

Tab 1 CS/SB 608 by FT, Stargel; (Similar to H 0775) Emergency Preparedness and Response

Tab 2 CS/SB 756 by TR, Brandes; (Compare to H 1379) Department of Transportation

520720	A	S	RCS	ATD, Latvala	Delete L.1232 - 1236:	01/21 12:33 PM
822048	A	S	RCS	ATD, Brandes	btw L.1406 - 1407:	01/21 12:33 PM
329342	A	S	WD	ATD, Detert	btw L.1406 - 1407:	01/21 12:33 PM

Tab 3 SB 1066 by Margolis; Anatomical Gifts

128202	A	S	L RCS	ATD, Clemens	Delete L.23 - 31:	01/25 09:26 AM
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

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

Senator Latvala, Chair
Senator Clemens, Vice Chair

MEETING DATE: Thursday, January 21, 2016
TIME: 9:00 a.m.—12:00 noon
PLACE: 301 Senate Office Building

MEMBERS: Senator Latvala, Chair; Senator Clemens, Vice Chair; Senators Brandes, Detert, Diaz de la Portilla, Gibson, Hukill, Sachs, and Thompson

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 608 Finance and Tax / Stargel (Similar H 775)	Emergency Preparedness and Response; Providing a sales and use tax exemption for certain tangible personal property related to disaster preparedness during a specified period; authorizing the Department of Revenue to adopt rules to implement the exemption; providing an expiration date; requiring the Division of Emergency Management to create a statewide system to facilitate transport and distribution of essentials in an emergency throughout the state, etc. FT 01/11/2016 Fav/CS ATD 01/21/2016 Favorable AP	Favorable Yeas 8 Nays 0
2	CS/SB 756 Transportation / Brandes (Compare H 1379, H 7027, CS/H 7061, S 1392, S 1508)	Department of Transportation; Increasing the minimum amount that must be made available annually from the State Transportation Trust Fund to fund the Florida Seaport Transportation and Economic Development Program; authorizing the department to enter into certain agreements related to the federal surface transportation project delivery program under certain federal law; creating a nonprofit corporation to be known as the "Florida Department of Transportation Financing Corporation"; authorizing the corporation to contract with the State Board of Administration to perform certain services, etc. TR 12/03/2015 Fav/CS ATD 01/21/2016 Fav/CS AP	Fav/CS Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Thursday, January 21, 2016, 9:00 a.m.—12:00 noon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	SB 1066 Margolis	Anatomical Gifts; Requiring the Department of Highway Safety and Motor Vehicles to maintain an integrated website link to the organ donation registry; requiring the department to establish a procedure to confirm electronically that persons transacting driver license services at a department office or facility have been informed that they may become organ donors; providing applicability, etc. TR 01/14/2016 Favorable ATD 01/21/2016 Fav/CS FP	Fav/CS Yeas 8 Nays 0
Workshop on Economic Development Legislation			Discussed
Other Related Meeting Documents			

By the Committee on Finance and Tax; and Senator Stargel

593-02007-16

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1 A bill to be entitled
2 An act relating to emergency preparedness and
3 response; providing a sales and use tax exemption for
4 certain tangible personal property related to disaster
5 preparedness during a specified period; providing
6 exceptions; authorizing the Department of Revenue to
7 adopt emergency rules to implement the exemption;
8 providing an expiration date; providing an
9 appropriation; creating s. 252.359, F.S.; requiring
10 the Division of Emergency Management to create a
11 statewide system to facilitate transport and
12 distribution of essentials in an emergency throughout
13 the state; defining the term "essentials"; requiring
14 the division to develop a certification system for
15 certain persons who transport or assist in the
16 distribution of essentials; providing requirements and
17 conditions for the certification system; permitting
18 certain activities by certified persons during a
19 curfew; providing that a law enforcement officer may
20 specify a permissible route of ingress or egress for a
21 certified person; providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Disaster preparedness tax exemption.-

26 (1) The tax levied under chapter 212, Florida Statutes, may
27 not be collected during the period from 12:01 a.m. on May 31,
28 2016, through 11:59 p.m. on June 14, 2016, on the sale of:

29 (a) A portable self-powered light source selling for \$20 or
30 less.

31 (b) A portable self-powered radio, two-way radio, or
32 weather band radio selling for \$75 or less.

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33 (c) A tarpaulin or other flexible waterproof sheeting
34 selling for \$50 or less.

35 (d) An item typically sold or advertised as a ground anchor
36 system or tie-down kit selling for \$50 or less.

37 (e) A gas or diesel fuel tank selling for \$25 or less.

38 (f) A package of AAA-cell, AA-cell, C-cell, D-cell, 6-volt,
39 or 9-volt batteries, excluding automobile and boat batteries,
40 selling for \$30 or less.

41 (g) A cellular telephone battery selling for \$60 or less.

42 (h) A cellular telephone charger selling for \$40 or less.

43 (i) A nonelectric food storage cooler selling for \$30 or
44 less.

45 (j) A portable generator that is used to provide light,
46 support communications, or preserve food during a power outage
47 and selling for \$1,000 or less.

48 (k) A storm shutter device selling for \$200 or less. As
49 used in this paragraph, the term "storm shutter device" means a
50 material or product manufactured, rated, and marketed
51 specifically for the purpose of preventing window damage from
52 storms.

53 (l) A carbon monoxide detector selling for \$75 or less.

54 (m) Reusable ice selling for \$10 or less.

55 (n) A single product consisting of two or more of the items
56 listed in paragraphs (a)-(m) and selling for \$75 or less.

57 (o) A personal locator beacon selling for \$600 or less.

58 (p) An emergency position-indicating radio beacon selling
59 for \$1,500 or less.

60 (2) The tax exemptions provided in this section do not
61 apply to sales within a public lodging establishment as defined

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62 in s. 509.013(4), Florida Statutes, within a theme park or
63 entertainment complex as defined in s. 509.013(9), Florida
64 Statutes, or within an airport as defined in s. 330.27(2),
65 Florida Statutes.

66 (3) The Department of Revenue is authorized, and all
67 conditions are deemed met, to adopt emergency rules pursuant to
68 ss. 120.536(1) and 120.54, Florida Statutes, to implement this
69 section.

70 (4) This section expires September 30, 2016.

71 Section 2. For the 2015-2016 fiscal year, the sum of
72 \$212,754 in nonrecurring funds is appropriated from the General
73 Revenue Fund to the Department of Revenue for the purpose of
74 administering the tax exemptions for the purchase of tangible
75 personal property relating to disaster preparedness specified
76 under this act.

77 Section 3. Section 252.359, Florida Statutes, is created to
78 read:

79 252.359 Ensuring availability of emergency supplies.-

80 (1) In order to meet the needs of residents affected by a
81 declared emergency and to ensure the continuing economic
82 resilience of communities impacted by disaster, the Division of
83 Emergency Management shall establish a statewide system to
84 facilitate transport and distribution of essentials throughout
85 the state.

86 (2) As used in this section, the term "essentials" means
87 any goods that are consumed or used as a direct result of an
88 emergency or that are consumed or used to preserve, protect, or
89 sustain life, health, safety, or economic well-being.

90 (3) The division shall develop a system to certify a person

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91 who transports essentials in commerce or assists in ensuring the
92 availability of essentials, subject to the following:

93 (a) The system must allow for both preemergency declaration
94 and postemergency declaration certification and may include an
95 annually renewable precertification.

96 (b) The division may certify only a person who routinely
97 transports or distributes essentials.

98 (c) If requested by the employer, a certification of the
99 employer constitutes a certification of the employer's
100 employees.

101 (d) The division shall create an easily recognizable
102 indicium of certification to assist local officials' efforts to
103 determine which persons have been certified under this
104 subsection.

105 (e) A person certified by the division is not required to
106 obtain any additional certification or fulfill any additional
107 requirement in order to transport or distribute essentials.

108 (4) Notwithstanding any curfew, a person certified under
109 subsection (3) may enter or remain in the curfew area for the
110 limited purpose of distributing or assisting in the distribution
111 of essentials and may provide service that exceeds otherwise
112 applicable hours of service maximums to the extent authorized by
113 a duly executed declaration of a state of emergency.

114 (5) This section does not prohibit a law enforcement
115 officer from specifying the permissible route of ingress or
116 egress for a person certified under subsection (3).

117 Section 4. This act shall take effect upon becoming a law.

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: CS/SB 608

INTRODUCER: Finance and Tax Committee and Senator Stargel

SUBJECT: Emergency Preparedness and Response

DATE: January 20, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Gross</u>	<u>Diez-Arguelles</u>	<u>FT</u>	<u>Fav/CS</u>
2.	<u>Gusky</u>	<u>Miller</u>	<u>ATD</u>	<u>Recommended: Favorable</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 608 establishes a 15-day (May 31, 2016 - June 14, 2016) sales tax exemption for purchases of items related to emergency preparedness and response. During the exemption period certain light sources, radios, tarps, "tie-down" kits, fuel tanks, batteries, cellular telephone chargers, food storage coolers, portable generators, storm shutter devices, carbon monoxide detectors, reusable ice, personal locator beacons, and emergency position-indicating radio beacons will be exempt from state sales and use tax and county discretionary sales surtaxes.

The bill also directs the Division of Emergency Management to establish a statewide system to facilitate the transportation and distribution of essential goods during an emergency.

The Revenue Estimating Conference estimates that the bill will reduce General Revenue receipts by \$6.5 million and local government revenues by \$1.4 million in Fiscal Year 2016-2017. Due to the timing of the sales tax holiday, state revenues are estimated to be reduced by \$0.2 million dollars in Fiscal Year 2015-2016.

The bill provides the Department of Revenue with a nonrecurring appropriation of \$212,754 from the General Revenue Fund for Fiscal Year 2015-2016 to administer the sales tax exemption provision of this act. The Division of Emergency Management will use existing in-house resources to create the statewide system to facilitate the transport of emergency essentials.

This act shall take effect upon becoming law.

II. Present Situation:

Sales Tax

Florida levies a six percent sales and use tax on the sale or rental of most tangible personal property, admissions,¹ transient rentals,² commercial real estate rentals,³ and a limited number of services. Chapter 212, F.S., contains statutory provisions authorizing the levy and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. Sales tax is added to the price of taxable goods or services and the tax is collected from the purchaser at the time of sale.

In addition to the state sales and use tax, s. 212.055, F.S., authorizes counties to impose eight local discretionary sales surtaxes.⁴ A surtax applies to "all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rental, admissions, and other transactions by [chapter 212, F.S.], and on communications services as defined in ch. 202, F.S."⁵

The Division of Emergency Management (division) recommends that families prepare "disaster kits" for times of emergency. The division recommends items such as water, dried foods, sleeping bags, flashlights and batteries, medicines, battery powered radios, and tools.⁶

The Federal Emergency Management Agency (FEMA) educates Americans on how to prepare for emergencies through a public service advertising campaign named, Ready.⁷ In addition to the items listed in the paragraph above, FEMA recommends cell phone chargers, inverters, or solar chargers as items to include in an emergency preparedness supply kit.

Statewide System to Transport Essentials in an Emergency

Currently, Florida does not provide a state certification for individuals or employers who assist in delivering essential goods during times of emergency.

Each local jurisdiction may impose identification requirements and credentials beyond that which the division suggests.⁸ Over the past few years, the division's Office of Private Sector Coordination "formulated a working group to discuss...private sector re-entry."⁹ Statements at meetings and survey responses indicated that most local jurisdictions would allow access to

¹ Section 212.04, F.S.

² Section 212.03, F.S.

³ Florida Department of Revenue, *Who must pay tax? Partial list of taxable business activities*, available at http://dor.myflorida.com/dor/taxes/sales_tax.html (last visited Oct. 2, 2015).

⁴ The tax rates, duration of the surtax, method of imposition, and proceed uses are individually specified in s. 212.055, F.S.

⁵ Section 212.054, F.S.

⁶ Florida Division of Emergency Management, *Now is the Time to Prepare For All of Florida's Weather!*, available at <http://www.floridadisaster.org/documents/EmergencyKit-FDEM.pdf> (last visited Nov 9, 2015).

⁷ Federal Emergency Management Agency, Ready.gov, available at <http://www.ready.gov/about-us> (last visited Nov 9, 2015).

⁸ Department of Emergency Management, *Senate Bill 608 Fiscal Analysis* (Nov. 2, 2016)(on file with the Senate Committee on Finance and Tax).

⁹ Florida Division of Emergency Management, *Statewide Re-entry Information*, available at http://www.floridadisaster.org/PublicPrivateSector/reentry_information.html (last visited Nov 18, 2015).

disaster stricken areas if private sector employees and businesses possess three of the following items:¹⁰

- A corporate identification card.
- A letter of authorization.
- A bill of lading/work order.
- A valid driver's license.

The items listed above are only a recommended list and each county may require additional documentation from persons who travel into disaster areas.

III. Effect of Proposed Changes:

Disaster Preparedness Tax Exemption

The bill provides an exemption from state and local sales and use tax during the period from 12:01 a.m. on May 31, 2016, through 11:59 p.m. on June 14, 2016, for the following goods related to emergency preparedness:

- A portable self-powered light source selling for \$20 or less.
- A portable self-powered radio, two-way radio, or weather band radio selling for \$75 or less.
- A tarpaulin or other flexible waterproof sheeting selling for \$50 or less.
- An item typically sold or advertised as a ground anchor system or tie-down kit selling for \$50 or less.
- A gas or diesel fuel tank selling for \$25 or less.
- A package of AAA-cell, AA-cell, C-cell, D-cell, 6-volt or 9-volt batteries, excluding automobile and boat batteries selling for \$30 or less.
- A cellular telephone battery selling for \$60 or less.
- A cellular telephone charger selling for \$40 or less.
- A nonelectric food storage cooler selling for \$30 or less.
- A portable generator used to provide light, support communications, or preserve food during a power outage selling for \$1,000 or less.
- A storm shutter device selling for \$200 or less.
- A carbon monoxide detector selling for \$75 or less.
- Reusable ice selling for \$10 or less.
- A single product consisting of two or more of the items above.
- A personal locator beacon selling for \$600 or less.
- An emergency position-indicating radio beacon selling for \$1,500 or less.

The bill also authorizes the Department of Revenue to adopt emergency rules to implement the sales and use tax exemption.

The bill appropriates \$212,754 of nonrecurring funds from the General Revenue Fund to the Department of Revenue for Fiscal Year 2015-2016 for purposes of administering the tax exemption specified above.

¹⁰ *Id.*

Statewide System to Transport Essentials in an Emergency

The bill directs the Division of Emergency Management to establish a statewide system to facilitate the transportation and distribution of essentials throughout the state during times of emergency. The term “essentials” means any goods that are consumed or used as a direct result of an emergency or that are consumed or used to preserve, protect, or sustain life, health, safety, or economic well-being.

The division must develop a system to certify persons who:

- Transport essentials in commerce, or
- Assist in ensuring the availability of essentials.

