policies it may obtain, including
 579 coverage for the department, any freight rail operator as
 580 described in paragraph (a), National Railroad Passenger

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581 Corporation, commuter rail service providers, governmental
 582 entities, or any ancillary development, which self-insurance
 583 retention fund or deductible shall not exceed \$10 million. The
 584 insureds shall pay a reasonable monetary contribution to the
 585 cost of such liability coverage for the sole benefit of the
 586 insured. Such insurance and self-insurance retention fund may
 587 provide coverage for all damages, including, but not limited to,
 588 compensatory, special, and exemplary, and be maintained to
 589 provide an adequate fund to cover claims and liabilities for
 590 loss, injury, or damage arising out of or connected with the
 591 ownership, operation, maintenance, and management of a rail
 592 corridor.

593
 594 Neither the assumption by contract to protect, defend,
 595 indemnify, and hold harmless; the purchase of insurance; nor the
 596 establishment of a self-insurance retention fund shall be deemed
 597 to be a waiver of any defense of sovereign immunity for torts
 598 nor deemed to increase the limits of the department's or the
 599 governmental entity's liability for torts as provided in s.
 600 768.28. The requirements of s. 287.022(1) shall not apply to the
 601 purchase of any insurance under this subsection. The provisions
 602 of this subsection shall apply and inure fully as to any other
 603 governmental entity providing commuter rail service and
 604 constructing, operating, maintaining, or managing a rail
 605 corridor on publicly owned right-of-way under contract by the
 606 governmental entity with the department or a governmental entity
 607 designated by the department. Notwithstanding any law to the
 608 contrary, procurement for the construction, operation,
 609 maintenance, and management of any rail corridor described in

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610 this subsection, whether by the department, a governmental
 611 entity under contract with the department, or a governmental
 612 entity designated by the department, shall be pursuant to s.
 613 287.057 and shall include, but not be limited to, criteria for
 614 the consideration of qualifications, technical aspects of the
 615 proposal, and price. Further, any such contract for design-build
 616 shall be procured pursuant to the criteria in s. 337.11(7).

617 Section 16. Effective July 1, 2023, section 341.302,
 618 Florida Statutes, as amended by this act, is amended to read:

619 341.302 Rail program; duties and responsibilities of the
 620 department.—The department, in conjunction with other
 621 governmental entities, ~~including the rail enterprise~~ and the
 622 private sector, shall develop and implement a rail program of
 623 statewide application designed to ensure the proper maintenance,
 624 safety, revitalization, and expansion of the rail system to
 625 assure its continued and increased availability to respond to
 626 statewide mobility needs. Within the resources provided pursuant
 627 to chapter 216, and as authorized under federal law, the
 628 department shall:

629 (1) Provide the overall leadership, coordination, and
 630 financial and technical assistance necessary to ensure ~~assure~~
 631 the effective responses of the state's rail system to current
 632 and anticipated mobility needs.

633 (2) Coordinate the development, general rail safety, and
 634 operation of publicly funded passenger ~~Promote and facilitate~~
 635 ~~the implementation of advanced rail systems in this state,~~
 636 ~~including high speed rail and magnetic levitation systems.~~

637 (3) Develop and periodically update the rail system plan,
 638 on the basis of an analysis of statewide transportation needs.

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639 (a) The plan may contain detailed regional components,
 640 consistent with regional transportation plans, as needed to
 641 ensure connectivity within the state's regions, and it shall be
 642 consistent with the Florida Transportation Plan developed
 643 pursuant to s. 339.155. The rail system plan shall include an
 644 identification of priorities, programs, and funding levels
 645 required to meet statewide and regional needs. The rail system
 646 plan shall be developed in a manner that will ensure ~~assure~~ the
 647 maximum use of existing facilities and the optimum integration
 648 and coordination of the various modes of transportation, public
 649 and private, in the most cost-effective manner possible. The
 650 rail system plan shall be updated no later than January 1, 2011,
 651 and at least every 5 years thereafter, and include plans for
 652 both passenger rail service and freight rail service,
 653 accompanied by a report to the Legislature regarding the status
 654 of the plan.

655 (b) In recognition of the department's role in the
 656 enhancement of the state's rail system to improve freight and
 657 passenger mobility, the department shall:

658 1. Work closely with all affected communities along an
 659 impacted freight rail corridor to identify and address
 660 anticipated impacts associated with an increase in freight rail
 661 traffic due to implementation of passenger rail.

662 2. In coordination with the affected local governments and
 663 CSX Transportation, Inc., finalize all viable alternatives from
 664 the department's Rail Traffic Evaluation Study to identify and
 665 develop an alternative route for through freight rail traffic
 666 moving through Central Florida, including the counties of Polk
 667 and Hillsborough, which would address, to the extent

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668 practicable, the effects of commuter rail.

669 3. Provide technical assistance to a coalition of local
 670 governments in Central Florida, including the counties of
 671 Brevard, Citrus, Hernando, Hillsborough, Lake, Marion, Orange,
 672 Osceola, Pasco, Pinellas, Polk, Manatee, Sarasota, Seminole,
 673 Sumter, and Volusia, and the municipalities within those
 674 counties, to develop a regional rail system plan that addresses
 675 passenger and freight opportunities in the region, is consistent
 676 with the Florida Rail System Plan, and incorporates appropriate
 677 elements of the Tampa Bay Area Regional Authority Master Plan,
 678 the Metroplan Orlando Regional Transit System Concept Plan,
 679 including the SunRail project, and the Florida Department of
 680 Transportation Alternate Rail Traffic Evaluation.

681 (4) As part of the work program of the department,
 682 formulate a specific program of projects and financing to
 683 respond to identified railroad needs.

684 (5) Provide technical and financial assistance to units of
 685 local government to address identified rail transportation
 686 needs.

687 (6) Secure and administer federal grants, loans, and
 688 apportionments for rail projects within this state when
 689 necessary to further the statewide program.

690 (7) Develop and administer state standards concerning the
 691 safety and performance of rail systems, hazardous material
 692 handling, and operations. Such standards shall be developed
 693 jointly with representatives of affected rail systems, with full
 694 consideration given to nationwide industry norms, and shall
 695 define the minimum acceptable standards for safety and
 696 performance.

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697 (8) Conduct, at a minimum, inspections of track and rolling
 698 stock; train signals and related equipment; hazardous materials
 699 transportation, including the loading, unloading, and labeling
 700 of hazardous materials at shippers', receivers', and transfer
 701 points; and train operating practices to determine adherence to
 702 state and federal standards. Department personnel may enforce
 703 any safety regulation issued under the Federal Government's
 704 preemptive authority over interstate commerce.

705 (9) Assess penalties, in accordance with the applicable
 706 federal regulations, for the failure to adhere to the state
 707 standards.

708 (10) Administer rail operating and construction programs,
 709 which programs shall include the regulation of ~~maximum~~ maximum
 710 train operating speeds, the opening and closing of public grade
 711 crossings, the construction and rehabilitation of public grade
 712 crossings, and the installation of traffic control devices at
 713 public grade crossings, the administering of the programs by the
 714 department including participation in the cost of the programs.