The system must allow for certification of persons both before and after a declaration of emergency and may include an annually renewable precertification. If requested by the employer, a certification of the employer constitutes a certification of the employer’s employees. The division may certify only a person who routinely transports or distributes essentials. The division is directed to create an easily recognizable indicium of certification to assist local officials’ efforts in determining who has access to an area.

Certified individuals will move throughout the state and throughout local communities at times of emergency. During times of curfew, certified persons are permitted to enter or remain in the curfew area for the limited purpose of distributing or assisting in the distribution of essentials. The bill also states that law enforcement officers are not prohibited from specifying the permissible route of ingress or egress of certified individuals.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds or that limit their ability to raise revenue or receive state tax revenue.

Subsection (b) of Article VII, s. 18 of the Florida Constitution provides that, except upon approval by each house of the Legislature by two-thirds vote of its membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, these requirements do not apply to laws that have an insignificant fiscal impact on local governments, which for Fiscal Year 2016-2017, is \$2 million or less.^{11,12,13}

¹¹ FLA. CONST. art. VII, s. 18(d).

¹² An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Oct. 6, 2015).

¹³ Based on the Demographic Estimating Conference’s population adopted on July 9, 2015. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Oct. 6, 2015).

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

The Revenue Estimating Conference estimates that CS/SB 608 will reduce state General Revenue receipts by \$6.5 million and local government revenue by \$1.4 million in Fiscal Year 2016-2017. Due to the timing of the sales tax holiday, state revenues are estimated to be reduced by \$0.2 million dollars in Fiscal Year 2015-2016.

B. Private Sector Impact:

Indeterminate, but anticipated positive, fiscal impact on businesses that sell designated items during the 15 day sales tax exemption period.

C. Government Sector Impact:

CS/SB 608 provides the Department of Revenue a nonrecurring General Revenue appropriation of \$212,754 in Fiscal Year 2015-2016 to administer the sales and use tax exemption provision of the act.

The Division of Emergency Management will use existing in-house resources to create the statewide system to facilitate the transport of emergency essentials and should not require additional personnel or technology.¹⁴

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 252.359 of the Florida Statutes.

This bill creates two undesignated sections of Florida law.

¹⁴ Department of Emergency Management, *Senate Bill 608 Fiscal Analysis* (Nov. 2, 2016) (on file with the Senate Committee on Finance and Tax).

IX. Additional Information:

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

CS by Finance and Tax on January 11, 2016:

The CS changes the starting time of the tax exemptions from 12 a.m. to 12:01 a.m., provides DOR with emergency rule making authority to implement the sales and use tax exemptions, authorizes an appropriation of \$212,754 in Fiscal Year 2015-2016, removes persons “who assist in restoring utility services” from the certification process, and clarifies that certifying an employer also certifies its employees only upon request of the employer.

- B. **Amendments:**

None.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Higher Education, *Chair*
Appropriations Subcommittee on Education
Fiscal Policy
Judiciary
Military and Veterans Affairs, Space, and Domestic
Security
Regulated Industries

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR KELLI STARGEL

15th District

January 21, 2016

Dear Chair Latvala:

I am requesting permission for my LA, Chad Davis, to present SB 608 which is dealing with Emergency Preparedness. During Transportation, Tourism and Economic Development committee timeframe, I will be in the Education Appropriations Committee.

Thank you for this consideration,

Sincerely,

A handwritten signature in black ink that reads "Kelli Stargel".

Kelli Stargel
State Senator, District 15

Cc: Phillip Miller / Staff Director
Elizabeth Wells / CAA

REPLY TO:

- 2033 East Edgewood Drive, Suite 1, Lakeland, Florida 33803
- 324 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5015

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/21/16

Meeting Date

SB 608

Bill Number (if applicable)

Topic Emergency Preparedness

Amendment Barcode (if applicable)

Name Carolyn Johnson

Job Title Policy Director

Address 136 S Bronough St

Phone 850-521-1235

Street

Tallahassee

FL

32301

Email cjohnson@flchamber.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Chamber of Commerce

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)

APPEARANCE RECORD

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

1/21/16

Meeting Date

608

Bill Number (if applicable)

Topic Emergency Preparedness & Response

Amendment Barcode (if applicable)

Name Samantha Padgett

Job Title Vice President & General Counsel

Address 227 S. Adams St.

Phone 222-4082

Street

Tallahassee FL - 32301

Email Samantha@frf.org

City

State

Zip

Speaking: For Against Information

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

Representing Florida Retail Federation & FPMA

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.

By the Committee on Transportation; and Senator Brandes

596-01808-16

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1 A bill to be entitled
2 An act relating to the Department of Transportation;
3 amending s. 311.07, F.S.; increasing the minimum
4 amount that must be made available annually from the
5 State Transportation Trust Fund to fund the Florida
6 Seaport Transportation and Economic Development
7 Program; amending s. 311.09, F.S.; increasing the
8 amount per year the department must include in its
9 annual legislative budget request for the Florida
10 Seaport Transportation and Economic Development
11 Program; amending s. 316.003, F.S.; defining the term
12 "port of entry"; amending s. 316.545, F.S.; providing
13 a specified penalty for drivers of commercial motor
14 vehicles who obtain temporary registration permits
15 entering the state at, or operating on designated
16 routes to, a port-of-entry location; amending s.
17 333.01, F.S.; defining and redefining terms; amending
18 s. 333.025, F.S.; revising the requirements relating
19 to permits required for obstructions; requiring
20 certain existing, planned, and proposed facilities to
21 be protected from airport hazards; requiring the local
22 government to provide a copy of a complete permit
23 application to the Department of Transportation's
24 aviation office, subject to certain requirements;
25 requiring the department to have a specified review
26 period following receipt of such application;
27 providing exemptions from such review under certain
28 circumstances; revising the circumstances under which
29 the department issues or denies a permit; revising the
30 department's requirements before a permit is issued;
31 revising the circumstances under which the department
32 is prohibited from approving a permit; providing that

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33 the denial of a permit is subject to administrative
34 review; amending s. 333.03, F.S.; conforming
35 provisions to changes made by the act; revising the
36 circumstances under which a political subdivision
37 owning or controlling an airport and another political
38 subdivision adopt, administer, and enforce airport
39 zoning regulations or create a joint airport
40 protection zoning board; revising the provisions
41 relating to airport protection zoning regulations and
42 joint airport protection zoning boards; requiring the
43 department to be available to provide assistance to
44 political subdivisions regarding federal obstruction
45 standards; deleting provisions relating to certain
46 duties of the department; revising provisions relating
47 to airport land use compatibility zoning regulations;
48 revising construction; providing applicability;
49 amending s. 333.04, F.S.; authorizing certain airport
50 zoning regulations to be incorporated in and made a
51 part of comprehensive plans and policies, rather than
52 a part of comprehensive zoning regulations, under
53 certain circumstances; revising requirements relating
54 to applicability; amending s. 333.05, F.S.; revising
55 procedures for adoption of airport zoning regulations;
56 amending s. 333.06, F.S.; revising airport zoning
57 regulation requirements; repealing s. 333.065, F.S.,
58 relating to guidelines regarding land use near
59 airports; amending s. 333.07, F.S.; revising
60 requirements relating to local government permitting
61 of airspace obstructions; requiring a person proposing

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62 to construct, alter, or allow an airport obstruction
63 to apply for a permit under certain circumstances;
64 revising the circumstances under which a permit is
65 prohibited from being issued; revising the
66 circumstances under which the owner of a nonconforming
67 structure is required to alter such structure to
68 conform to the current airport protection zoning
69 regulations; deleting provisions relating to variances
70 from zoning regulations; requiring a political
71 subdivision or its administrative agency to consider
72 specified criteria in determining whether to issue or
73 deny a permit; revising the requirements for marking
74 and lighting in conformance with certain standards;
75 repealing s. 333.08, F.S., relating to appeals of
76 decisions concerning airport zoning regulations;
77 amending s. 333.09, F.S.; revising the requirements
78 relating to the administration of airport protection
79 zoning regulations; requiring all airport protection
80 zoning regulations to provide for the administration
81 and enforcement of such regulations by the political
82 subdivision or its administrative agency; requiring a
83 political subdivision adopting airport zoning
84 regulations to provide a permitting process, subject
85 to certain requirements; requiring a zoning board or
86 permitting body to implement the airport zoning
87 regulation permitting and appeals process if such
88 board or body already exists within a political
89 subdivision; authorizing a person, a political
90 subdivision or its administrative agency, or a

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91 specified joint zoning board to use the process
92 established for an appeal, subject to certain
93 requirements; repealing s. 333.10, F.S., relating to
94 boards of adjustment provided for by airport zoning
95 regulations; amending s. 333.11, F.S.; revising the
96 requirements relating to judicial review; amending s.
97 333.12, F.S.; revising requirements relating to the
98 acquisition of air rights; amending s. 333.13, F.S.;
99 conforming provisions to changes made by the act;
100 creating s. 333.135, F.S.; requiring conflicting
101 airport zoning regulations in effect on a specified
102 date to be amended to conform to certain requirements;
103 requiring certain political subdivisions to adopt
104 certain airport zoning regulations by a specified
105 date; requiring the department to administer a
106 specified permitting process for certain political
107 subdivisions; repealing s. 333.14, F.S., relating to a
108 short title; amending s. 334.044, F.S.; authorizing
109 the department to assume certain responsibilities
110 under the National Environmental Policy Act with
111 respect to highway projects within the state and
112 certain related responsibilities relating to review or
113 approval of a highway project; authorizing the
114 department to enter into certain agreements related to
115 the federal surface transportation project delivery
116 program under certain federal law; authorizing the
117 department to adopt implementing rules; authorizing
118 the department to adopt certain relevant federal
119 environmental standards; providing a limited waiver of

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120 sovereign immunity to civil suit in federal court
121 consistent with certain federal law; amending s.
122 334.30, F.S.; conforming a cross-reference; requiring
123 the department to consult with the Division of Bond
124 Finance in connection with a proposal to finance or
125 refinance a transportation facility; requiring the
126 department to provide the division with information
127 necessary to provide timely consultation and
128 recommendations; authorizing the division to make an
129 independent recommendation to the Executive Officer of
130 the Governor; creating s. 337.027, F.S.; authorizing
131 the department to establish a program for highway
132 projects that assist small businesses; providing a
133 program purpose; defining the term "small business";
134 authorizing the department to adopt rules; amending s.
135 338.165, F.S.; removing an option to issue certain
136 bonds secured by toll revenues collected on the
137 Beeline-East Expressway and the Navarre Bridge;
138 amending s. 338.231, F.S.; increasing the number of
139 years before an inactive prepaid toll account is
140 presumed unclaimed; creating s. 339.0809, F.S.;
141 creating a nonprofit corporation to be known as the
142 "Florida Department of Transportation Financing
143 Corporation"; defining the term "corporation";
144 providing for membership of a governing board of
145 directors; providing certain powers and duties;
146 authorizing the corporation to enter into service
147 contracts with the Department of Transportation
148 subject to certain requirements; authorizing the

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149 corporation to issue and incur notes, bonds,
150 certificates of indebtedness, or other obligations or
151 evidences of indebtedness under certain circumstances;
152 providing that the fulfillment of the purposes of the
153 corporation promotes the health, safety, and general
154 welfare of the people of the state and serves
155 essential governmental functions and a paramount
156 public purpose; providing certain exemptions from
157 taxation and assessments; authorizing the corporation
158 to validate certain obligations subject to certain
159 requirements; providing applicability; prohibiting the
160 benefits and earnings of the corporation from inuring
161 to any private person; requiring title to all property
162 owned by the corporation to revert to the state upon
163 dissolution of the corporation; authorizing the
164 corporation to contract with the State Board of
165 Administration to perform certain services;
166 authorizing the board to contract with others to
167 provide such services and to recover certain costs;
168 authorizing the department to enter into a service
169 contract in conjunction with the issuance of debt
170 obligations which provides for certain periodic
171 payments; providing an effective date.

172

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

174

175 Section 1. Subsection (2) of section 311.07, Florida
176 Statutes, is amended to read:

177 311.07 Florida seaport transportation and economic

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178 development funding.—

179 (2) A minimum of \$25 ~~\$15~~ million per year shall be made
180 available from the State Transportation Trust Fund to fund the
181 Florida Seaport Transportation and Economic Development Program.
182 The Florida Seaport Transportation and Economic Development
183 Council created in s. 311.09 shall develop guidelines for
184 project funding. Council staff, the Department of
185 Transportation, and the Department of Economic Opportunity shall
186 work in cooperation to review projects and allocate funds in
187 accordance with the schedule required for the Department of
188 Transportation to include these projects in the tentative work
189 program developed pursuant to s. 339.135(4).

190 Section 2. Subsection (9) of section 311.09, Florida
191 Statutes, is amended to read:

192 311.09 Florida Seaport Transportation and Economic
193 Development Council.—

194 (9) The Department of Transportation shall include at least
195 \$25 ~~no less than \$15~~ million per year in its annual legislative
196 budget request for the Florida Seaport Transportation and
197 Economic Development Program funded under s. 311.07. Such budget
198 must ~~shall~~ include funding for projects approved by the council
199 which have been determined by each agency to be consistent. The
200 department shall include the specific approved Florida Seaport
201 Transportation and Economic Development Program projects to be
202 funded under s. 311.07 during the ensuing fiscal year in the
203 tentative work program developed pursuant to s. 339.135(4). The
204 total amount of funding to be allocated to Florida Seaport
205 Transportation and Economic Development Program projects under
206 s. 311.07 during the successive 4 fiscal years shall also be

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207 included in the tentative work program developed pursuant to s.
208 339.135(4). The council may submit to the department a list of
209 approved projects that could be made production-ready within the
210 next 2 years. The list shall be submitted by the department as
211 part of the needs and project list prepared pursuant to s.
212 339.135(2)(b). However, the department shall, upon written
213 request of the Florida Seaport Transportation and Economic
214 Development Council, submit work program amendments pursuant to
215 s. 339.135(7) to the Governor within 10 days after the later of
216 the date the request is received by the department or the
217 effective date of the amendment, termination, or closure of the
218 applicable funding agreement between the department and the
219 affected seaport, as required to release the funds from the
220 existing commitment. Notwithstanding s. 339.135(7)(c), any work
221 program amendment to transfer prior year funds from one approved
222 seaport project to another seaport project is subject to the
223 procedures in s. 339.135(7)(d). Notwithstanding any provision of
224 law to the contrary, the department may transfer unexpended
225 budget between the seaport projects as identified in the
226 approved work program amendments.

227 Section 3. Subsection (94) is added to section 316.003,
228 Florida Statutes, to read:

229 316.003 Definitions.—The following words and phrases, when
230 used in this chapter, shall have the meanings respectively
231 ascribed to them in this section, except where the context
232 otherwise requires:

233 (94) PORT OF ENTRY.—A designated location that allows
234 drivers of commercial motor vehicles to purchase temporary
235 registration permits necessary to operate legally within the

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236 state. The locations and the designated routes to such locations
237 shall be determined by the Department of Transportation.

238 Section 4. Paragraph (b) of subsection (2) of section
239 316.545, Florida Statutes, is amended to read:

240 316.545 Weight and load unlawful; special fuel and motor
241 fuel tax enforcement; inspection; penalty; review.—

242 (2)

243 (b) The officer or inspector shall inspect the license
244 plate or registration certificate of the commercial vehicle, as
245 defined in s. 316.003(66), to determine if its gross weight is
246 in compliance with the declared gross vehicle weight. If its
247 gross weight exceeds the declared weight, the penalty shall be 5
248 cents per pound on the difference between such weights. In those
249 cases when the commercial vehicle, as defined in s. 316.003(66),
250 is being operated over the highways of the state with an expired
251 registration or with no registration from this or any other
252 jurisdiction or is not registered under the applicable
253 provisions of chapter 320, the penalty herein shall apply on the
254 basis of 5 cents per pound on that scaled weight which exceeds
255 35,000 pounds on laden truck tractor-semitrailer combinations or
256 tandem trailer truck combinations, 10,000 pounds on laden
257 straight trucks or straight truck-trailer combinations, or
258 10,000 pounds on any unladen commercial motor vehicle. A driver
259 of a commercial motor vehicle entering the state at a designated
260 port-of-entry location, as defined in s. 316.003(94), or
261 operating on designated routes to a port-of-entry location, who
262 obtains a temporary registration permit shall be assessed a
263 penalty limited to the difference between its gross weight and
264 the declared gross vehicle weight at 5 cents per pound. If the

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265 license plate or registration has not been expired for more than
266 90 days, the penalty imposed under this paragraph may not exceed
267 \$1,000. In the case of special mobile equipment as defined in s.
268 316.003(48), which qualifies for the license tax provided for in
269 s. 320.08(5)(b), being operated on the highways of the state
270 with an expired registration or otherwise not properly
271 registered under the applicable provisions of chapter 320, a
272 penalty of \$75 shall apply in addition to any other penalty
273 which may apply in accordance with this chapter. A vehicle found
274 in violation of this section may be detained until the owner or
275 operator produces evidence that the vehicle has been properly
276 registered. Any costs incurred by the retention of the vehicle
277 shall be the sole responsibility of the owner. A person who has
278 been assessed a penalty pursuant to this paragraph for failure
279 to have a valid vehicle registration certificate pursuant to the
280 provisions of chapter 320 is not subject to the delinquent fee
281 authorized in s. 320.07 if such person obtains a valid
282 registration certificate within 10 working days after such
283 penalty was assessed.

284 Section 5. Section 333.01, Florida Statutes, is amended to
285 read:

286 333.01 Definitions.—As used in ~~For the purpose of~~ this
287 chapter, the term ~~following words, terms, and phrases~~ shall have
288 the meanings herein given, ~~unless otherwise specifically~~
289 ~~defined, or unless another intention clearly appears, or the~~
290 ~~context otherwise requires:~~

291 (1) "Aeronautical study" means a Federal Aviation
292 Administration study, conducted in accordance with the standards
293 of 14 C.F.R. part 77, subpart C, and Federal Aviation

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294 Administration policy and guidance, on the effect of proposed
295 construction or alteration upon the operation of air navigation
296 facilities and the safe and efficient use of navigable airspace.

297 ~~(1) "Aeronautics" means transportation by aircraft; the~~
298 ~~operation, construction, repair, or maintenance of aircraft,~~
299 ~~aircraft power plants and accessories, including the repair,~~
300 ~~packing, and maintenance of parachutes; the design,~~
301 ~~establishment, construction, extension, operation, improvement,~~
302 ~~repair, or maintenance of airports, restricted landing areas, or~~
303 ~~other air navigation facilities, and air instruction.~~

304 (2) "Airport" means any area of land or water designed and
305 set aside for the landing and taking off of aircraft and used
306 utilized or to be used utilized in the interest of the public
307 for such purpose.

308 (3) "Airport hazard" means an obstruction to air navigation
309 which affects the safe and efficient use of navigable airspace
310 or the operation of planned or existing air navigation and
311 communication facilities ~~any structure or tree or use of land~~
312 ~~which would exceed the federal obstruction standards as~~
313 ~~contained in 14 C.F.R. ss. 77.21, 77.23, 77.25, 77.28, and 77.29~~
314 ~~and which obstructs the airspace required for the flight of~~
315 ~~aircraft in taking off, maneuvering, or landing or is otherwise~~
316 ~~hazardous to such taking off, maneuvering, or landing of~~
317 ~~aircraft and for which no person has previously obtained a~~
318 ~~permit or variance pursuant to s. 333.025 or s. 333.07.~~

319 (4) "Airport hazard area" means any area of land or water
320 upon which an airport hazard might be established ~~if not~~
321 ~~prevented as provided in this chapter.~~

322 (5) "Airport land use compatibility zoning" means airport

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323 zoning regulations governing ~~restricting~~ the use of land on,
324 adjacent to, or in the immediate vicinity of airports ~~in the~~
325 ~~manner enumerated in s. 333.03(2) to activities and purposes~~
326 ~~compatible with the continuation of normal airport operations~~
327 ~~including landing and takeoff of aircraft in order to promote~~
328 ~~public health, safety, and general welfare.~~

329 (6) "Airport layout plan" means a set of scaled drawings
330 that provide a graphic representation of the existing and future
331 development plan for the airport and demonstrate the
332 preservation and continuity of safety, utility, and efficiency
333 of the airport detailed, scale engineering drawing, including
334 ~~pertinent dimensions, of an airport's current and planned~~
335 ~~facilities, their locations, and runway usage.~~

336 (7) "Airport master plan" means a comprehensive plan of an
337 airport which typically describes current and future plans for
338 airport development designed to support existing and future
339 aviation demand.

340 (8) "Airport protection zoning regulations" means airport
341 zoning regulations governing airport hazards.

342 (9) "Department" means the Department of Transportation as
343 created under s. 20.23.

344 (10) "Educational facility" means any structure, land, or
345 use that includes a public or private kindergarten through 12th
346 grade school, charter school, magnet school, college campus, or
347 university campus. The term does not include space used for
348 educational purposes within a multi-tenant building.

349 (11) "Landfill" has the same meaning as provided in s.
350 403.703.

351 (12) ~~(7)~~ "Obstruction" means any existing or proposed

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352 ~~manmade object or object, of natural growth or terrain, or~~
353 structure construction or alteration that exceeds ~~violates~~ the
354 federal obstruction standards contained in 14 C.F.R. part 77,
355 subpart C ss. 77.21, 77.23, 77.25, 77.28, and 77.29. The term
356 includes:

357 (a) Any object of natural growth or terrain;

358 (b) Permanent or temporary construction or alteration,
359 including equipment or materials used and any permanent or
360 temporary apparatus; or

361 (c) Alteration of any permanent or temporary existing
362 structure by a change in the structure's height, including
363 appurtenances, lateral dimensions, and equipment or materials
364 used in the structure.

365 (13)-(8) "Person" means any individual, firm, copartnership,
366 corporation, company, association, joint-stock association, or
367 body politic, and includes any trustee, receiver, assignee, or
368 other similar representative thereof.

369 (14)-(9) "Political subdivision" means the local government
370 of any county, municipality ~~city~~, town, village, or other
371 subdivision or agency thereof, or any district or special
372 district, port commission, port authority, or other such agency
373 authorized to establish or operate airports in the state.

374 (15) "Public-use airport" means an airport, publicly or
375 privately owned, licensed by the state, which is open for use by
376 the public.

377 (16)-(10) "Runway protection ~~clear~~ zone" means an area at
378 ground level beyond the runway end to enhance the safety and
379 protection of people and property on the ground ~~a runway clear~~
380 ~~zone as defined in 14 C.F.R. s. 151.9(b).~~

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381 ~~(17)(11)~~ "Structure" means any object, constructed,
382 erected, altered, or installed by humans, including, but not
383 limited to without limitation thereof, buildings, towers,
384 smokestacks, utility poles, power generation equipment, and
385 overhead transmission lines.

386 (18) "Substantial modification" means any repair,
387 reconstruction, rehabilitation, or improvement of a structure
388 when the actual cost of the repair, reconstruction,
389 rehabilitation, or improvement of the structure equals or
390 exceeds 50 percent of the market value of the structure.

391 ~~(12) "Tree" includes any plant of the vegetable kingdom.~~

392 Section 6. Section 333.025, Florida Statutes, is amended to
393 read:

394 333.025 Permit required for obstructions ~~structures~~
395 ~~exceeding federal obstruction standards.~~

396 (1) A person proposing the construction or alteration ~~In~~
397 ~~order to prevent the erection of an obstruction must obtain a~~
398 permit from the department ~~structures dangerous to air~~
399 ~~navigation, subject to the provisions of subsections (2), (3),~~
400 ~~and (4), each person shall secure from the Department of~~
401 ~~Transportation a permit for the erection, alteration, or~~
402 ~~modification of any structure the result of which would exceed~~
403 ~~the federal obstruction standards as contained in 14 C.F.R. ss.~~
404 ~~77.21, 77.23, 77.25, 77.28, and 77.29. However, permits from the~~
405 ~~department of Transportation will be required only within an~~
406 ~~airport hazard area where federal~~ obstruction ~~standards are~~
407 ~~exceeded and if the proposed construction or alteration is~~
408 ~~within a 10-nautical-mile radius of the~~ airport reference point,
409 located at the approximate geometric ~~geographical~~ center of all

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410 ~~usable runways of a public-use airport or a publicly owned or~~
411 ~~operated airport, a military airport, or an airport licensed by~~
412 ~~the state for public use.~~

413 (2) Existing, planned, and proposed ~~Affected airports will~~
414 ~~be considered as having these~~ facilities on public-use airports
415 contained in an ~~which are shown on the~~ airport master plan, in
416 ~~or~~ an airport layout plan submitted to the Federal Aviation
417 Administration, ~~Airport District Office~~ or in comparable
418 military documents shall, ~~and will be so~~ protected from airport
419 hazards. ~~Planned or proposed public-use airports which are the~~
420 ~~subject of a notice or proposal submitted to the Federal~~
421 ~~Aviation Administration or to the Department of Transportation~~
422 ~~shall also be protected.~~

423 (3) A permit is not required for existing structures that
424 ~~requirements of subsection (1) shall not apply to projects which~~
425 received construction permits from the Federal Communications
426 Commission for structures exceeding federal obstruction
427 standards before ~~prior to~~ May 20, 1975, ~~provided such structures~~
428 ~~now exist; a permit is not required for~~ nor shall it apply to
429 ~~previously approved structures now existing, or any necessary~~
430 replacement or repairs to such existing structures if, ~~so long~~
431 ~~as~~ the height and location are ~~is~~ unchanged.

432 (4) If ~~When~~ political subdivisions have, in compliance with
433 this chapter, adopted adequate airport airspace protection
434 zoning regulations, placed in compliance with s. 333.03, and
435 such regulations ~~are~~ on file with the department's aviation
436 office, and established a permitting process ~~Department of~~
437 ~~Transportation~~, a permit for the construction or alteration of
438 an obstruction is ~~such structure shall not be~~ required from the

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439 department ~~of Transportation~~. Upon receipt of a complete permit
440 application, the local government shall provide a copy of the
441 application to the department's aviation office by certified
442 mail, return receipt requested, or by a delivery service that
443 provides a receipt evidencing delivery. To evaluate technical
444 consistency with this subsection, the department shall have a
445 15-day review period following receipt of the application, which
446 must run concurrently with the local government permitting
447 process. Cranes, construction equipment, and other temporary
448 structures in use or in place for a period not to exceed 18
449 consecutive months are exempt from the department's review,
450 unless such review is requested by the department.

451 (5) The department ~~of Transportation~~ shall, within 30 days
452 after ~~of the~~ receipt of an application for a permit, issue or
453 deny a permit for the construction or erection, alteration, ~~or~~
454 ~~modification of an obstruction any structure the result of which~~
455 ~~would exceed federal obstruction standards as contained in 14~~
456 ~~C.F.R. ss. 77.21, 77.23, 77.25, 77.28, and 77.29.~~ The department
457 shall review permit applications in conformity with s. 120.60.

458 (6) In determining whether to issue or deny a permit, the
459 department shall consider:

460 (a) The safety of persons on the ground and in the air.

461 (b) The safe and efficient use of navigable airspace.

462 (c) ~~(a)~~ The nature of the terrain and height of existing
463 structures.

464 ~~(b) Public and private interests and investments.~~

465 (d) The effect of the construction or alteration of an
466 obstruction on the state licensing standards for a public-use
467 airport contained in chapter 330 and rules adopted thereunder.

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468 ~~(e)~~ (e) The character of existing and planned flight ~~flying~~
469 operations and ~~planned~~ developments at public-use ~~of~~ airports.

470 ~~(f)~~ (d) Federal airways, visual flight rules, flyways and
471 corridors, and instrument approaches as designated by the
472 Federal Aviation Administration.

473 ~~(g)~~ (e) The effect of ~~Whether~~ the construction or alteration
474 of an obstruction on ~~the proposed structure would cause an~~
475 ~~increase in~~ the minimum descent altitude or the decision height
476 at the affected airport.

477 ~~(f)~~ ~~Technological advances.~~

478 ~~(g)~~ ~~The safety of persons on the ground and in the air.~~

479 ~~(h)~~ ~~Land use density.~~

480 ~~(i)~~ ~~The safe and efficient use of navigable airspace.~~

481 ~~(h)~~ (j) The cumulative effects on navigable airspace of all
482 existing obstructions ~~structures, proposed structures identified~~
483 ~~in the applicable jurisdictions' comprehensive plans,~~ and all
484 ~~other~~ known proposed obstructions ~~structures~~ in the area.

485 (7) When issuing a permit under this section, the
486 department ~~of Transportation shall, as a specific condition of~~
487 ~~such permit,~~ require the owner ~~obstruction marking and lighting~~
488 of the obstruction to install, operate, and maintain, at the
489 owner's expense, marking and lighting in conformance with the
490 specific standards established by the Federal Aviation
491 Administration ~~permitted structure as provided in s.~~
492 ~~333.07(3)(b).~~

493 (8) The department may ~~of Transportation shall~~ not approve
494 a permit for the construction or alteration ~~erection~~ of an
495 obstruction ~~a structure~~ unless the applicant submits ~~both~~
496 documentation showing both compliance with the federal

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497 requirement for notification of proposed construction or
498 alteration and a valid aeronautical study. ~~A evaluation, and no~~
499 permit may not shall be approved solely on the basis that the
500 Federal Aviation Administration determined that the such
501 proposed construction or alteration of an obstruction was not an
502 airport hazard structure will not exceed federal obstruction
503 standards as contained in 14 C.F.R. ss. 77.21, 77.23, 77.25,
504 77.28, or 77.29, or any other federal aviation regulation.

505 (9) The denial of a permit under this section is subject to
506 administrative review pursuant to chapter 120.