715 (11) Coordinate and facilitate the relocation of railroads
 716 from congested urban areas to nonurban areas when relocation has
 717 been determined feasible and desirable from the standpoint of
 718 safety, operational efficiency, and economics.

719 (12) Implement a program of branch line continuance
 720 projects when an analysis of the industrial and economic
 721 potential of the line indicates that public involvement is
 722 required to preserve essential rail service and facilities.

723 (13) Provide new rail service and equipment when:

724 (a) Pursuant to the transportation planning process, a
 725 public need has been determined to exist;

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726 (b) The cost of providing such service does not exceed the
 727 sum of revenues from fares charged to users, services purchased
 728 by other public agencies, local fund participation, and specific
 729 legislative appropriation for this purpose; and

730 (c) Service cannot be reasonably provided by other
 731 governmental or privately owned rail systems.

732
 733 The department may own, lease, and otherwise encumber
 734 facilities, equipment, and appurtenances thereto, as necessary
 735 to provide new rail services, ~~or~~ or the department may provide
 736 such service by contracts with privately owned service
 737 providers.

738 (14) Furnish required emergency rail transportation service
 739 if no other private or public rail transportation operation is
 740 available to supply the required service and such service is
 741 clearly in the best interest of the people in the communities
 742 being served. Such emergency service may be furnished through
 743 contractual arrangement, actual operation of state-owned
 744 equipment and facilities, or any other means determined
 745 appropriate by the secretary.

746 (15) Assist in the development and implementation of
 747 marketing programs for rail services and of information systems
 748 directed toward assisting rail systems users.

749 (16) Conduct research into innovative or potentially
 750 effective rail technologies and methods and maintain expertise
 751 in state-of-the-art rail developments.

752 (17) In conjunction with the acquisition, ownership,
 753 construction, operation, maintenance, and management of a rail
 754 corridor, have the authority to:

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755 (a) Assume obligations pursuant to the following:
 756 1.a. The department may assume the obligation by contract
 757 to forever protect, defend, indemnify, and hold harmless the
 758 freight rail operator, or its successors, from whom the
 759 department has acquired a real property interest in the rail
 760 corridor, and that freight rail operator's officers, agents, and
 761 employees, from and against any liability, cost, and expense,
 762 including, but not limited to, commuter rail passengers and rail
 763 corridor invitees in the rail corridor, regardless of whether
 764 the loss, damage, destruction, injury, or death giving rise to
 765 any such liability, cost, or expense is caused in whole or in
 766 part, and to whatever nature or degree, by the fault, failure,
 767 negligence, misconduct, nonfeasance, or misfeasance of such
 768 freight rail operator, its successors, or its officers, agents,
 769 and employees, or any other person or persons whomsoever; or
 770 b. The department may assume the obligation by contract to
 771 forever protect, defend, indemnify, and hold harmless National
 772 Railroad Passenger Corporation, or its successors, and officers,
 773 agents, and employees of National Railroad Passenger
 774 Corporation, from and against any liability, cost, and expense,
 775 including, but not limited to, commuter rail passengers and rail
 776 corridor invitees in the rail corridor, regardless of whether
 777 the loss, damage, destruction, injury, or death giving rise to
 778 any such liability, cost, or expense is caused in whole or in
 779 part, and to whatever nature or degree, by the fault, failure,
 780 negligence, misconduct, nonfeasance, or misfeasance of National
 781 Railroad Passenger Corporation, its successors, or its officers,
 782 agents, and employees, or any other person or persons
 783 whomsoever.

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784 2. The assumption of liability of the department by
 785 contract pursuant to sub-subparagraph 1.a. or sub-subparagraph
 786 1.b. may not in any instance exceed the following parameters of
 787 allocation of risk:
 788 a. The department may be solely responsible for any loss,
 789 injury, or damage to commuter rail passengers, ~~ex~~ rail corridor
 790 invitees, or trespassers, regardless of circumstances or cause,
 791 subject to sub-subparagraph b. and subparagraphs 3., 4., 5., and
 792 6.
 793 b.(I) In the event of a limited covered accident, the
 794 authority of the department to protect, defend, and indemnify
 795 the freight operator for all liability, cost, and expense,
 796 including punitive or exemplary damages, in excess of the
 797 deductible or self-insurance retention fund established under
 798 paragraph (b) and actually in force at the time of the limited
 799 covered accident exists only if the freight operator agrees,
 800 with respect to the limited covered accident, to protect,
 801 defend, and indemnify the department for the amount of the
 802 deductible or self-insurance retention fund established under
 803 paragraph (b) and actually in force at the time of the limited
 804 covered accident.
 805 (II) In the event of a limited covered accident, the
 806 authority of the department to protect, defend, and indemnify
 807 National Railroad Passenger Corporation for all liability, cost,
 808 and expense, including punitive or exemplary damages, in excess
 809 of the deductible or self-insurance retention fund established
 810 under paragraph (b) and actually in force at the time of the
 811 limited covered accident exists only if National Railroad
 812 Passenger Corporation agrees, with respect to the limited

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813 covered accident, to protect, defend, and indemnify the
814 department for the amount of the deductible or self-insurance
815 retention fund established under paragraph (b) and actually in
816 force at the time of the limited covered accident.

817 3. When only one train is involved in an incident, the
818 department may be solely responsible for any loss, injury, or
819 damage if the train is a department train or other train
820 pursuant to subparagraph 4., but only if:

821 a. When an incident occurs with only a freight train
822 involved, including incidents with trespassers or at grade
823 crossings, the freight rail operator is solely responsible for
824 any loss, injury, or damage, except for commuter rail passengers
825 and rail corridor invitees; or

826 b. When an incident occurs with only a National Railroad
827 Passenger Corporation train involved, including incidents with
828 trespassers or at grade crossings, National Railroad Passenger
829 Corporation is solely responsible for any loss, injury, or
830 damage, except for commuter rail passengers and rail corridor
831 invitees.

832 4. For the purposes of this subsection:

833 a. Any train involved in an incident that is neither the
834 department's train nor the freight rail operator's train,
835 hereinafter referred to in this subsection as an "other train,"
836 may be treated as a department train, solely for purposes of any
837 allocation of liability between the department and the freight
838 rail operator only, but only if the department and the freight
839 rail operator share responsibility equally as to third parties
840 outside the rail corridor who incur loss, injury, or damage as a
841 result of any incident involving both a department train and a

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842 freight rail operator train, and the allocation as between the
843 department and the freight rail operator, regardless of whether
844 the other train is treated as a department train, shall remain
845 one-half each as to third parties outside the rail corridor who
846 incur loss, injury, or damage as a result of the incident. The
847 involvement of any other train shall not alter the sharing of
848 equal responsibility as to third parties outside the rail
849 corridor who incur loss, injury, or damage as a result of the
850 incident; or

851 b. Any train involved in an incident that is neither the
852 department's train nor the National Railroad Passenger
853 Corporation's train, hereinafter referred to in this subsection
854 as an "other train," may be treated as a department train,
855 solely for purposes of any allocation of liability between the
856 department and National Railroad Passenger Corporation only, but
857 only if the department and National Railroad Passenger
858 Corporation share responsibility equally as to third parties
859 outside the rail corridor who incur loss, injury, or damage as a
860 result of any incident involving both a department train and a
861 National Railroad Passenger Corporation train, and the
862 allocation as between the department and National Railroad
863 Passenger Corporation, regardless of whether the other train is
864 treated as a department train, shall remain one-half each as to
865 third parties outside the rail corridor who incur loss, injury,
866 or damage as a result of the incident. The involvement of any
867 other train shall not alter the sharing of equal responsibility
868 as to third parties outside the rail corridor who incur loss,
869 injury, or damage as a result of the incident.