507 Section 7. Section 333.03, Florida Statutes, is amended to
508 read:

509 333.03 Requirement ~~Power~~ to adopt airport zoning
510 regulations.-

511 (1) (a) ~~In order to prevent the creation or establishment of~~
512 ~~airport hazards,~~ Every political subdivision having an airport
513 hazard area within its territorial limits shall, ~~by October 1,~~
514 ~~1977,~~ adopt, administer, and enforce, under the police power and
515 in the manner and upon the conditions ~~hereinafter~~ prescribed in
516 this section, airport protection zoning regulations for such
517 airport hazard area.

518 (b) If where an airport is owned or controlled by a
519 political subdivision and any other political subdivision has
520 land, upon which an obstruction may be constructed or altered,
521 underlying any of the 14 C.F.R. Part 77, subpart C surfaces of
522 the airport, the political subdivisions airport hazard area
523 ~~appertaining to such airport is located wholly or partly outside~~
524 ~~the territorial limits of said political subdivision, the~~
525 ~~political subdivision owning or controlling the airport and the~~

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526 ~~political subdivision within which the airport hazard area is~~
527 ~~located,~~ shall either:

528 1. By interlocal agreement, ~~in accordance with the~~
529 ~~provisions of chapter 163,~~ adopt, administer, and enforce a set
530 of airport protection zoning regulations ~~applicable to the~~
531 ~~airport hazard area in question;~~ or

532 2. By ordinance, regulation, or resolution duly adopted,
533 create a joint airport protection zoning board ~~that,~~ which board
534 ~~shall have the same power to~~ adopt, administer, and enforce a
535 set of airport protection zoning regulations ~~applicable to the~~
536 ~~airport hazard area in question as that vested in paragraph (a)~~
537 ~~in the political subdivision within which such area is located.~~
538 The Each such joint airport protection zoning board shall have
539 as voting members two representatives appointed by each
540 participating political subdivision ~~participating in its~~
541 ~~creation and in addition~~ a chair elected by a majority of the
542 members so appointed. ~~However,~~ The airport manager or a
543 representative of each airport in ~~managers of~~ the affected
544 participating political subdivisions shall serve on the board in
545 a nonvoting capacity.

546 (c) Airport protection zoning regulations adopted under
547 paragraph (a) must shall, at as a minimum, require:

548 1. A permit variance for the construction or erection,
549 ~~alteration, or modification~~ of any obstruction ~~structure which~~
550 ~~would cause the structure to exceed the federal obstruction~~
551 ~~standards as contained in 14 C.F.R. ss. 77.21, 77.23, 77.25,~~
552 ~~77.28, and 77.29;~~

553 2. Obstruction marking and lighting for obstructions
554 ~~structures as specified in s. 333.07(3);~~

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555 3. Documentation showing compliance with the federal
556 requirement for notification of proposed construction or
557 alteration of structures and a valid aeronautical study
558 ~~evaluation~~ submitted by each person applying for a permit
559 ~~variance~~;

560 4. Consideration of the criteria in s. 333.025(6), when
561 determining whether to issue or deny a permit variance; and

562 5. That approval of a permit not be based no variance shall
563 ~~be approved~~ solely on the determination by the Federal Aviation
564 Administration basis that the such proposed structure is not an
565 airport hazard will not exceed federal obstruction standards as
566 contained in 14 C.F.R. ss. 77.21, 77.23, 77.25, 77.28, or 77.29,
567 ~~or any other federal aviation regulation.~~

568 (d) The department shall be available to provide assistance
569 to political subdivisions regarding federal obstruction
570 standards shall issue copies of the federal obstruction
571 standards as contained in 14 C.F.R. ss. 77.21, 77.23, 77.25,
572 77.28, and 77.29 to each political subdivision having airport
573 hazard areas and, in cooperation with political subdivisions,
574 shall issue appropriate airport zoning maps depicting within
575 each county the maximum allowable height of any structure or
576 tree. Material distributed pursuant to this subsection shall be
577 ~~at no cost to authorized recipients.~~

578 (2) In the manner provided in subsection (1), political
579 subdivisions shall adopt, administer, and enforce interim
580 airport land use compatibility zoning regulations shall be
581 adopted. Airport land use compatibility zoning ~~When political~~
582 ~~subdivisions have adopted land development~~ regulations shall, at
583 a minimum, in accordance with the provisions of chapter 163

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584 ~~which address the use of land in the manner consistent with the~~
585 ~~provisions herein, adoption of airport land use compatibility~~
586 ~~regulations pursuant to this subsection shall not be required.~~
587 ~~Interim airport land use compatibility zoning regulations shall~~
588 ~~consider the following:~~

589 (a) The prohibition of new landfills and the restriction of
590 existing landfills ~~Whether sanitary landfills are located within~~
591 ~~the following areas:~~

592 1. Within 10,000 feet from the nearest point of any runway
593 used or planned to be used by turbine ~~turbojet or turboprop~~
594 aircraft.

595 2. Within 5,000 feet from the nearest point of any runway
596 used ~~only~~ by only nonturbine ~~piston-type~~ aircraft.

597 3. Outside the perimeters defined in subparagraphs 1. and
598 2., but still within the lateral limits of the civil airport
599 imaginary surfaces defined in 14 C.F.R. s. 77.19 ~~part 77.25~~.
600 Case-by-case review of such landfills is advised.

601 (b) Where ~~Whether~~ any landfill is located and constructed
602 in a manner ~~so~~ that ~~it~~ attracts or sustains hazardous bird
603 movements from feeding, water, or roosting areas into, or
604 across, the runways or approach and departure patterns of
605 aircraft. The landfill operator must ~~political subdivision shall~~
606 ~~request from the airport authority or other governing body~~
607 ~~operating the airport a report on such bird feeding or roosting~~
608 ~~areas that at the time of the request are known to the airport.~~
609 ~~In preparing its report, the authority, or other governing body,~~
610 ~~shall consider whether the landfill will incorporate bird~~
611 ~~management techniques or other practices to minimize bird~~
612 ~~hazards to airborne aircraft. The airport authority or other~~

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613 ~~governing body shall respond to the political subdivision no~~
614 ~~later than 30 days after receipt of such request.~~

615 (c) Where an airport authority or other governing body
616 operating a ~~publicly owned,~~ public-use airport has conducted a
617 noise study in accordance with ~~the provisions of~~ 14 C.F.R. part
618 150, or where a public-use airport owner has established noise
619 contours pursuant to another public study approved by the
620 Federal Aviation Administration, the prohibition of incompatible
621 uses, as established in the noise study in 14 C.F.R. part 150,
622 Appendix A or as a part of an alternative Federal Aviation
623 Administration-approved public study, within the noise contours
624 established by any of these studies, except if such uses are
625 specifically contemplated by such study with appropriate
626 mitigation or similar techniques described in the study ~~neither~~
627 ~~residential construction nor any educational facility as defined~~
628 ~~in chapter 1013, with the exception of aviation school~~
629 ~~facilities, shall be permitted within the area contiguous to the~~
630 ~~airport defined by an outer noise contour that is considered~~
631 ~~incompatible with that type of construction by 14 C.F.R. part~~
632 ~~150, Appendix A or an equivalent noise level as established by~~
633 ~~other types of noise studies.~~

634 (d) Where an airport authority or other governing body
635 operating a ~~publicly owned,~~ public-use airport has not conducted
636 a noise study, the prohibition of ~~neither~~ residential
637 construction and ~~nor~~ any educational facility ~~as defined in~~
638 ~~chapter 1013, with the exception of aviation school facilities,~~
639 ~~shall be permitted~~ within an area contiguous to the airport
640 measuring one-half the length of the longest runway on either
641 side of and at the end of each runway centerline.

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642 (e)(3) The restriction of ~~In the manner provided in~~
643 ~~subsection (1), airport zoning regulations shall be adopted~~
644 ~~which restrict new incompatible uses, activities, or~~ substantial
645 modifications to existing incompatible uses ~~construction~~ within
646 ~~runway protection clear zones, including uses, activities, or~~
647 ~~construction in runway clear zones which are incompatible with~~
648 ~~normal airport operations or endanger public health, safety, and~~
649 ~~welfare by resulting in congregations of people, emissions of~~
650 ~~light or smoke, or attraction of birds. Such regulations shall~~
651 ~~prohibit the construction of an educational facility of a public~~
652 ~~or private school at either end of a runway of a publicly owned,~~
653 ~~public-use airport within an area which extends 5 miles in a~~
654 ~~direct line along the centerline of the runway, and which has a~~
655 ~~width measuring one-half the length of the runway. Exceptions~~
656 ~~approving construction of an educational facility within the~~
657 ~~delineated area shall only be granted when the political~~
658 ~~subdivision administering the zoning regulations makes specific~~
659 ~~findings detailing how the public policy reasons for allowing~~
660 ~~the construction outweigh health and safety concerns prohibiting~~
661 ~~such a location.~~

662 ~~(4) The procedures outlined in subsections (1), (2), and~~
663 ~~(3) for the adoption of such regulations are supplemental to any~~
664 ~~existing procedures utilized by political subdivisions in the~~
665 ~~adoption of such regulations.~~

666 (3)(5) Political subdivisions shall provide ~~The Department~~
667 ~~of Transportation shall provide technical assistance to any~~
668 ~~political subdivision requesting assistance in the preparation~~
669 ~~of an airport zoning code. a copy of all local airport~~
670 protection zoning codes, rules, and regulations and airport land

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671 use compatibility zoning regulations, and any related amendments
672 ~~and proposed and granted variances thereto, to shall be filed~~
673 ~~with the department's aviation office within 30 days after~~
674 ~~adoption department.~~

675 ~~(4)(6) Nothing in Subsection (2) may not or subsection (3)~~
676 ~~shall be construed to require the removal, alteration, sound~~
677 ~~conditioning, or other change, or to interfere with the~~
678 ~~continued use or adjacent expansion of any educational facility~~
679 ~~structure or site in existence on July 1, 1993, or be construed~~
680 ~~to prohibit the construction of any new structure for which a~~
681 ~~site has been determined as provided in former s. 235.19, as of~~
682 ~~July 1, 1993.~~

683 (5) This section does not prohibit an airport authority, a
684 political subdivision or its administrative agency, or any other
685 governing body operating a public-use airport from establishing
686 airport zoning regulations more restrictive than prescribed in
687 this section in order to protect the health, safety, and welfare
688 of the public in the air and on the ground.

689 Section 8. Section 333.04, Florida Statutes, is amended to
690 read:

691 333.04 Comprehensive zoning regulations; most stringent to
692 prevail where conflicts occur.—

693 (1) INCORPORATION.—In the event that a political
694 subdivision has adopted, or hereafter adopts, a comprehensive
695 plan or policy zoning ordinance regulating, among other things,
696 the height of buildings, structures, and natural objects, and
697 uses of property, any airport zoning regulations applicable to
698 the same area or portion thereof may be incorporated in and made
699 a part of such comprehensive plan or policy zoning regulations,

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700 and be administered and enforced in connection therewith.

701 (2) CONFLICT.—In the event of conflict between any airport
702 zoning regulations adopted under this chapter and any other
703 regulations applicable to the same area, whether the conflict be
704 with respect to the height of structures or vegetation ~~trees~~,
705 the use of land, or any other matter, and whether such
706 regulations were adopted by the political subdivision that ~~which~~
707 adopted the airport zoning regulations or by some other
708 political subdivision, the more stringent limitation or
709 requirement shall govern and prevail.

710 Section 9. Section 333.05, Florida Statutes, is amended to
711 read:

712 333.05 Procedure for adoption of airport zoning
713 regulations.—

714 (1) NOTICE AND HEARING.—~~No~~ Airport zoning regulations may
715 not ~~shall~~ be adopted, amended, or repealed ~~changed~~ under this
716 chapter except by action of the legislative body of the
717 political subdivision or affected subdivisions ~~in question~~, or
718 the joint board provided in s. 333.03(1)(b)2. ~~s. 333.03(1)(b)~~ by
719 the political subdivisions ~~bodies~~ therein provided and set
720 forth, after a public hearing in relation thereto, at which
721 parties in interest and citizens shall have an opportunity to be
722 heard. Notice of the hearing shall be published at least once a
723 week for 2 consecutive weeks in a newspaper ~~an official paper,~~
724 ~~or a paper~~ of general circulation, ~~in the political subdivision~~
725 or subdivisions where ~~in which are located~~ the airport zoning
726 regulations are ~~areas~~ to be adopted, amended, or repealed ~~zoned~~.

727 (2) AIRPORT ZONING COMMISSION.—Before ~~Prior to~~ the initial
728 zoning of any airport area under this chapter, the political

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729 subdivision or joint airport zoning board that ~~which~~ is to
 730 adopt, administer, and enforce the regulations must ~~shall~~
 731 appoint a commission, to be known as the airport zoning
 732 commission, to recommend the boundaries of the various zones to
 733 be established and the regulations to be adopted therefor. Such
 734 commission shall make a preliminary report and hold public
 735 hearings thereon before submitting its final report, and the
 736 legislative body of the political subdivision or the joint
 737 airport zoning board may ~~shall~~ not hold its public hearings or
 738 take any action until it has received the final report of such
 739 commission, and at least 15 days shall elapse between the
 740 receipt of the final report of the commission and the hearing to
 741 be held by the latter board. If ~~Where~~ a planning city plan
 742 commission, an airport commission, or a comprehensive zoning
 743 commission already exists, it may be appointed as the airport
 744 zoning commission.

745 Section 10. Section 333.06, Florida Statutes, is amended to
 746 read:

747 333.06 Airport zoning regulation requirements.—

748 (1) REASONABLENESS.—All airport zoning regulations adopted
 749 under this chapter shall be reasonable and may not ~~none shall~~
 750 impose any requirement or restriction which is not reasonably
 751 necessary to effectuate the purposes of this chapter. In
 752 determining what regulations it may adopt, each political
 753 subdivision and joint airport zoning board shall consider, among
 754 other things, the character of the flying operations expected to
 755 be conducted at the airport, the nature of the terrain within
 756 the airport hazard area and runway protection ~~clear~~ zones, the
 757 character of the neighborhood, the uses to which the property to

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758 be zoned is put and adaptable, and the impact of any new use,
759 activity, or construction on the airport's operating capability
760 and capacity.

761 (2) INDEPENDENT JUSTIFICATION.—The purpose of all airport
762 zoning regulations adopted under this chapter is to provide both
763 airspace protection and land uses ~~use~~ compatible with airport
764 operations. Each aspect of this purpose requires independent
765 justification in order to promote the public interest in safety,
766 health, and general welfare. Specifically, construction in a
767 runway protection ~~clear~~ zone which does not exceed airspace
768 height restrictions is not conclusive ~~evidence per se~~ that such
769 use, activity, or construction is compatible with airport
770 operations.

771 (3) NONCONFORMING USES.—An ~~No~~ airport protection zoning
772 regulation ~~regulations~~ adopted under this chapter may not ~~shall~~
773 require the removal, lowering, or other change or alteration of
774 any obstruction ~~structure or tree~~ not conforming to the
775 regulation ~~regulations~~ when adopted or amended, or otherwise
776 interfere with the continuance of any nonconforming use, except
777 as provided in s. 333.07(1) and (3).

778 (4) ADOPTION OF AIRPORT MASTER PLAN AND NOTICE TO AFFECTED
779 LOCAL GOVERNMENTS.—An airport master plan shall be prepared by
780 each public-use ~~publicly owned and operated~~ airport licensed by
781 the department ~~of Transportation~~ under chapter 330. The
782 authorized entity having responsibility for governing the
783 operation of the airport, when either requesting from or
784 submitting to a state or federal governmental agency with
785 funding or approval jurisdiction a "finding of no significant
786 impact," an environmental assessment, a site-selection study, an

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787 airport master plan, or any amendment to an airport master plan,
788 shall submit simultaneously a copy of said request, submittal,
789 assessment, study, plan, or amendments by certified mail to all
790 affected local governments. As used in ~~For the purposes of~~ this
791 subsection, the term "affected local government" is defined as
792 any municipality ~~city~~ or county having jurisdiction over the
793 airport and any municipality ~~city~~ or county located within 2
794 miles of the boundaries of the land subject to the airport
795 master plan.

796 Section 11. Section 333.065, Florida Statutes, is repealed.

797 Section 12. Section 333.07, Florida Statutes, is amended to
798 read:

799 333.07 Local government permitting of airspace obstructions
800 ~~Permits and variances.-~~

801 (1) PERMITS.-

802 (a) A person proposing to construct, alter, or allow an
803 airport obstruction in an airport hazard area in violation of
804 the airport protection zoning regulations adopted under this
805 chapter must apply for a permit. ~~Any airport zoning~~
806 ~~regulations adopted under this chapter may require that a permit~~
807 ~~be obtained before any new structure or use may be constructed~~
808 ~~or established and before any existing use or structure may be~~
809 ~~substantially changed or substantially altered or repaired. In~~
810 ~~any event, however, all such regulations shall provide that~~
811 ~~before any nonconforming structure or tree may be replaced,~~
812 ~~substantially altered or repaired, rebuilt, allowed to grow~~
813 ~~higher, or replanted, a permit must be secured from the~~
814 ~~administrative agency authorized to administer and enforce the~~
815 ~~regulations, authorizing such replacement, change, or repair. No~~

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816 permit may not ~~shall~~ be issued if it ~~granted that~~ would allow
817 the establishment or creation of an airport hazard or if it
818 would permit a nonconforming obstruction ~~structure or tree or~~
819 ~~nonconforming use to be made or become higher or~~ to become a
820 greater hazard to air navigation than it was when the applicable
821 airport protection zoning regulation was adopted which allowed
822 the establishment or creation of the obstruction, or than it is
823 when the application for a permit is made.

824 (b) If ~~Whenever~~ the political subdivision or its
825 administrative agency determines that a nonconforming
826 obstruction ~~use or nonconforming structure or tree~~ has been
827 abandoned or is more than 80 percent torn down, destroyed,
828 deteriorated, or decayed, a ~~no~~ permit may not ~~shall~~ be granted
829 if it ~~that~~ would allow the obstruction ~~said structure or tree~~ to
830 exceed the applicable height limit or otherwise deviate from the
831 airport protection zoning regulations. ~~and,~~ Whether or not an
832 application is made for a permit under this subsection ~~or not,~~
833 ~~the said agency may by appropriate action, compel~~ the owner of
834 the nonconforming obstruction ~~may be required~~ ~~structure or tree,~~
835 at his or her own expense, to lower, remove, reconstruct, alter,
836 or equip such obstruction ~~object~~ as may be necessary to conform
837 to the current airport protection zoning regulations. If the
838 owner of the nonconforming obstruction neglects or refuses
839 ~~structure or tree shall neglect or refuse~~ to comply with such
840 requirement ~~order~~ for 10 days after notice ~~thereof,~~ the
841 administrative ~~said~~ agency may report the violation to the
842 political subdivision involved ~~therein,~~ which subdivision,
843 through its appropriate agency, may proceed to have the
844 obstruction ~~object~~ so lowered, removed, reconstructed, altered,

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845 or equipped, and assess the cost and expense thereof upon the
846 owner of the obstruction ~~object~~ or the land whereon it is or was
847 located, and, ~~unless such an assessment is paid within 90 days~~
848 ~~from the service of notice thereof on the owner or the owner's~~
849 ~~agent, of such object or land, the sum shall be a lien on said~~
850 ~~land, and shall bear interest thereafter at the rate of 6~~
851 ~~percent per annum until paid, and shall be collected in the same~~
852 ~~manner as taxes on real property are collected by said political~~
853 ~~subdivision, or, at the option of said political subdivision,~~
854 ~~said lien may be enforced in the manner provided for enforcement~~
855 ~~of liens by chapter 85.~~

856 ~~(c) Except as provided herein, applications for permits~~
857 ~~shall be granted, provided the matter applied for meets the~~
858 ~~provisions of this chapter and the regulations adopted and in~~
859 ~~force hereunder.~~

860 (2) CONSIDERATIONS WHEN ISSUING OR DENYING PERMITS.-In
861 determining whether to issue or deny a permit, the political
862 subdivision or its administrative agency must consider the
863 following, as applicable:

864 (a) The safety of persons on the ground and in the air.

865 (b) The safe and efficient use of navigable airspace.

866 (c) The nature of the terrain and height of existing
867 structures.

868 (d) The effect of the construction or alteration on the
869 state licensing standards for a public-use airport contained in
870 chapter 330 and rules adopted thereunder.

871 (e) The character of existing and planned flight operations
872 and developments at public-use airports.

873 (f) Federal airways, visual flight rules, flyways and

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874 corridors, and instrument approaches as designated by the
875 Federal Aviation Administration.

876 (g) The effect of the construction or alteration of the
877 proposed structure on the minimum descent altitude or the
878 decision height at the affected airport.

879 (h) The cumulative effects on navigable airspace of all
880 existing structures and all other known proposed structures in
881 the area.

882 (i) Additional requirements adopted by the political
883 subdivision or administrative agency pertinent to evaluation and
884 protection of airspace and airport operations.

885 ~~(2) VARIANCES.—~~

886 ~~(a) Any person desiring to erect any structure, increase~~
887 ~~the height of any structure, permit the growth of any tree, or~~
888 ~~otherwise use his or her property in violation of the airport~~
889 ~~zoning regulations adopted under this chapter or any land~~
890 ~~development regulation adopted pursuant to the provisions of~~
891 ~~chapter 163 pertaining to airport land use compatibility, may~~
892 ~~apply to the board of adjustment for a variance from the zoning~~
893 ~~regulations in question. At the time of filing the application,~~
894 ~~the applicant shall forward to the department by certified mail,~~
895 ~~return receipt requested, a copy of the application. The~~
896 ~~department shall have 45 days from receipt of the application to~~
897 ~~comment and to provide its comments or waiver of that right to~~
898 ~~the applicant and the board of adjustment. The department shall~~
899 ~~include its explanation for any objections stated in its~~
900 ~~comments. If the department fails to provide its comments within~~
901 ~~45 days of receipt of the application, its right to comment is~~
902 ~~waived. The board of adjustment may proceed with its~~

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903 ~~consideration of the application only upon the receipt of the~~
904 ~~department's comments or waiver of that right as demonstrated by~~
905 ~~the filing of a copy of the return receipt with the board.~~
906 ~~Noncompliance with this section shall be grounds to appeal~~
907 ~~pursuant to s. 333.08 and to apply for judicial relief pursuant~~
908 ~~to s. 333.11. Such variances may only be allowed where a literal~~
909 ~~application or enforcement of the regulations would result in~~
910 ~~practical difficulty or unnecessary hardship and where the~~
911 ~~relief granted would not be contrary to the public interest but~~
912 ~~would do substantial justice and be in accordance with the~~
913 ~~spirit of the regulations and this chapter. However, any~~
914 ~~variance may be allowed subject to any reasonable conditions~~
915 ~~that the board of adjustment may deem necessary to effectuate~~
916 ~~the purposes of this chapter.~~

917 ~~(b) The Department of Transportation shall have the~~
918 ~~authority to appeal any variance granted under this chapter~~
919 ~~pursuant to s. 333.08, and to apply for judicial relief pursuant~~
920 ~~to s. 333.11.~~

921 (3) OBSTRUCTION MARKING AND LIGHTING.—

922 ~~(a) In issuing a granting any permit or variance under this~~
923 ~~section, the political subdivision or its administrative agency~~
924 ~~or board of adjustment shall require the owner of the~~
925 ~~obstruction structure or tree in question to install, operate,~~
926 ~~and maintain thereon, at his or her own expense, ~~such~~ marking~~
927 ~~and lighting in conformance with the specific standards~~
928 ~~established by the Federal Aviation Administration as may be~~
929 ~~necessary to indicate to aircraft pilots the presence of an~~
930 ~~obstruction.~~

931 ~~(b) Such marking and lighting shall conform to the specific~~

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932 ~~standards established by rule by the Department of~~
933 ~~Transportation.~~

934 ~~(c) Existing structures not in compliance on October 1,~~
935 ~~1988, shall be required to comply whenever the existing marking~~
936 ~~requires refurbishment, whenever the existing lighting requires~~
937 ~~replacement, or within 5 years of October 1, 1988, whichever~~
938 ~~occurs first.~~

939 Section 13. Section 333.08, Florida Statutes, is repealed.

940 Section 14. Section 333.09, Florida Statutes, is amended to
941 read:

942 333.09 Administration of airport protection zoning
943 regulations.—

944 (1) ADMINISTRATION.—All airport protection zoning
945 regulations adopted under this chapter shall provide for the
946 administration and enforcement of such regulations by the
947 political subdivision or its administrative agency ~~an~~
948 ~~administrative agency which may be an agency created by such~~
949 ~~regulations or any official, board, or other existing agency of~~
950 ~~the political subdivision adopting the regulations or of one of~~
951 ~~the political subdivisions which participated in the creation of~~
952 ~~the joint airport zoning board adopting the regulations, if~~
953 ~~satisfactory to that political subdivision, but in no case shall~~
954 ~~such administrative agency be or include any member of the board~~
955 ~~of adjustment. The duties of any administrative agency~~
956 ~~designated pursuant to this chapter must ~~shall~~ include that of~~
957 ~~hearing and deciding all permits under s. 333.07 ~~s. 333.07(1),~~~~
958 ~~deciding all matters under s. 333.07(3), as they pertain to such~~
959 ~~agency, and all other matters under this chapter applying to~~
960 ~~said agency, but such agency shall not have or exercise any of~~

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961 ~~the powers herein delegated to the board of adjustment.~~

962 (2) LOCAL GOVERNMENT PROCESS.—

963 (a) A political subdivision required to adopt airport
964 zoning regulations under this chapter shall provide a process
965 to:

966 1. Issue or deny permits consistent with s. 333.07.

967 2. Provide the department with a copy of a complete
968 application consistent with s. 333.025(4).

969 3. Enforce the issuance or denial of a permit or other
970 determination made by the administrative agency with respect to
971 airport zoning regulations.

972 (b) If a zoning board or permitting body already exists
973 within a political subdivision, the zoning board or permitting
974 body may implement the airport zoning regulation permitting and
975 appeals processes.

976 (3) APPEALS.—

977 (a) A person, a political subdivision or its administrative
978 agency, or a joint airport zoning board that contends that a
979 decision made by a political subdivision or its administrative
980 agency is an improper application of airport zoning regulations
981 may use the process established for an appeal.

982 (b) All appeals taken under this section must be taken
983 within a reasonable time, as provided by the political
984 subdivision or its administrative agency, by filing with the
985 entity from which the appeal is taken a notice of appeal
986 specifying the grounds for appeal.

987 (c) An appeal shall stay all proceedings in the underlying
988 action appealed from, unless the entity from which the appeal is
989 taken certifies pursuant to the rules for appeal that by reason

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990 of the facts stated in the certificate a stay would, in its
991 opinion, cause imminent peril to life or property. In such
992 cases, proceedings may not be stayed except by order of the
993 political subdivision or its administrative agency on notice to
994 the entity from which the appeal is taken and for good cause
995 shown.

996 (d) The political subdivision or its administrative agency
997 shall set a reasonable time for the hearing of appeals, give
998 public notice and due notice to the parties in interest, and
999 decide the same within a reasonable time. Upon the hearing, any
1000 party may appear in person, by agent, or by attorney.

1001 (e) The political subdivision or its administrative agency
1002 may, in conformity with this chapter, affirm, reverse, or modify
1003 the decision on the permit or other determination from which the
1004 appeal is taken.

1005 Section 15. Section 333.10, Florida Statutes, is repealed.

1006 Section 16. Section 333.11, Florida Statutes, is amended to
1007 read:

1008 333.11 Judicial review.—

1009 (1) Any person, ~~aggrieved, or taxpayer affected, by any~~
1010 ~~decision of a board of adjustment, or any governing body of a~~
1011 ~~political subdivision, or the Department of Transportation or~~
1012 ~~any joint airport zoning board~~ affected by a decision of a
1013 political subdivision, or its ~~of any~~ administrative agency
1014 ~~hereunder,~~ may apply for judicial relief to the circuit court in
1015 the judicial circuit where the political subdivision ~~board of~~
1016 ~~adjustment~~ is located within 30 days after rendition of the
1017 decision ~~by the board of adjustment.~~ Review shall be by petition
1018 for writ of certiorari, which shall be governed by the Florida

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1019 Rules of Appellate Procedure.

1020 ~~(2) Upon presentation of such petition to the court, it may~~
1021 ~~allow a writ of certiorari, directed to the board of adjustment,~~
1022 ~~to review such decision of the board. The allowance of the writ~~
1023 ~~shall not stay the proceedings upon the decision appealed from,~~
1024 ~~but the court may, on application, on notice to the board, on~~
1025 ~~due hearing and due cause shown, grant a restraining order.~~

1026 ~~(3) The board of adjustment shall not be required to return~~
1027 ~~the original papers acted upon by it, but it shall be sufficient~~
1028 ~~to return certified or sworn copies thereof or of such portions~~
1029 ~~thereof as may be called for by the writ. The return shall~~
1030 ~~concisely set forth such other facts as may be pertinent and~~
1031 ~~material to show the grounds of the decision appealed from and~~
1032 ~~shall be verified.~~

1033 ~~(2)(4)~~ The court has ~~shall have~~ exclusive jurisdiction to
1034 affirm, reverse, or modify, ~~or set aside~~ the decision on the
1035 permit or other determination from which the appeal is taken
1036 ~~brought up for review, in whole or in part, and, if appropriate~~
1037 ~~need be, to order further proceedings by the~~ political
1038 subdivision or its administrative agency board of adjustment.
1039 The findings of fact by the political subdivision or its
1040 administrative agency board, if supported by substantial
1041 evidence, shall be accepted by the court as conclusive, and an
1042 ~~no~~ objection to a decision of the political subdivision or its
1043 administrative agency may not board shall be considered by the
1044 court unless such objection was raised in the underlying
1045 proceeding ~~shall have been urged before the board, or, if it was~~
1046 ~~not so urged, unless there were reasonable grounds for failure~~
1047 ~~to do so.~~

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1048 (3)~~(5)~~ If ~~In any case in which~~ airport zoning regulations
1049 adopted under this chapter, ~~although generally reasonable,~~ are
1050 held by a court to interfere with the use and enjoyment of a
1051 particular structure or parcel of land to such an extent, or to
1052 be so onerous in their application to such a structure or parcel
1053 of land, as to constitute a taking or deprivation of that
1054 property in violation of the State Constitution or the
1055 Constitution of the United States, such holding shall not affect
1056 the application of such regulations to other structures and
1057 parcels of land, or such regulations as are not involved in the
1058 particular decision.