870 5. When more than one train is involved in an incident:

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871 a.(I) If only a department train and freight rail
 872 operator's train, or only an other train as described in sub-
 873 subparagraph 4.a. and a freight rail operator's train, are
 874 involved in an incident, the department may be responsible for
 875 its property and all of its people, all commuter rail
 876 passengers, and rail corridor invitees, but only if the freight
 877 rail operator is responsible for its property and all of its
 878 people, and the department and the freight rail operator each
 879 share one-half responsibility as to trespassers or third parties
 880 outside the rail corridor who incur loss, injury, or damage as a
 881 result of the incident; or

882 (II) If only a department train and a National Railroad
 883 Passenger Corporation train, or only an other train as described
 884 in sub-subparagraph 4.b. and a National Railroad Passenger
 885 Corporation train, are involved in an incident, the department
 886 may be responsible for its property and all of its people, all
 887 commuter rail passengers, and rail corridor invitees, but only
 888 if National Railroad Passenger Corporation is responsible for
 889 its property and all of its people, all National Railroad
 890 Passenger Corporation's rail passengers, and the department and
 891 National Railroad Passenger Corporation each share one-half
 892 responsibility as to trespassers or third parties outside the
 893 rail corridor who incur loss, injury, or damage as a result of
 894 the incident.

895 b.(I) If a department train, a freight rail operator train,
 896 and any other train are involved in an incident, the allocation
 897 of liability between the department and the freight rail
 898 operator, regardless of whether the other train is treated as a
 899 department train, shall remain one-half each as to third parties

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900 outside the rail corridor who incur loss, injury, or damage as a
 901 result of the incident; the involvement of any other train shall
 902 not alter the sharing of equal responsibility as to third
 903 parties outside the rail corridor who incur loss, injury, or
 904 damage as a result of the incident; and, if the owner, operator,
 905 or insurer of the other train makes any payment to injured third
 906 parties outside the rail corridor who incur loss, injury, or
 907 damage as a result of the incident, the allocation of credit
 908 between the department and the freight rail operator as to such
 909 payment shall not in any case reduce the freight rail operator's
 910 third-party-sharing allocation of one-half under this paragraph
 911 to less than one-third of the total third party liability; or

912 (II) If a department train, a National Railroad Passenger
 913 Corporation train, and any other train are involved in an
 914 incident, the allocation of liability between the department and
 915 National Railroad Passenger Corporation, regardless of whether
 916 the other train is treated as a department train, shall remain
 917 one-half each as to third parties outside the rail corridor who
 918 incur loss, injury, or damage as a result of the incident; the
 919 involvement of any other train shall not alter the sharing of
 920 equal responsibility as to third parties outside the rail
 921 corridor who incur loss, injury, or damage as a result of the
 922 incident; and, if the owner, operator, or insurer of the other
 923 train makes any payment to injured third parties outside the
 924 rail corridor who incur loss, injury, or damage as a result of
 925 the incident, the allocation of credit between the department
 926 and National Railroad Passenger Corporation as to such payment
 927 shall not in any case reduce National Railroad Passenger
 928 Corporation's third-party-sharing allocation of one-half under

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929 this sub-subparagraph to less than one-third of the total third
930 party liability.

931 6. Any such contractual duty to protect, defend, indemnify,
932 and hold harmless such a freight rail operator or National
933 Railroad Passenger Corporation shall expressly include a
934 specific cap on the amount of the contractual duty, which amount
935 shall not exceed \$200 million without prior legislative
936 approval, and the department to purchase liability insurance and
937 establish a self-insurance retention fund in the amount of the
938 specific cap established under this subparagraph, provided that:

939 a. No such contractual duty shall in any case be effective
940 nor otherwise extend the department's liability in scope and
941 effect beyond the contractual liability insurance and self-
942 insurance retention fund required pursuant to this paragraph;
943 and

944 b.(I) The freight rail operator's compensation to the
945 department for future use of the department's rail corridor
946 shall include a monetary contribution to the cost of such
947 liability coverage for the sole benefit of the freight rail
948 operator.

949 (II) National Railroad Passenger Corporation's compensation
950 to the department for future use of the department's rail
951 corridor shall include a monetary contribution to the cost of
952 such liability coverage for the sole benefit of National
953 Railroad Passenger Corporation.

954 (b) Purchase liability insurance, which amount shall not
955 exceed \$295 million, and establish a self-insurance retention
956 fund for the purpose of paying the deductible limit established
957 in the insurance policies it may obtain, including coverage for

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958 the department, any freight rail operator as described in
959 paragraph (a), National Railroad Passenger Corporation, commuter
960 rail service providers, governmental entities, or any ancillary
961 development, which self-insurance retention fund or deductible
962 shall not exceed \$10 million. The insureds shall pay a
963 reasonable monetary contribution to the cost of such liability
964 coverage for the sole benefit of the insured. Such insurance and
965 self-insurance retention fund may provide coverage for all
966 damages, including, but not limited to, compensatory, special,
967 and exemplary, and be maintained to provide an adequate fund to
968 cover claims and liabilities for loss, injury, or damage arising
969 out of or connected with the ownership, operation, maintenance,
970 and management of a rail corridor.

971 (c) Incur expenses for the purchase of advertisements,
972 marketing, and promotional items.

973 (d) Without altering any of the rights granted to the
974 department under this section, agree to assume the obligations
975 to indemnify and insure, pursuant to s. 343.545, freight rail
976 service, intercity passenger rail service, and commuter rail
977 service on a department-owned rail corridor, whether ownership
978 is in fee or by easement, or on a rail corridor where the
979 department has the right to operate.

980
981 Neither the assumption by contract to protect, defend,
982 indemnify, and hold harmless; the purchase of insurance; nor the
983 establishment of a self-insurance retention fund shall be deemed
984 to be a waiver of any defense of sovereign immunity for torts
985 nor deemed to increase the limits of the department's or the
986 governmental entity's liability for torts as provided in s.