1059 (4)~~(6)~~ A judicial ~~No~~ appeal to any court may not shall be
1060 ~~or is~~ permitted under this section until the appellant has
1061 exhausted all of its remedies through application for local
1062 government permits, exceptions, and appeals, ~~to any courts, as~~
1063 ~~herein provided, save and except an appeal from a decision of~~
1064 ~~the board of adjustment, the appeal herein provided being from~~
1065 ~~such final decision of such board only, the appellant being~~
1066 ~~hereby required to exhaust his or her remedies hereunder of~~
1067 ~~application for permits, exceptions and variances, and appeal to~~
1068 ~~the board of adjustment, and gaining a determination by said~~
1069 ~~board, before being permitted to appeal to the court hereunder.~~

1070 Section 17. Section 333.12, Florida Statutes, is amended to
1071 read:

1072 333.12 Acquisition of air rights. ~~—If In any case which: it~~
1073 ~~is desired to remove, lower or otherwise terminate a~~
1074 nonconforming obstruction is determined to be an airport hazard
1075 and the owner will not remove, lower, or otherwise eliminate it
1076 ~~structure or use; or~~ the approach protection necessary cannot,

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1077 because of constitutional limitations, be provided by airport
1078 zoning regulations under this chapter; or it appears advisable
1079 that the necessary approach protection be provided by
1080 acquisition of property rights rather than by airport zoning
1081 regulations, the political subdivision within which the property
1082 or nonconforming obstruction ~~use~~ is located, or the political
1083 subdivision owning or operating the airport or being served by
1084 it, may acquire, by purchase, grant, or condemnation in the
1085 manner provided by chapter 73, such property, air right,
1086 avigation ~~navigation~~ easement, or other estate, portion, or
1087 interest in the property or nonconforming obstruction ~~structure~~
1088 ~~or use~~ or such interest in the air above such property, ~~tree,~~
1089 ~~structure, or use,~~ in question, as may be necessary to
1090 effectuate the purposes of this chapter, and in so doing, if by
1091 condemnation, to have the right to take immediate possession of
1092 the property, interest in property, air right, or other right
1093 sought to be condemned, at the time, and in the manner and form,
1094 and as authorized by chapter 74. In the case of the purchase of
1095 any property, ~~or any~~ easement, or estate or interest therein or
1096 the acquisition of the same by the power of eminent domain, the
1097 political subdivision making such purchase or exercising such
1098 power shall, in addition to the damages for the taking, injury,
1099 or destruction of property, also pay the cost of the removal and
1100 relocation of any structure or any public utility that ~~which~~ is
1101 required to be moved to a new location.

1102 Section 18. Section 333.13, Florida Statutes, is amended to
1103 read:

1104 333.13 Enforcement and remedies.—

1105 (1) Each violation of this chapter or of any airport zoning

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1106 regulations, orders, or rulings adopted ~~promulgated~~ or made
1107 pursuant to this chapter shall constitute a misdemeanor of the
1108 second degree, punishable as provided in s. 775.082 or s.
1109 775.083, and each day a violation continues to exist shall
1110 constitute a separate offense.

1111 (2) In addition, the political subdivision or agency
1112 adopting the airport zoning regulations under this chapter may
1113 institute in any court of competent jurisdiction an action to
1114 prevent, restrain, correct, or abate any violation of this
1115 chapter or of airport zoning regulations adopted under this
1116 chapter or of any order or ruling made in connection with their
1117 administration or enforcement, and the court shall adjudge to
1118 the plaintiff such relief, by way of injunction, ~~which may be~~
1119 ~~mandatory,~~ or otherwise, as may be proper under all the facts
1120 and circumstances of the case in order to fully effectuate the
1121 purposes of this chapter and of the regulations adopted and
1122 orders and rulings made pursuant thereto.

1123 (3) The department ~~of Transportation~~ may institute a civil
1124 action for injunctive relief in the appropriate circuit court to
1125 prevent violation of any provision of this chapter.

1126 Section 19. Section 333.135, Florida Statutes, is created
1127 to read:

1128 333.135 Transition provisions.—

1129 (1) Any airport zoning regulation in effect on July 1,
1130 2016, which includes provisions in conflict with this chapter
1131 shall be amended to conform to the requirements of this chapter
1132 by July 1, 2017.

1133 (2) Any political subdivision having an airport within its
1134 territorial limits which has not adopted airport zoning

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1135 regulations shall, by July 1, 2017, adopt airport zoning
1136 regulations consistent with this chapter.

1137 (3) For those political subdivisions that have not yet
1138 adopted airport zoning regulations pursuant to this chapter, the
1139 department shall administer the permitting process as provided
1140 in s. 333.025.

1141 Section 20. Section 333.14, Florida Statutes, is repealed.

1142 Section 21. Subsection (34) is added to section 334.044,
1143 Florida Statutes, to read:

1144 334.044 Department; powers and duties.—The department shall
1145 have the following general powers and duties:

1146 (34) To assume responsibilities of the United States
1147 Department of Transportation with respect to highway projects
1148 within the state under the National Environmental Policy Act of
1149 1969, 42 U.S.C. s. 4321 et seq., and with respect to related
1150 responsibilities for environmental review, consultation, or
1151 other action required under any federal environmental law
1152 pertaining to review or approval of a highway project within the
1153 state. The department may assume responsibilities under 23
1154 U.S.C. s. 327 and enter into one or more agreements, including
1155 memoranda of understanding, with the United States Secretary of
1156 Transportation related to the federal surface transportation
1157 project delivery program for the delivery of highway projects,
1158 as provided by 23 U.S.C. s. 327. The department may adopt rules
1159 to implement this subsection and may adopt relevant federal
1160 environmental standards as the standards for this state for a
1161 program described in this subsection. Sovereign immunity from
1162 civil suit in federal court is waived consistent with 23 U.S.C.
1163 s. 327 and limited to the compliance, discharge, or enforcement

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1164 of a responsibility assumed by the department under this
1165 subsection.

1166 Section 22. Paragraph (d) of subsection (2) of section
1167 334.30, Florida Statutes, is amended, current paragraph (e) of
1168 subsection (6) of that section is redesignated as paragraph (f),
1169 and new paragraph (e) is added to that section, to read:

1170 334.30 Public-private transportation facilities.—The
1171 Legislature finds and declares that there is a public need for
1172 the rapid construction of safe and efficient transportation
1173 facilities for the purpose of traveling within the state, and
1174 that it is in the public's interest to provide for the
1175 construction of additional safe, convenient, and economical
1176 transportation facilities.

1177 (2) Agreements entered into pursuant to this section may
1178 authorize the private entity to impose tolls or fares for the
1179 use of the facility. The following provisions shall apply to
1180 such agreements:

1181 (d) The department shall provide the analysis required in
1182 subparagraph (6) (f) 2. ~~(6) (e) 2.~~ to the Legislative Budget
1183 Commission created pursuant to s. 11.90 for review and approval
1184 prior to awarding a contract on a lease of an existing toll
1185 facility.

1186 (6) The procurement of public-private partnerships by the
1187 department shall follow the provisions of this section. Sections
1188 337.025, 337.11, 337.14, 337.141, 337.145, 337.175, 337.18,
1189 337.185, 337.19, 337.221, and 337.251 shall not apply to
1190 procurements under this section unless a provision is included
1191 in the procurement documents. The department shall ensure that
1192 generally accepted business practices for exemptions provided by

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1193 this subsection are part of the procurement process or are
1194 included in the public-private partnership agreement.

1195 (e) The department shall consult with staff of the Division
1196 of Bond Finance of the State Board of Administration in
1197 connection with a proposal to finance or refinance a
1198 transportation facility pursuant to this section. The department
1199 shall provide the division with the information necessary to
1200 provide timely consultation and recommendations. The division
1201 may make an independent recommendation to the Executive Office
1202 of the Governor.

1203 Section 23. Section 337.027, Florida Statutes, is created
1204 to read:

1205 337.027 Authority to implement a business development
1206 program.-

1207 (1) The Department of Transportation may establish a
1208 program for highway projects that would assist small businesses.
1209 The purpose of this program is to increase competition, lower
1210 prices, and provide increased support to meet the department's
1211 future work program. The program may include, but is not limited
1212 to, setting aside contracts, providing preference points for the
1213 use of small businesses, providing special assistance in bidding
1214 and contract completion, waiving bond requirements, and
1215 implementing other strategies that would increase competition.

1216 (2) For purposes of this section, the term "small business"
1217 means a business with average gross receipts of less than \$15
1218 million for road and bridge contracts and less than \$6.5 million
1219 for professional and nonprofessional services contracts. A
1220 business determines its size by averaging its annual gross
1221 receipts over the last 3 years, including the receipts of an

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1222 affiliate as defined in s. 337.165.

1223 (3) The department may adopt rules to implement this
1224 section.

1225 Section 24. Subsection (4) of section 338.165, Florida
1226 Statutes, is amended to read:

1227 338.165 Continuation of tolls.—

1228 (4) Notwithstanding any other law to the contrary, pursuant
1229 to s. 11, Art. VII of the State Constitution, and subject to the
1230 requirements of subsection (2), the Department of Transportation
1231 may request the Division of Bond Finance to issue bonds secured
1232 by toll revenues collected on the Alligator Alley, the Sunshine
1233 Skyway Bridge, ~~the Beeline East Expressway, the Navarre Bridge,~~
1234 and the Pinellas Bayway to fund transportation projects located
1235 within the county or counties in which the project is located
1236 and contained in the adopted work program of the department.

1237 Section 25. Paragraph (c) of subsection (3) of section
1238 338.231, Florida Statutes, is amended to read:

1239 338.231 Turnpike tolls, fixing; pledge of tolls and other
1240 revenues.—The department shall at all times fix, adjust, charge,
1241 and collect such tolls and amounts for the use of the turnpike
1242 system as are required in order to provide a fund sufficient
1243 with other revenues of the turnpike system to pay the cost of
1244 maintaining, improving, repairing, and operating such turnpike
1245 system; to pay the principal of and interest on all bonds issued
1246 to finance or refinance any portion of the turnpike system as
1247 the same become due and payable; and to create reserves for all
1248 such purposes.

1249 (3)

1250 (c) Notwithstanding any other provision of law to the

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1251 contrary, any prepaid toll account of any kind which has
1252 remained inactive for 10 ~~3~~ years shall be presumed unclaimed and
1253 its disposition shall be handled by the Department of Financial
1254 Services in accordance with all applicable provisions of chapter
1255 717 relating to the disposition of unclaimed property, and the
1256 prepaid toll account shall be closed by the department.

1257 Section 26. Section 339.0809, Florida Statutes, is created
1258 to read:

1259 339.0809 Florida Department of Transportation Financing
1260 Corporation.-

1261 (1) The Florida Department of Transportation Financing
1262 Corporation is created as a nonprofit corporation for the
1263 purpose of financing or refinancing projects for the department
1264 as provided in subsection (5).

1265 (2) When used in this section, the term "corporation" means
1266 the Florida Department of Transportation Financing Corporation.

1267 (3) The corporation shall be governed by a board of
1268 directors consisting of the director of the Office of Policy and
1269 Budget in the Executive Office of the Governor, the director of
1270 the Division of Bond Finance, and the Secretary of
1271 Transportation. The director of the Division of Bond Finance is
1272 the chief executive officer of the corporation and shall direct
1273 and supervise the administrative affairs of the corporation and
1274 shall control, direct, and supervise the operation of the
1275 corporation. The corporation shall have such other officers as
1276 may be determined by the board of directors.

1277 (4) The corporation shall have all of the powers of a
1278 corporate body under the laws of this state to the extent that
1279 they are not inconsistent with or restricted by this section,

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- 1280 including, but not limited to, the power to:
- 1281 (a) Adopt, amend, and repeal bylaws not inconsistent with
1282 this section.
- 1283 (b) Sue and be sued.
- 1284 (c) Adopt and use a common seal.
- 1285 (d) Acquire, purchase, hold, lease, and convey such real
1286 and personal property as may be proper or expedient to carry out
1287 the purposes of the corporation and this section and to sell,
1288 lease, or otherwise dispose of such property.
- 1289 (e) Elect or appoint and employ such other officers,
1290 agents, and employees as the corporation deems advisable to
1291 operate and manage the affairs of the corporation, which
1292 officers, agents, and employees may be officers or employees of
1293 the department and the state agencies represented on the board
1294 of directors of the corporation.
- 1295 (f) Borrow money and issue notes, bonds, certificates of
1296 indebtedness, or other obligations or evidences of indebtedness
1297 necessary to finance or refinance projects as provided in
1298 subsection (5).
- 1299 (g) Make and execute any and all contracts, trust
1300 agreements, and other instruments and agreements necessary or
1301 convenient to accomplish the purposes of the corporation and
1302 this section.
- 1303 (h) Select, retain, and employ professionals, contractors,
1304 or agents, which may include the Division of Bond Finance, as
1305 necessary or convenient to enable or assist the corporation in
1306 carrying out the purposes of the corporation and this section.
- 1307 (i) Take any action necessary or convenient to carry out
1308 the purposes of the corporation and this section and the powers

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1309 provided in this section.

1310 (5) The corporation may enter into one or more service
1311 contracts with the department to provide services to the
1312 department in connection with projects approved in the
1313 department's work program, which approval specifically provides
1314 that the department may enter into a service contract for the
1315 project pursuant to this section. The department may enter into
1316 one or more such service contracts with the corporation and
1317 provide for payments under such contracts, subject to annual
1318 appropriation by the Legislature. The proceeds from such service
1319 contracts may be used for the corporation's administrative costs
1320 and expenses after the payments specified in subsection (6).
1321 Each service contract may have a term of up to 35 years. In
1322 compliance with s. 287.0641 and other applicable law, the
1323 obligations of the department under such service contracts do
1324 not constitute a general obligation of the state or a pledge of
1325 the full faith and credit or taxing power of the state, and such
1326 obligations are not an obligation of the State Board of
1327 Administration or entities for which it invests funds, other
1328 than the department as provided in this section, but are payable
1329 solely from amounts available in the State Transportation Trust
1330 Fund, subject to annual appropriation. In compliance with this
1331 subsection and s. 287.0582, the service contract must expressly
1332 include the following statement: "The State of Florida's
1333 performance and obligation to pay under this contract is
1334 contingent upon an annual appropriation by the Legislature."

1335 (6) The corporation may issue and incur notes, bonds,
1336 certificates of indebtedness, or other obligations or evidences
1337 of indebtedness payable from and secured by amounts payable to

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1338 the corporation by the department under a service contract
1339 entered into pursuant to subsection (5) for the purpose of
1340 financing or refinancing projects approved as provided in that
1341 subsection. The duration of any such note, bond, certificate of
1342 indebtedness, or other obligation or evidence of indebtedness
1343 may not exceed 30 annual maturities. The corporation may select
1344 its financing team and issue its obligations through competitive
1345 bidding or negotiated contracts, whichever is most cost-
1346 effective. Indebtedness of the corporation does not constitute a
1347 debt or obligation of the state or a pledge of the full faith
1348 and credit or taxing power of the state, but is payable from and
1349 secured by payments made by the department under the service
1350 contract.

1351 (7) The fulfillment of the purposes of the corporation
1352 promotes the health, safety, and general welfare of the people
1353 of the state and serves essential governmental functions and a
1354 paramount public purpose.

1355 (8) The corporation is exempt from taxation and assessments
1356 on its income, property, and assets or revenues acquired,
1357 received, or used in the furtherance of the purposes provided in
1358 this chapter. The obligations of the corporation incurred
1359 pursuant to subsection (6) and the interest and income on such
1360 obligations and all security agreements, letters of credit,
1361 liquidity facilities, or other obligations or instruments
1362 arising out of, entered into in connection with, or given to
1363 secure payment of such obligations are exempt from taxation;
1364 however, such exemption does not apply to any tax imposed under
1365 chapter 220 on the interest, income, or profits on debt
1366 obligations owned by corporations.

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1367 (9) The corporation may validate obligations to be incurred
1368 pursuant to subsection (6) and the validity and enforceability
1369 of any service contracts providing for payments pledged to the
1370 payment of such obligations by proceedings under chapter 75. The
1371 validation complaint may be filed only in the Circuit Court of
1372 Leon County. The notice required to be published by s. 75.06
1373 must be published in Leon County, and the complaint and order of
1374 the circuit court may be served only on the State Attorney for
1375 the Second Judicial Circuit. Sections 75.04(2) and 75.06(2) do
1376 not apply to a complaint for validation filed under this
1377 subsection.

1378 (10) The corporation is not a special district for the
1379 purposes of chapter 189 or a unit of local government for the
1380 purposes of part III of chapter 218. The provisions of chapters
1381 120 and 215, except the limitation on the interest rates
1382 provided by s. 215.84, which applies to obligations of the
1383 corporation issued pursuant to this section, and part I of
1384 chapter 287, except ss. 287.0582 and 287.0641, do not apply to
1385 this section, the corporation, the service contracts entered
1386 into pursuant to this section, or debt obligations issued by the
1387 corporation as contemplated in this section.

1388 (11) The benefits and earnings of the corporation may not
1389 inure to the benefit of any private person.

1390 (12) Upon dissolution of the corporation, title to all
1391 property owned by the corporation reverts to the state.

1392 (13) The corporation may contract with the State Board of
1393 Administration to serve as a trustee with respect to debt
1394 obligations issued by the corporation as contemplated by this
1395 section; to hold, administer, and invest proceeds of such debt

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1396 obligations and other funds of the corporation; and to perform
1397 other services required by the corporation. The State Board of
1398 Administration may perform such services and may contract with
1399 others to provide all or a part of such services and to recover
1400 its costs and other expenses thereof.

1401 (14) The department may enter into a service contract in
1402 conjunction with the issuance of debt obligations as provided in
1403 this section which provides for periodic payments for debt
1404 service or other amounts payable with respect to debt
1405 obligations, plus any administrative expenses of the
1406 corporation.

1407 Section 27. This act shall take effect July 1, 2016.

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 756 (566040)

INTRODUCER: Transportation Committee and Senator Brandes

SUBJECT: Department of Transportation

DATE: January 22, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	Fav/CS
2.	Sneed	Miller	ATD	Recommended: Fav/CS
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 756 contains the Florida Department of Transportation's (FDOT) 2016 Legislative Package, as well as additional transportation-related provisions. More specifically, the bill:

- Creates the FDOT Financing Corporation, a nonprofit corporation, for the purpose of financing or refinancing projects in the FDOT's work program through one or more service contracts, under which the corporation is authorized to issue bonds and other forms of indebtedness secured by payments to the corporation by the FDOT.
- Requires the FDOT to consult with and provide information to the Division of Bond Finance (DBF) in connection with a proposal to finance or refinance a transportation facility through the FDOT's authority to enter into public-private partnerships, and authorizes the DBF to make an independent recommendation.
- Expressly authorizes an existing, federally approved business development program for highway projects within the FDOT, which is intended to assist small businesses, increase competition, and reduce costs.
- Authorizes the transfer of the FDOT's Pinellas Bayway System to become part of the turnpike system and, in such event, also requires the transfer of certain funds to be used to help fund the costs of repair and replacement of the transferred facilities.
- Repeals certain provisions of the Laws of Florida relative to the Pinellas Bayway System.
- Deletes references to certain toll facilities.
- Increases from \$15 million to \$25 million the minimum annual funding for the Florida Seaport Transportation and Economic Development (FSTED) program.

- Authorizes the FDOT to assume certain review responsibilities under the National Environmental Policy Act (NEPA) with respect to highway projects
- Substantially revises chapter 333, F.S., relating to airport zoning regulations.
- Allows commercial motor vehicle (CMV) operators to purchase temporary CMV registration permits at certain locations and provides for a reduced non-registration penalty under certain circumstances.
- Increases from three to ten years the period after which a dormant prepaid toll account is presumed unclaimed.
- Corrects a cross-reference.

This bill has potential fiscal impacts to the private and government sectors. See Section V.

The bill has an effective date of July 1, 2016.

II. Present Situation:

Due to the disparate issues in the bill, the present situation for each section is discussed below in conjunction with the Effect of Proposed Changes.

III. Effect of Proposed Changes:

FDOT Financing Corporation (Section 27)

Present Situation

Authority to Issue Debt for Transportation Projects:

Current law reflects a number of provisions authorizing the issuance of debt for the purpose of financing or refinancing certain transportation projects, which include:

- *Right of way and bridge construction bonds issued by the DBF upon request of the FDOT pursuant to the State Bond Act.* These bonds are secured by the full faith and credit of the state and are payable primarily from motor fuel and diesel fuel taxes transferred to the Right-of-Way Acquisition and Bridge Construction Trust Fund. With an exception for refinancing bonds, these bonds must be first authorized by the Legislature in the General Appropriations Act or by general law.¹
- *Revenue bonds issued by the DBF on behalf of the FDOT pursuant to the State Bond Act for fixed capital expenditures for fixed-guideway transportation systems.*² Such bonds must be approved by the Legislature by general law. These bonds do not constitute a general obligation of or a pledge of the full faith and credit of the state. The bonds are payable from a percentage of funds annually deposited into the State Transportation Trust Fund (STTF) for

¹ See s. 17, Art. VII of the State Constitution; ss. 215.57-215.83, F.S.; and s. 215.605, F.S.

² Defined in s. 341.031(2), F.S., as a public transit system for the transporting of people by a conveyance, or a series of interconnected conveyances, which is specifically designed for travel on a stationary rail or other guideway, whether located on, above, or under the ground.

public transportation projects, or other funds available for the project, subject to annual appropriation.^{3, 4}

- *Federal highway apportionment grant anticipation revenue vehicle (GARVEE) bonds⁵ issued for or on behalf of the FDOT.* These bonds are payable primarily from a prior and superior claim on all federal highway reimbursements received each year with respect to federal-aid projects undertaken in accordance with Title 23 of the United States Code. These bonds do not constitute a debt or general obligation of the state or a pledge of the state's full faith and credit or taxing power of the state.^{6, 7}
- *Revenue bonds issued by the DBF upon request of the FDOT pursuant to the State Bond Act.* These revenue bonds are secured by toll revenues collected on non-turnpike facilities for projects in the county or counties in which the revenue-producing project is located.⁸
- *Turnpike revenue bonds issued by the DBF on behalf of the FDOT.* Turnpike revenue bonds are secured by toll revenues pledged for repayment of the principal and interest on such bonds for turnpike projects contained in the FDOT's legislatively approved tentative work program. These bonds do not constitute debts of the state and do not pledge the full faith and credit of the state.^{9, 10}

The FDOT is also authorized to enter into long-term public-private partnership contractual agreements with private entities for the building, operation, ownership, or financing of transportation facilities pursuant to s. 334.30, F.S. For projects on the State Highway System, the FDOT may use state resources to participate in funding and financing a project as provided for under the FDOT's enabling legislation. No more than 15 percent of total federal and state funding in any given year for the STTF may be obligated collectively for all projects under that section.¹¹

Debt Management:

To ensure that financing of transportation infrastructure is managed with fiscal integrity, section 339.139, F.S., requires the FDOT to provide a debt and debt-like contractual obligations load report along with submission of its annual tentative work program under s. 339.135, F.S. The report must include data on current and planned commitments payable from the STTF, including:

- Debt service payments required to be made under any resolution for the issuance of bonds secured by a lien on federal highway aid reimbursements or motor fuel and diesel fuel taxes.

³ See s. 11, Art. VII of the State Constitution; ss. 215.57-215.83, F.S.; and s. 215.615, F.S.

⁴ Section 215.615(1)(b), F.S., limits the revenues available for debt service on fixed-guideway bonds to no more than 2 percent of all state revenues deposited into the STTF.

⁵ These securities anticipate moneys from a specific source, in this case future federal-aid highway funding for eligible projects under Title 23 of the United States Code. See the FHWA website: ⁵

http://www.fhwa.dot.gov/ipd/finance/tools_programs/federal_debt_financing/garvees/default.aspx. Last visited November 23, 2015.

⁶ See s. 11, Art. VII of the State Constitution; ss. 215.57-215.83, F.S.; and s. 215.616, F.S.

⁷ Section 215.616(3), F.S., limits the revenues available for debt service on GARVEE bonds to no more than 10 percent of annual apportionments to the FDOT for federal highway aid under Title 23 of the United States Code.

⁸ See s. 11, Art. VII of the State Constitution; ss. 215.57-215.83, F.S.; and s. 338.165, F.S.

⁹ See s. 11, Art. VII of the State Constitution; ss. 215.57-215.83, F.S.; and ss. 338.227, 338.2275, and 338.228, F.S.

¹⁰ No more than \$10 billion of bonds may be outstanding. Section 338.22275(1), F.S.

¹¹ Section 334.30(12), F.S.

- Funding for seaports which has been pledged to the payment of principal and interest on bonds issued by the Florida Ports Financing Commission pursuant to s. 320.20, F.S.
- Commitments of the FDOT to pay the costs of operating, maintaining, repairing, and rehabilitating expressway and bridge systems under the terms of lease-purchase agreements which are enforceable by the holders of bonds issued by expressway and bridge authorities pursuant to ch. 348, F.S.
- Availability, milestone, and final acceptance payments required by public-private partnerships pursuant to s. 334.30, F.S., that are not payments for the cost of operation or maintenance of a facility.
- Agreed-on payments to an FDOT contractor for work performed in the current fiscal year for which payment is deferred to a later fiscal year for public-private partnerships pursuant to s. 334.30, F.S.
- Reimbursements to local governments for work performed on a project if the reimbursement is deferred to a later fiscal year pursuant to s. 339.12, F.S.
- Loan repayments on state infrastructure bank loans extended to an FDOT district pursuant to s. 339.55, F.S.

Beginning in the 2017-2018 fiscal year, no more than 20 percent of total projected available state and federal revenues from the STTF, together with any local funds committed to FDOT projects, may be committed to the above identified obligations in any year.¹²

Effect of Proposed Changes

The bill creates the FDOT Financing Corporation, authorizing the corporation to issue debt payable from, and secured by, contractually committed payments from the FDOT. The proceeds would then be used by the FDOT for the purpose of financing needed transportation projects.

The FDOT advises that creation of the corporation does not replace traditional funding mechanisms; rather, use of the corporation to issue debt is “another tool in the Department’s funding toolbox.” The state’s debt load calculation remains unchanged; *i.e.*, any bonds procured by the corporation would be included in the debt report, and the FDOT continues to be bound by the 20 percent statutory cap on its overall debt. The DBF will oversee the structuring and sale of bonds on behalf of the corporation and will account for and measure the debt in the same way that other state debt is recorded. Further, the FDOT advises:

The main advantage of creating the Corporation is to provide the Department with a mechanism to enter into long-term financing agreements which utilize the favorable terms available to governmental borrowers in the tax exempt municipal bond market. This will provide the Department the ability to fund significant, currently needed transportation projects that might otherwise have to

¹² According to the FDOT, based on a November calculation, the current relationship of debt and debt-like contractual obligations to the 20 percent cap ranges from 9.7 percent in 2016 to 14.7 percent in 2022 (with some variation during that period of time), and then drops to 8.5 percent in 2023. *See* the FDOT email to committee staff dated November 30, 2015. On file in the Senate Transportation Committee.

wait for traditional funding to become available, while ensuring that the costs of financing those projects are kept to a minimum.¹³

Large public-private partnerships typically require long-term financing agreements.

Section 27 creates s. 339.0809, F.S., establishing the non-profit FDOT Financing Corporation for the purpose of financing or refinancing FDOT projects. The bill:

- Establishes the corporation's Board of Directors consisting of the director of the Office of Policy and Budget in the Executive Office of the Governor, the director of the DBF, and the FDOT Secretary, along with such other officers as determined by the board. The DBF director serves as the chief executive officer of the corporation responsible for controlling, directing, and supervising the corporation's operation.
- Grants to the corporation all of the powers of a corporate body under Florida law, to the extent the powers are not inconsistent with or restricted by the new section of law. Among the powers granted are the power to:
 - Borrow money and issue notes, bonds, certificates of indebtedness or other obligations necessary to finance or refinance projects under the conditions specified below.
 - Acquire, purchase, hold, lease, and convey real and personal property and to sell, lease, or otherwise dispose of such property.
 - Elect or appoint and employ such other officers, agents, and employees the corporation deems advisable to operate and manage the corporation, which officers, agents, and employees may be officers or employees of the FDOT and the state agencies represented on the Board of Directors.
 - Select, retain, and employ professionals, contractors, or agents, which may include the DBF, as necessary or convenient to enable or assist the corporation.

To accomplish the stated purpose, the bill authorizes the corporation to enter into one or more service contracts with the FDOT, each of which may have a term up to 35 years, to provide services to the FDOT in connection with projects approved in the FDOT's work program. Approval of the FDOT's work program specifically authorizes the FDOT to enter into a service contract for a project contained in the work program. The service contracts may provide for the FDOT to make payments to the corporation, subject to annual appropriation. The proceeds from the contracts may be used for the corporation's administrative costs and expenses after specified payments.

The FDOT's obligations under any service contract do not constitute a general obligation of the state or a pledge of the faith and credit or taxing power of the state. The obligations are not obligations of the State Board of Administration (SBA) or entities for which it invests funds, other than the FDOT as provided. The obligations are payable solely from amounts available in the STTF, subject to annual appropriation. A service contract must include a specific statement that the State's performance and obligation to pay under the contract is contingent upon annual appropriation by the Legislature.