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987 768.28. The requirements of s. 287.022(1) shall not apply to the
 988 purchase of any insurance under this subsection. ~~The provisions~~
 989 ~~of~~ This subsection shall apply and inure fully as to any other
 990 governmental entity providing commuter rail service and
 991 constructing, operating, maintaining, or managing a rail
 992 corridor on publicly owned right-of-way under contract by the
 993 governmental entity with the department or a governmental entity
 994 designated by the department. Notwithstanding any law to the
 995 contrary, procurement for the construction, operation,
 996 maintenance, and management of any rail corridor described in
 997 this subsection, whether by the department, a governmental
 998 entity under contract with the department, or a governmental
 999 entity designated by the department, shall be pursuant to s.
 1000 287.057 and shall include, but not be limited to, criteria for
 1001 the consideration of qualifications, technical aspects of the
 1002 proposal, and price. Further, any such contract for design-build
 1003 shall be procured pursuant to the criteria in s. 337.11(7).

1004 (18) Exercise such other functions, powers, and duties in
 1005 connection with the rail system plan as are necessary to develop
 1006 a safe, efficient, and effective statewide transportation
 1007 system.

1008 Section 17. Effective July 1, 2023, subsections (5) and (6)
 1009 of section 341.303, Florida Statutes, are amended to read:

1010 341.303 Funding authorization and appropriations;
 1011 eligibility and participation.-

1012 (5) FUND PARTICIPATION; ~~FLORIDA RAIL ENTERPRISE.~~-The
 1013 department ~~may, through the Florida Rail Enterprise, is~~
 1014 ~~authorized to~~ use funds provided pursuant to s. 201.15(4) (a) 4.
 1015 to fund:

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1016 (a) Up to 50 percent of the nonfederal share of the costs
 1017 of any eligible passenger rail capital improvement project.
 1018 (b) Up to 100 percent of planning and development costs
 1019 related to the provision of a passenger rail system, including,
 1020 but not limited to, preliminary engineering, revenue studies,
 1021 environmental impact studies, financial advisory services,
 1022 engineering design, and other appropriate professional services.
 1023 (c) The high-speed rail system.
 1024 (d) Projects necessary to identify or address anticipated
 1025 impacts of increased freight rail traffic resulting from the
 1026 implementation of passenger rail systems as provided in s.
 1027 341.302(3) (b).
 1028 (e) Projects necessary to identify or address needed or
 1029 desirable safety improvements to passenger rail systems in this
 1030 state.
 1031 ~~(6) FLORIDA RAIL ENTERPRISE; BUDGET.-~~
 1032 ~~(a) The Florida Rail Enterprise shall be a single budget~~
 1033 ~~entity and shall develop a budget pursuant to chapter 216. The~~
 1034 ~~enterprise's budget shall be submitted to the Legislature along~~
 1035 ~~with the department's budget. All passenger rail funding by the~~
 1036 ~~department shall be included in this budget entity.~~
 1037 ~~(b) Notwithstanding the provisions of s. 216.301 to the~~
 1038 ~~contrary and in accordance with s. 216.351, the Executive Office~~
 1039 ~~of the Governor shall, on July 1 of each year, certify forward~~
 1040 ~~all unexpended funds appropriated or provided pursuant to this~~
 1041 ~~section for the enterprise. Of the unexpended funds certified~~
 1042 ~~forward, any unencumbered amounts shall be carried forward. Such~~
 1043 ~~funds carried forward shall not exceed 5 percent of the original~~
 1044 ~~approved operating budget of the enterprise pursuant to s.~~

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 1045 ~~216.181(1). Funds carried forward pursuant to this section may~~
 1046 ~~be used for any lawful purpose, including, but not limited to,~~
 1047 ~~promotional and market activities, technology, and training. Any~~
 1048 ~~certified forward funds remaining undisbursed on September 30 of~~
 1049 ~~each year shall be carried forward.~~

1050 Section 18. Effective July 1, 2023, section 341.8201,
 1051 Florida Statutes, is repealed.

1052 Section 19. Effective July 1, 2023, section 341.8203,
 1053 Florida Statutes, is amended to read:

1054 341.8203 Definitions.—As used in ss. 341.822-341.842 ~~ss.~~
 1055 ~~341.8201-341.842~~, unless the context clearly indicates
 1056 otherwise, the term:

1057 (1) "Associated development" means property, equipment,
 1058 buildings, or other related facilities which are built,
 1059 installed, used, or established to provide financing, funding,
 1060 or revenues for the planning, building, managing, and operation
 1061 of a high-speed rail system and which are associated with or
 1062 part of the rail stations. The term includes air and subsurface
 1063 rights, services that provide local area network devices for
 1064 transmitting data over wireless networks, parking facilities,
 1065 retail establishments, restaurants, hotels, offices,
 1066 advertising, or other commercial, civic, residential, or support
 1067 facilities.

1068 (2) "Communication facilities" means the communication
 1069 systems related to high-speed passenger rail operations,
 1070 including those which are built, installed, used, or established
 1071 for the planning, building, managing, and operating of a high-
 1072 speed rail system. The term includes the land; structures;
 1073 improvements; rights-of-way; easements; positive train control

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 1074 systems; wireless communication towers and facilities that are
 1075 designed to provide voice and data services for the safe and
 1076 efficient operation of the high-speed rail system; voice, data,
 1077 and wireless communication amenities made available to crew and
 1078 passengers as part of a high-speed rail service; and any other
 1079 facilities or equipment used for operation of, or the
 1080 facilitation of communications for, a high-speed rail system.
 1081 Owners of communication facilities may not offer voice or data
 1082 service to any entity other than passengers, crew, or other
 1083 persons involved in the operation of a high-speed rail system.

1084 (3) ~~"Enterprise" means the Florida Rail Enterprise.~~

1085 ~~(4)~~ "High-speed rail system" means any high-speed fixed
 1086 guideway system for transporting people or goods, which system
 1087 is, by definition of the United States Department of
 1088 Transportation, reasonably expected to reach speeds of at least
 1089 110 miles per hour, including, but not limited to, a monorail
 1090 system, dual track rail system, suspended rail system, magnetic
 1091 levitation system, pneumatic repulsion system, or other system
 1092 approved by the department enterprise. The term includes a
 1093 corridor, associated intermodal connectors, and structures
 1094 essential to the operation of the line, including the land,
 1095 structures, improvements, rights-of-way, easements, rail lines,
 1096 rail beds, guideway structures, switches, yards, parking
 1097 facilities, power relays, switching houses, and rail stations
 1098 and also includes facilities or equipment used exclusively for
 1099 the purposes of design, construction, operation, maintenance, or
 1100 the financing of the high-speed rail system.

1101 ~~(4)~~ ~~(5)~~ "Joint development" means the planning, managing,
 1102 financing, or constructing of projects adjacent to, functionally

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1103 related to, or otherwise related to a high-speed rail system
 1104 pursuant to agreements between any person, firm, corporation,
 1105 association, organization, agency, or other entity, public or
 1106 private.

1107 ~~(5)(6)~~ "Rail station," "station," or "high-speed rail
 1108 station" means any structure or transportation facility that is
 1109 part of a high-speed rail system designed to accommodate the
 1110 movement of passengers from one mode of transportation to
 1111 another at which passengers board or disembark from
 1112 transportation conveyances and transfer from one mode of
 1113 transportation to another.

1114 ~~(6)(7)~~ "Railroad company" means a person developing, or
 1115 providing service on, a high-speed rail system.

1116 ~~(7)(8)~~ "Selected person or entity" means the person or
 1117 entity to whom the department enterprise awards a contract to
 1118 establish a high-speed rail system pursuant to ss. 341.822-
 1119 341.842 ~~ss. 341.8201-341.842~~.

1120 Section 20. Effective July 1, 2023, section 341.822,
 1121 Florida Statutes, is amended to read:

1122 341.822 Powers and duties.—

1123 (1) The department enterprise shall locate, plan, design,
 1124 finance, construct, maintain, own, operate, administer, and
 1125 manage the high-speed rail system in the state.

1126 (2) (a) ~~In addition to the powers granted to~~ The department,
 1127 ~~the enterprise~~ has full authority to exercise all powers granted
 1128 to it under this chapter. Powers shall include, but are not
 1129 limited to, the ability to plan, construct, maintain, repair,
 1130 and operate a high-speed rail system, to acquire corridors, and
 1131 to coordinate the development and operation of publicly funded

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1132 passenger rail systems in the state.

1133 (b) It is the express intention of ss. 341.822-341.842 ~~ss.~~
 1134 ~~341.8201-341.842~~ that the department enterprise be authorized to
 1135 plan, develop, own, purchase, lease, or otherwise acquire,
 1136 demolish, construct, improve, relocate, equip, repair, maintain,
 1137 operate, and manage the high-speed rail system; to expend funds
 1138 to publicize, advertise, and promote the advantages of using the
 1139 high-speed rail system and its facilities; and to cooperate,
 1140 coordinate, partner, and contract with other entities, public
 1141 and private, to accomplish these purposes.

1142 (c) The department enterprise shall establish a process to
 1143 issue permits to railroad companies for the construction of
 1144 communication facilities within a new or existing public or
 1145 private high-speed rail system. The department enterprise may
 1146 adopt rules to administer such permits, including rules
 1147 regarding the form, content, and necessary supporting
 1148 documentation for permit applications; the process for
 1149 submitting applications; and the application fee for a permit
 1150 under s. 341.825. The department enterprise shall provide a copy
 1151 of a completed permit application to municipalities and counties
 1152 where the high-speed rail system will be located. The department
 1153 enterprise shall allow each such municipality and county 30 days
 1154 to provide comments to the department enterprise regarding the
 1155 application, including any recommendations regarding conditions
 1156 that may be placed on the permit.

1157 (3) ~~The department may~~ ~~The enterprise shall have the~~
 1158 ~~authority to employ procurement methods available to the~~
 1159 ~~department under chapters 255, 287, 334, and 337, or otherwise~~
 1160 ~~in accordance with law. The enterprise may also solicit~~

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1161 proposals and, with legislative approval as evidenced by
 1162 approval of the project in the department's work program, enter
 1163 into agreements with private entities, or consortia thereof, for
 1164 the building, operation, ownership, or financing of the high-
 1165 speed rail system.

1166 (4) ~~The executive director of the enterprise shall appoint~~
 1167 ~~staff, who shall be exempt from part II of chapter 110.~~

1168 ~~(5) The powers conferred upon the department enterprise~~
 1169 ~~under ss. 341.822-341.842 ss. 341.8201-341.842 shall be in~~
 1170 ~~addition and supplemental to the existing powers of the~~
 1171 ~~department, and these powers shall not be construed as repealing~~
 1172 ~~any provision of any other law, general or local, but shall~~
 1173 ~~supersede such other laws that are inconsistent with the~~
 1174 ~~exercise of the powers provided under ss. 341.822-341.842 ss.~~
 1175 ~~341.8201-341.842 and provide a complete method for the exercise~~
 1176 ~~of such powers granted.~~

1177 ~~(5)(6)~~ Any proposed rail enterprise project or improvement
 1178 shall be developed in accordance with the Florida Transportation
 1179 Plan and the work program under s. 339.135.

1180 Section 21. Paragraph (a) of subsection (7) of section
 1181 288.0656, Florida Statutes, is amended to read:

1182 288.0656 Rural Economic Development Initiative.—

1183 (7) (a) REDI may recommend to the Governor up to three rural
 1184 areas of opportunity. The Governor may by executive order
 1185 designate up to three rural areas of opportunity which will
 1186 establish these areas as priority assignments for REDI as well
 1187 as to allow the Governor, acting through REDI, to waive
 1188 criteria, requirements, or similar provisions of any economic
 1189 development incentive. Such incentives shall include, but are

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1190 not limited to, the Qualified Target Industry Tax Refund Program
 1191 under s. 288.106, the Quick Response Training Program under s.
 1192 288.047, the Quick Response Training Program for participants in
 1193 the welfare transition program under s. 288.047(8),
 1194 ~~transportation projects under s. 339.2821~~, the brownfield
 1195 redevelopment bonus refund under s. 288.107, and the rural job
 1196 tax credit program under ss. 212.098 and 220.1895.

1197 Section 22. Paragraph (f) of subsection (1) of section
 1198 339.08, Florida Statutes, is amended to read:

1199 339.08 Use of moneys in State Transportation Trust Fund.—

1200 (1) The department shall expend moneys in the State
 1201 Transportation Trust Fund accruing to the department, in
 1202 accordance with its annual budget. The use of such moneys shall
 1203 be restricted to the following purposes:

1204 ~~(f) To pay the cost of economic development transportation~~
 1205 ~~projects in accordance with s. 339.2821.~~

1206 Section 23. Effective July 1, 2023, subsections (2) and
 1207 (3), paragraph (b) of subsection (4), and subsection (5) of
 1208 section 341.825, Florida Statutes, are amended to read:

1209 341.825 Communication facilities.—

1210 (2) APPLICATION SUBMISSION.—A railroad company may submit
 1211 to the department enterprise an application to obtain a permit
 1212 to construct communication facilities within a new or existing
 1213 high-speed rail system. The application shall include an
 1214 application fee limited to the amount needed to pay the
 1215 anticipated cost of reviewing the application, not to exceed
 1216 \$10,000, which shall be deposited into the State Transportation
 1217 Trust Fund. The application must include the following
 1218 information:

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- 1219 (a) The location of the proposed communication facilities.
 1220 (b) A description of the proposed communication facilities.
 1221 (c) Any other information reasonably required by the
 1222 department enterprise.
- 1223 (3) APPLICATION REVIEW.—The department enterprise shall
 1224 review each application for completeness within 30 days after
 1225 receipt of the application.
- 1226 (a) If the department enterprise determines that an
 1227 application is not complete, the department enterprise shall,
 1228 within 30 days after the receipt of the initial application,
 1229 notify the applicant in writing of any errors or omissions. An
 1230 applicant shall have 30 days within which to correct the errors
 1231 or omissions in the initial application.
- 1232 (b) If the department enterprise determines that an
 1233 application is complete, the department enterprise shall act
 1234 upon the permit application within 60 days of the receipt of the
 1235 completed application by approving in whole, approving with
 1236 conditions as the department enterprise deems appropriate, or
 1237 denying the application, and stating the reason for issuance or
 1238 denial. In determining whether an application should be
 1239 approved, approved with modifications or conditions, or denied,
 1240 the department enterprise shall consider any comments or
 1241 recommendations received from a municipality or county and the
 1242 extent to which the proposed communication facilities:
- 1243 1. Are located in a manner that is appropriate for the
 - 1244 communication technology specified by the applicant.
 - 1245 2. Serve an existing or projected future need for
 - 1246 communication facilities.
 - 1247 3. Provide sufficient wireless voice and data coverage and

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- 1248 capacity for the safe and efficient operation of the high-speed
 1249 rail system and the safety, use, and efficiency of its crew and
 1250 passengers.
- 1251 (c) The failure to adopt any recommendation or comment may
 1252 not be a basis for challenging the issuance of a permit.
- 1253 (4) EFFECT OF PERMIT.—
- 1254 (b) A permit may include conditions that constitute
 1255 variances and exemptions from rules of the department enterprise
 1256 or any other agency, which would otherwise be applicable to the
 1257 communication facilities within the new or existing high-speed
 1258 rail system.
- 1259 (5) MODIFICATION OF PERMIT.—A permit may be modified by the
 1260 applicant after issuance upon the filing of a petition with the
 1261 department enterprise.
- 1262 (a) A petition for modification must set forth the proposed
 1263 modification and the factual reasons asserted for the
 1264 modification.
- 1265 (b) The department enterprise shall act upon the petition
 1266 within 30 days by approving or denying the application, and
 1267 stating the reason for issuance or denial.
- 1268 Section 24. Effective July 1, 2023, section 341.836,
 1269 Florida Statutes, is amended to read:
- 1270 341.836 Associated development.—
- 1271 (1) The department enterprise, alone or as part of a joint
 1272 development, may undertake associated developments to be a
 1273 source of revenue for the establishment, construction,
 1274 operation, or maintenance of the high-speed rail system. Such
 1275 associated developments must be consistent, to the extent
 1276 feasible, with applicable local government comprehensive plans

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1277 and local land development regulations and otherwise be in
 1278 compliance with ss. 341.822-341.842 ~~ss. 341.8201-341.842~~.

1279 (2) ~~Sections 341.822-341.842~~ ~~Sections 341.8201-341.842~~ do
 1280 not prohibit the department enterprise, the selected person or
 1281 entity, or a party to a joint venture with the department
 1282 ~~enterprise~~ or its selected person or entity from obtaining
 1283 approval, pursuant to any other law, for any associated
 1284 development that is reasonably related to the high-speed rail
 1285 system.

1286 Section 25. Effective July 1, 2023, section 341.838,
 1287 Florida Statutes, is amended to read:

1288 341.838 Fares, rates, rents, fees, and charges.—

1289 (1) The department enterprise may establish, revise,
 1290 charge, and collect fares, rates, rents, fees, charges, and
 1291 revenues for the use of and for the services furnished, or to be
 1292 furnished, by the system and to contract with any person,
 1293 partnership, association, corporation, or other body, public or
 1294 private, in respect thereof. Such fares, rates, rents, fees, and
 1295 charges shall be reviewed annually by the department enterprise
 1296 and may be adjusted as set forth in the contract setting such
 1297 fares, rates, rents, fees, or charges. The funds collected
 1298 pursuant to this section shall, with any other funds available,
 1299 be used to pay the cost of designing, building, operating,
 1300 financing, and maintaining the system and each and every portion
 1301 thereof, to the extent that the payment of such cost has not
 1302 otherwise been adequately provided for.

1303 (2) Fares, rates, rents, fees, and charges established,
 1304 revised, charged, and collected by the department enterprise
 1305 pursuant to this section shall not be subject to supervision or

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1306 regulation by any other department, commission, board, body,
 1307 bureau, or agency of this state other than the department
 1308 ~~enterprise~~.

1309 Section 26. Effective July 1, 2023, section 341.839,
 1310 Florida Statutes, is amended to read:

1311 341.839 Alternate means.—~~Sections 341.822-341.842~~ ~~Sections~~
 1312 ~~341.8201-341.842~~ provide an additional and alternative method
 1313 for accomplishing the purposes authorized therein and are
 1314 supplemental and additional to powers conferred by other laws.
 1315 Except as otherwise expressly provided in ss. 341.822-341.842
 1316 ~~ss. 341.8201-341.842~~, none of the powers granted to the
 1317 department enterprise under ss. 341.822-341.842 ~~ss. 341.8201-~~
 1318 ~~341.842~~ are subject to the supervision or require the approval
 1319 or consent of any municipality or political subdivision or any
 1320 commission, board, body, bureau, or official.

1321 Section 27. Effective July 1, 2023, section 341.840,
 1322 Florida Statutes, is amended to read:

1323 341.840 Tax exemption.—

1324 (1) The exercise of the powers granted under ss. 341.822-
 1325 341.842 ~~ss. 341.8201-341.842~~ will be in all respects for the
 1326 benefit of the people of this state, for the increase of their
 1327 commerce, welfare, and prosperity, and for the improvement of
 1328 their health and living conditions. The design, construction,
 1329 operation, maintenance, and financing of a high-speed rail
 1330 system by the department enterprise, its agent, or the owner or
 1331 lessee thereof, as herein authorized, constitutes the
 1332 performance of an essential public function.

1333 (2) (a) For the purposes of this section, the term
 1334 "department" ~~"enterprise"~~ does not include agents of the

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1335 ~~department enterprise~~ other than contractors who qualify as such
1336 pursuant to subsection (7).

1337 (b) For the purposes of this section, any item or property
1338 that is within the definition of the term "associated
1339 development" in s. 341.8203(1) may not be considered part of the
1340 high-speed rail system as defined in s. 341.8203(3) ~~or~~
1341 ~~341.8203(4)~~.

1342 (3) (a) Purchases or leases of tangible personal property or
1343 real property by the department enterprise, excluding agents of
1344 the department enterprise, are exempt from taxes imposed by
1345 chapter 212 as provided in s. 212.08(6). Purchases or leases of
1346 tangible personal property that is incorporated into the high-
1347 speed rail system as a component part thereof, as determined by
1348 the department enterprise, by agents of the department
1349 enterprise or the owner of the high-speed rail system are exempt
1350 from sales or use taxes imposed by chapter 212. Leases, rentals,
1351 or licenses to use real property granted to agents of the
1352 department enterprise or the owner of the high-speed rail system
1353 are exempt from taxes imposed by s. 212.031 if the real property
1354 becomes part of such system. The exemptions granted in this
1355 subsection do not apply to sales, leases, or licenses by the
1356 department enterprise, agents of the department enterprise, or
1357 the owner of the high-speed rail system.

1358 (b) The exemption granted in paragraph (a) to purchases or
1359 leases of tangible personal property by agents of the department
1360 enterprise or by the owner of the high-speed rail system applies
1361 only to property that becomes a component part of such system.
1362 It does not apply to items, including, but not limited to,
1363 cranes, bulldozers, forklifts, other machinery and equipment,

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1364 tools and supplies, or other items of tangible personal property
1365 used in the construction, operation, or maintenance of the high-
1366 speed rail system when such items are not incorporated into the
1367 high-speed rail system as a component part thereof.

1368 (4) Any bonds or other security, and all notes, mortgages,
1369 security agreements, letters of credit, or other instruments
1370 that arise out of or are given to secure the repayment of bonds
1371 or other security, issued by the department enterprise, or on
1372 behalf of the department enterprise, their transfer, and the
1373 income therefrom, including any profit made on the sale thereof,
1374 shall at all times be free from taxation of every kind by the
1375 state, the counties, and the municipalities and other political
1376 subdivisions in the state. This subsection, however, does not
1377 exempt from taxation or assessment the leasehold interest of a
1378 lessee in any project or any other property or interest owned by
1379 the lessee. The exemption granted by this subsection is not
1380 applicable to any tax imposed by chapter 220 on interest income
1381 or profits on the sale of debt obligations owned by
1382 corporations.

1383 (5) When property of the department enterprise is leased to
1384 another person or entity, the property shall be exempt from ad
1385 valorem taxation only if the use by the lessee qualifies the
1386 property for exemption under s. 196.199.

1387 (6) A leasehold interest held by the department enterprise
1388 is not subject to intangible tax. However, if a leasehold
1389 interest held by the department enterprise is subleased to a
1390 nongovernmental lessee, such subleasehold interest shall be
1391 deemed to be an interest described in s. 199.023(1)(d), Florida
1392 Statutes 2005, and is subject to the intangible tax.

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1393 (7) (a) In order to be considered an agent of the department
 1394 ~~enterprise~~ for purposes of the exemption from sales and use tax
 1395 granted by subsection (3) for tangible personal property
 1396 incorporated into the high-speed rail system, a contractor of
 1397 the department ~~enterprise~~ that purchases or fabricates such
 1398 tangible personal property must be certified by the department
 1399 ~~enterprise~~ as provided in this subsection.

1400 (b)1. A contractor must apply for a renewal of the
 1401 exemption not later than December 1 of each calendar year.

1402 2. A contractor must apply to the department ~~enterprise~~ on
 1403 the application form adopted by the department ~~enterprise~~, which
 1404 shall develop the form in consultation with the Department of
 1405 Revenue.

1406 3. The department ~~enterprise~~ shall review each submitted
 1407 application and determine whether it is complete. The department
 1408 ~~enterprise~~ shall notify the applicant of any deficiencies in the
 1409 application within 30 days. Upon receipt of a completed
 1410 application, the department ~~enterprise~~ shall evaluate the
 1411 application for exemption under this subsection and issue a
 1412 certification that the contractor is qualified to act as an
 1413 agent of the department ~~enterprise~~ for purposes of this section
 1414 or a denial of such certification within 30 days. The department
 1415 ~~enterprise~~ shall provide the Department of Revenue with a copy
 1416 of each certification issued upon approval of an application.
 1417 Upon receipt of a certification from the department ~~enterprise~~,
 1418 the Department of Revenue shall issue an exemption permit to the
 1419 contractor.

1420 (c)1. The contractor may extend a copy of its exemption
 1421 permit to its vendors in lieu of paying sales tax on purchases

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1422 of tangible personal property qualifying for exemption under
 1423 this section. Possession of a copy of the exemption permit
 1424 relieves the seller of the responsibility of collecting tax on
 1425 the sale, and the Department of Revenue shall look solely to the
 1426 contractor for recovery of tax upon a determination that the
 1427 contractor was not entitled to the exemption.

1428 2. The contractor may extend a copy of its exemption permit
 1429 to real property subcontractors supplying and installing
 1430 tangible personal property that is exempt under subsection (3).
 1431 Any such subcontractor may extend a copy of the permit to the
 1432 subcontractor's vendors in order to purchase qualifying tangible
 1433 personal property tax-exempt. If the subcontractor uses the
 1434 exemption permit to purchase tangible personal property that is
 1435 determined not to qualify for exemption under subsection (3),
 1436 the Department of Revenue may assess and collect any tax,
 1437 penalties, and interest that are due from either the contractor
 1438 holding the exemption permit or the subcontractor that extended
 1439 the exemption permit to the seller.

1440 (d) Any contractor authorized to act as an agent of the
 1441 department ~~enterprise~~ under this section shall maintain the
 1442 necessary books and records to document the exempt status of
 1443 purchases and fabrication costs made or incurred under the
 1444 permit. In addition, an authorized contractor extending its
 1445 exemption permit to its subcontractors shall maintain a copy of
 1446 the subcontractor's books, records, and invoices indicating all
 1447 purchases made by the subcontractor under the authorized
 1448 contractor's permit. If, in an audit conducted by the Department
 1449 of Revenue, it is determined that tangible personal property
 1450 purchased or fabricated claiming exemption under this section

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1451 does not meet the criteria for exemption, the amount of taxes
1452 not paid at the time of purchase or fabrication shall be
1453 immediately due and payable to the Department of Revenue,
1454 together with the appropriate interest and penalty, computed
1455 from the date of purchase, in the manner prescribed by chapter
1456 212.

1457 (e) If a contractor fails to apply for a high-speed rail
1458 system exemption permit, or if a contractor initially determined
1459 by the department enterprise to not qualify for exemption is
1460 subsequently determined to be eligible, the contractor shall
1461 receive the benefit of the exemption in this subsection through
1462 a refund of previously paid taxes for transactions that
1463 otherwise would have been exempt. A refund may not be made for
1464 such taxes without the issuance of a certification by the
1465 department enterprise that the contractor was authorized to make
1466 purchases tax-exempt and a determination by the Department of
1467 Revenue that the purchases qualified for the exemption.

1468 (f) The department enterprise may adopt rules governing the
1469 application process for exemption of a contractor as an
1470 authorized agent of the department enterprise.

1471 (g) The Department of Revenue may adopt rules governing the
1472 issuance and form of high-speed rail system exemption permits,
1473 the audit of contractors and subcontractors using such permits,
1474 the recapture of taxes on nonqualified purchases, and the manner
1475 and form of refund applications.

1476 Section 28. Effective July 1, 2023, paragraph (b) of
1477 subsection (4) of section 343.58, Florida Statutes, is amended
1478 to read:

1479 343.58 County funding for the South Florida Regional

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1480 Transportation Authority.-

1481 (4) Notwithstanding any other provision of law to the
1482 contrary and effective July 1, 2010, until as provided in
1483 paragraph (d), the department shall transfer annually from the
1484 State Transportation Trust Fund to the South Florida Regional
1485 Transportation Authority the amounts specified in subparagraph
1486 (a)1. or subparagraph (a)2.

1487 (b) Funding required by this subsection may not be provided
1488 from the funds dedicated to the State Transportation Trust Fund
1489 ~~Florida Rail Enterprise~~ pursuant to s. 201.15(4)(a)4.

1490 Section 29. Paragraph (a) of subsection (4) of section
1491 377.809, Florida Statutes, is amended to read:

1492 377.809 Energy Economic Zone Pilot Program.-

1493 (4)(a) Beginning July 1, 2012, all the incentives and
1494 benefits provided for enterprise zones pursuant to state law
1495 shall be available to the energy economic zones designated
1496 pursuant to this section on or before July 1, 2010. In order to
1497 provide incentives, by March 1, 2012, each local governing body
1498 that has jurisdiction over an energy economic zone must, by
1499 local ordinance, establish the boundary of the energy economic
1500 zone, specify applicable energy-efficiency standards, and
1501 determine eligibility criteria for the application of state and
1502 local incentives and benefits in the energy economic zone.
1503 However, in order to receive benefits provided under s. 288.106,
1504 a business must be a qualified target industry business under s.
1505 288.106 for state purposes. An energy economic zone's boundary
1506 may be revised by local ordinance. Such incentives and benefits
1507 include those in ss. 212.08, 212.096, 220.181, 220.182, 220.183,
1508 288.106, and 624.5105 and the public utility discounts provided

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1509 in s. 290.007(8). The exemption provided in s. 212.08(5)(c)
1510 shall be for renewable energy as defined in s. 377.803. For
1511 purposes of this section, any applicable requirements for
1512 employee residency for higher refund or credit thresholds must
1513 be based on employee residency in the energy economic zone or an
1514 enterprise zone. A business in an energy economic zone may also
1515 be eligible for funding under ss. 288.047 and 445.003, ~~and a~~
1516 ~~transportation project in an energy economic zone shall be~~
1517 ~~provided priority in funding under s. 339.2821.~~ Other projects
1518 shall be given priority ranking to the extent practicable for
1519 grants administered under state energy programs.

1520 Section 30. Except as otherwise expressly provided in this
1521 act, this act shall take effect July 1, 2020.

THE FLORIDA SENATE APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-25-20
Meeting Date

7054
Bill Number (if applicable)
182020
Amendment Barcode (if applicable)

Topic Transportation - Passenger rail

Name Rusty Roberts

Job Title VP Govt Affairs

Address 161 NW 67th Street
Street

Phone 202-604-5953

Miami FL 33136
City State Zip

Email Rusty.Roberts@gobrightline.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Brightline Trains

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

2/25/20

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

7054

Bill Number (if applicable)

182020

Amendment Barcode (if applicable)

Topic _____

Name ROBERT SILVIA

Job Title _____

Address 301 S. BROWNSVILLE ST

Street

Phone 843-5880
~~407-423~~

TALL

City

FL

State

32301

Zip

Email ROBERT.SILVIA@FLSENATE.COM

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing PORT CANAVERAL

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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APPEARANCE RECORD

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2/26/2020
Meeting Date

SB 7054
Bill Number (if applicable)

Amd. 822698
Amendment Barcode (if applicable)

Topic _____

Name Lisa Watkins

Job Title CEO - Florida Airports Council

Address 325 John Knox Rd # L103

Phone 850-205-8632

Tallahassee FL. 32303

City State Zip

Email lisa@fi

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Airports Council

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

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2/25/20
Meeting Date

7054
Bill Number (if applicable)
566528
Amendment Barcode (if applicable)

Topic _____

Name Chris Carmody

Job Title Attorney

Address 301 E. Pine St., Suite 1400

Street
Orlando FL 32801

City State Zip

Phone 407-843-8880

Email chris.carmody@gray

Speaking: For Against Information

Waive Speaking: In Support Against *Robinson can*
(The Chair will read this information into the record.)

Representing Lake County

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR JEFF BRANDES

24th District

COMMITTEES:

Appropriations Subcommittee on Criminal
and Civil Justice, *Chair*
Criminal Justice, *Vice Chair*
Appropriations
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Banking and Insurance
Innovation, Industry, and Technology
Rules

JOINT COMMITTEES:

Joint Legislative Auditing Committee,
Alternating Chair
Joint Legislative Budget Commission

February 25, 2020

Chair Hutson,

I am writing to respectfully request that I be excused from the Appropriations Subcommittee on Transportation, Tourism, and Economic Development on February 25th due to a prior commitment.

If you have any questions regarding this request, please feel free to contact my office or myself. Thank you for your time and consideration of this matter.

Kind Regards,

A handwritten signature in black ink, appearing to read "Jeff Brandes", with a long horizontal flourish extending to the right.

Jeff Brandes

REPLY TO:

- 9800 4th Street North, Suite 200, St. Petersburg, Florida 33702 (727) 563-2100
- 416 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5024

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

CourtSmart Tag Report

Room: EL 110

Case No.:

Type:

Caption: Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development **Judge:**

Started: 2/25/2020 1:00:35 PM

Ends: 2/25/2020 1:22:31 PM

Length: 00:21:57

1:00:37 PM Sen. Hutson (Chair)
1:01:40 PM S 1086
1:01:45 PM Sen. Diaz
1:01:49 PM Am. 774030
1:01:56 PM Sen. Diaz
1:03:23 PM David Ramba, Florida Auto Dealers Association (waives in support)
1:03:34 PM S 1086 (cont.)
1:04:06 PM S 16
1:04:22 PM Sen. Simmons
1:05:24 PM Ken McKenna, Attorney, Claimant (waives in support)
1:05:56 PM S 220
1:06:03 PM Sen. Cruz
1:07:24 PM Am. 782640
1:07:30 PM Sen. Cruz
1:08:03 PM S 220 (cont.)
1:08:14 PM Sen. Cruz
1:09:46 PM S 7054
1:09:53 PM Sen. Lee
1:14:35 PM Am. 182020
1:14:41 PM Sen. Lee
1:15:09 PM Robert Stuart, Lobbyist, Port Canaveral (waives in support)
1:15:13 PM Rusty Roberts, VP of Government Affairs, Brightline Trains
1:16:13 PM Am. 274560
1:16:18 PM Sen. Lee
1:17:56 PM Am. 822698
1:18:01 PM Sen. Lee
1:19:09 PM Lisa Waters, CEO, Florida Airports Council (waives in support)
1:19:24 PM Am. 566528
1:19:28 PM Sen. Lee
1:19:45 PM Chris Carmody, Attorney, Lake County (waives in support)
1:20:01 PM Am. 167288
1:20:08 PM Sen. Taddeo
1:21:09 PM Am. 167288 (withdrawn)
1:21:14 PM S 7054 (cont.)
1:21:26 PM Sen. Lee
1:22:19 PM Sen. Hutson