¹³ See the FDOT's response to House staff questions on the FDOT Financing Corporation. On file in the Senate Transportation Committee.

The corporation is authorized to issue and incur notes, bonds, or other evidences of indebtedness payable from and secured by the amounts payable to the corporation by the FDOT under a service contract. The duration of any such evidence of indebtedness is limited to 30 years. The corporation is authorized to select its financing team and issues its obligations through competitive bidding or negotiated contract, whichever is most cost-effective. Indebtedness of the corporation also does not constitute a debt or obligation of the state or a pledge of the faith and credit or taxing power of the state, but is payable from and secured by payments made by the FDOT under a service contract.

The bill further provides that:

- The purposes of the corporation promote the health, safety, and general welfare of the people of the state and serves essential governmental functions and a paramount public purpose.
- The corporation is exempt from taxation and assessments on its income, property, and assets or revenues acquired, received, or used in furtherance of the corporation's purpose.
- The corporation's obligations on indebtedness and the interest and income on such obligations are exempt from taxation.
- All security agreements, letters of credit, liquidity facilities, or other obligations or instruments to secure payment of such obligations are exempt from taxation, except that the exemption does not apply to any tax imposed under ch. 220, F.S., on the interest, income, or profits on debt obligations owned by the corporation.

The corporation is authorized to validate obligations¹⁴ to be incurred and the validity and enforceability of any service contracts by proceedings under ch. 75, F.S. The corporation may also contract with the SBA to serve as trustee with respect to the corporation's issued debt obligations; to hold, administer, and invest proceeds of such obligations and other funds of the corporation; and to perform other services required by the corporation. The SBA may perform such services and contract with others to provide all or part of such services and to recover its and such other costs and expenses thereof. The FDOT may enter into a service contract in conjunction with the issuance of debt obligations that provides for periodic payments for debt service or other amounts payable with respect to the obligations, plus any administrative expenses of the corporation.

Similar bond finance corporations currently exist. The language in the bill creating the FDOT Financing Corporation is similar to the language creating the Inland Protection Financing Corporation in s. 376.3075, F.S.

Public-Private Partnerships (P3s) (Section 22)

Present Situation

Section 334.30, F.S., authorizes the FDOT to receive and solicit proposals and, with legislative approval of a project in the FDOT's work program, enter into agreements with private entities for the building, operation, ownership, or financing of transportation facilities. The FDOT may

¹⁴ According to the DBF, bond validation is a judicial procedure through which the legality of a proposed bond issue may be determined in advance of its issuance. It serves to assure bondholders that future court proceedings will not invalidate a government's pledge to repay the bonds. See copy of email from Ben Watkins, Director, Florida Division of Bond Finance, to House staff dated January 27, 2015. On file in the Senate Transportation Committee.

advance projects in the adopted five-year work program or projects in the 10-year Strategic Intermodal Plan greater than \$500 million that increase transportation capacity using funds provided by private entities. The entities are then reimbursed from FDOT funds for the project as programmed in the adopted work program.¹⁵

P3 agreements are typically long-term but may not exceed 50 years, unless authorized for a term of up to 75 years by the FDOT secretary, or unless a term in excess of 75 years is approved by the Legislature. P3 projects are also typically large and generally involve complex financial arrangements, and often include the issuance of debt obligations such as bonds.¹⁶

Provisions in current law require the FDOT to make certain determinations before approval of a proposed project; *i.e.*, that a project:

- Is in the public's best interest;
- Would not require state funds to be used unless the project is on the State Highway System;
- Would have adequate safeguards in place to ensure that no additional costs or service disruptions would be realized in the event of default or cancellation of the agreement;
- Would have adequate safeguards in place to ensure the FDOT or the private entity has the opportunity to add capacity to the project and other facilities serving similar origins and destinations; and
- Would be owned by the FDOT upon completion or termination of the agreement.¹⁷

The FDOT is also required to provide an independent analysis of a proposed P3 agreement that demonstrates the cost-effectiveness and overall benefit of the project prior to moving forward with the procurement and, if the procurement moves forward, prior to awarding the contract.¹⁸

Before soliciting a proposal, the FDOT must provide a summary of the proposed project to the Governor, the chair of each legislative appropriations committee, the President of the Senate, and the Speaker of the House of Representatives. The summary must include a description of any anticipated commitment by the FDOT for the years outside the adopted work program, a description of the anticipated impacts on the FDOT's 20 percent overall debt load limit, and sufficient information to demonstrate that the project will not cause the debt load to exceed the debt load limitation. The FDOT may proceed with a project upon approval of the Governor, but the Governor may not approve a project if the chair of either appropriations committee, the President of the Senate, or the Speaker of the House of Representatives objects in writing within 14 days after receipt of the summary.¹⁹

The same summary is required for unsolicited proposals, but the FDOT may not accept an unsolicited proposal, advertise its receipt as required by s. 334.30, F.S., or solicit other proposals

¹⁵ See the FDOT website for a summary of P3 projects as of November, 2015, and additional project information: <http://www.dot.state.fl.us/officeofcomptroller/PFO/p3.shtm>. Last visited December 2, 2015.

¹⁶ No more than 15 percent of total federal and state funding in any given year for the STTF may be obligated collectively for all P3 projects.

¹⁷ Section 334.30(1), F.S.

¹⁸ Section 334.30(6)(e), F.S.

¹⁹ Section 339.2825(1), F.S. Section 339.2825, F.S., does not apply to a P3 agreement under which the FDOT proposes to lease an existing toll facility per s. 339.2825(3), F.S., but the FDOT must provide the independent analysis described above prior to awarding a contract, per s. 334.30(2)(d), F.S.

for the same project without the approval of the Governor. Again, the Governor may not approve a proposed project if a written objection is received from the chair of either appropriations committee, the President of the Senate, or the Speaker of the House of Representatives.²⁰

Effect of Proposed Changes

Section 22 amends s. 334.30, F.S., and requires the FDOT to consult with staff of the DBF in connection with a proposal to finance or refinance a transportation facility through a P3 agreement under s. 334.30, F.S. The FDOT must provide the DBF with information necessary to provide timely consultation and recommendations, and the DBF is authorized to make an independent recommendation to the Governor.

Section 28 amends s. 348.0004, F.S., to correct a cross-reference necessitated by the amendment to s. 334.30, F.S.

Business Development Initiative (Section 23)

Present Situation

The FDOT currently operates a federally approved program which is intended to increase competition, lower prices, and ensure businesses are available to carry out the FDOT's work program. The FDOT designed its Business Development Initiative (BDI) "...to provide more opportunities and support for small businesses to move from subcontracting and subconsulting to prime contracting and consulting roles."²¹

The BDI was first implemented in the FDOT's District Two beginning in Fiscal Year 2006-2007 and then expanded to the remaining FDOT districts. The FDOT implemented a number of strategies to increase competition while maintaining a focus on preventing any adverse effects on projects in the work program. Among the strategies the FDOT employed to assist small businesses in bidding on FDOT contracts for which the businesses would not typically submit bids are:

- Reserving certain construction and maintenance contracts for small businesses.
- Waiving performance bond requirements for contracts under \$250,000.
- Using a modified qualification process instead of the standard prequalification process for construction and maintenance projects.²²

The FDOT advises that the BDI, being the first of its kind nationally to be considered, was approved by the Federal Highway Administration for use on federally funded projects in March 2009.

The FDOT's districts, when selecting candidate projects, are instructed to consider whether a project is low-risk in nature and whether a sufficient number of small businesses are available to

²⁰ Section 339.2825(2), F.S.

²¹ See the FDOT's BDI website: <http://www.dot.state.fl.us/equalopportunityoffice/bdi.shtm>. Last visited November 3, 2015.

²² *Id.* Select "BDI Program Guidelines."

bid on the contract.²³ Construction and maintenance projects that are candidates for reservation for the program are identified prior to the upcoming fiscal years contract letting plan, subject to the FDOT central office approval.

Identification of a construction or maintenance project for the BDI means:

- The contract, limited in amount to \$1,500,000 or less, will be reserved for bids by small businesses.
- Prequalification is not required.²⁴
- Performance bonds are waived on contracts under \$250,000.²⁵
- Bid bonds are \$500 for contracts over \$150,000.²⁶
- All subcontractors must be small businesses, defined by the FDOT for construction and maintenance contracts to mean those businesses with average annual gross receipts over the last three years not to exceed \$15 million.²⁷
- The contract will be procured under s. 337.025, F.S., the FDOT's authority to use innovative techniques for highway projects.²⁸

Similarly, the FDOT's districts are responsible for reviewing and identifying candidate professional services²⁹ contracts for the BDI, again considering whether a sufficient number of small businesses are available to submit a bid.³⁰ A request to use the BDI for a professional services contract is submitted to the FDOT's central office Procurement Manager, who is responsible for approving or denying the request. Identification of a professional services contract for the BDI means:

- The contract, limited in amount to \$1,500,000 or less, will be reserved for bids by small businesses.
- No preference points will be used for the contract.

²³ The FDOT maintains a small business listing for road and bridge construction and maintenance contracts at: http://www2.dot.state.fl.us/sasweb/cgi-bin/broker.exe?_service=default&_program=inetprog.db2.smbusform.scl. Last visited November 10, 2015.

²⁴ Section 337.14, F.S., generally requires the FDOT to certify as qualified any person desiring to bid on a construction contract in excess of \$250,000 by addressing requirements with respect to the equipment, past record, experience, financial resources, and organizational personnel of the applicant necessary to perform the specific class of work for which the person seeks certification. *See also* Fla. Admin. Code R. 14-22 (2010).

²⁵ Section 337.18, F.S., generally requires a surety bond of a successful bidder in an amount equal to the awarded contract price. However, if the contract price is \$250,000 or less, the FDOT may waive the requirement if the FDOT determines the project is of a noncritical nature and nonperformance will not endanger public health, safety, or property.

²⁶ Section 337.17, F.S., requires a bid guaranty only for a construction contract in excess of \$150,000. The bid bond may not exceed 10% of the preliminary estimate of the cost of the work.

²⁷ *Supra* note 20 and note 21.

²⁸ *Id.*

²⁹ Section 287.055, F.S., defines "professional services" to mean those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, or those performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper in connection with his or her professional employment or practice.

³⁰ The FDOT maintains a small business listing for professional services contracts at: <http://www2.dot.state.fl.us/procurement/ProfessionalServices/lppc/listmenu.htm>. Last visited November 10, 2015.

- Prequalification in all listed professional services work types is required.^{31, 32}
- An overhead audit prepared by an independent Certified Public Accountant is required for any contracts in excess of \$500,000.³³
- All prime firms and sub-consultants must be small businesses, defined by the FDOT for professional services contracts to mean those businesses with average annual gross receipts over the last three years not to exceed \$6.5 million.³⁴
- Professional services contracts will be procured under s. 287.055, F.S.³⁵

The FDOT advises its goal is to reserve 10 percent of construction and maintenance contracts and 15 percent of professional services contracts for the BDI. By the end of last year, the goal fell short for the former contracts at 7.36 percent, but the goal was achieved for the latter at 15 percent. Combining the two types of contracts, 92 different small businesses received contracts through the BDI. The FDOT advises that many of these firms for the first time worked as a prime contractor with the FDOT.³⁶

While the current cited authority, taken together, appears to authorize the BDI, current law reflects no express statutory authority for the program.

Effect of Proposed Changes

The bill expressly authorizes an existing, federally-approved program within the FDOT, known as the Business Development Initiative.

Section 23 creates s. 337.027, F.S., to specifically authorize the FDOT to establish a program for highway projects to assist small businesses, with the stated purpose of increasing competition, lowering prices, and providing increased support to meet the FDOT's future work program. Program efforts may include, but are not limited to:

- Setting aside contracts;
- Providing preference points for the use of small businesses;
- Providing special assistance to small businesses in bidding and contract completion;
- Waiving bond requirements; and
- Implementing other strategies that would increase competition.

³¹ Section 337.105, F.S., generally requires the FDOT, before employing a professional consultant, to make a finding that the person to be employed is fully qualified to render the desired service, taking into consideration factors such as the professional reputation, past performance record, and experience of the candidate and the adequacy of the personnel making up his or her organization.

³² Two levels of qualification may be sought. The unlimited level allows consultants to compete for any projects for which they are technically qualified with the FDOT. The minor-projects-only level allows consultants to compete for minor projects with fees estimated below \$500,000. See the FDOT's *Professional Services Prequalification* website: <http://www.dot.state.fl.us/procurement/prequalification.shtm#AQI>. Last visited November 10, 2015. See also Fla. Admin. Code R. 14-75 (2006).

³³ *Id.*

³⁴ *Supra* note 20 and note 21.

³⁵ That section sets out procedures for public announcement and qualification and requirements for competitive solicitation and negotiation, etc. See also *supra* note 20 and note 21.

³⁶ See the FDOT email to committee staff dated November 10, 2015. On file in the Senate Transportation Committee.

For purposes of the newly created section, the bill defines “small business” to mean a business with average gross receipts over the last three years of less than \$15 million for road and bridge contracts and less than \$6.5 million for professional and nonprofessional services contracts, including the receipts of an affiliate.³⁷ The bill authorizes the FDOT to adopt rules to implement the program.

Pinellas Bayway System/Obsolete References to Certain Toll Facilities (Sections 24 and 25)

Present Situation

The Pinellas Bayway System, currently owned by the FDOT is a tolled system of bridges and causeways that provides an east-west link between St. Petersburg and St. Petersburg Beach via State Road 682. Tolls on the Pinellas Bayway System are collected by the Florida Turnpike Enterprise.³⁸ The system also serves Tierra Verde and Fort De Soto Park to the south via State Road 679. One of the bridges on State Road 679 over Boca Ciega Bay was classified as structurally deficient in 2013. “Structurally deficient,” according to the FDOT, “means that a bridge has to be repaired or replaced within six years.” The term does not mean that a bridge is unsafe.³⁹

FDOT’s policy is to replace a structurally deficient bridge within six years of the deficient classification.^{40, 41} The scope of the work for the bridge over Boca Ciega Bay is to replace the existing movable bridge with a high-level fixed bridge through a design-build contract, at a proposed cost of \$52.1 million.⁴² However, no funds for replacement of the bridge are currently included in the FDOT’s District 7 work program. The FDOT advises that the balance of an existing reserve construction account for Pinellas Bayway improvements as of December 31, 2015, was \$7,326,346.13.⁴³

Bayway System Construction and Tolls

In 1968, the predecessor of the FDOT entered into a settlement agreement in *Leonard Lee Ratner, Esther Ratner, and LEECO Gas and Oil Co., vs. State Road Department of the State of Florida*.⁴⁴ In the settlement agreement, the State Road Department agreed that owners and

³⁷ Section 337.165(1)(a), F.S., defines “affiliate” to mean 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.

³⁸ See the Florida Transportation Commission’s *Transportation Authority Monitoring and Oversight Fiscal year 2014 Report*: <http://www.ftc.state.fl.us/reports/TAMO.shtml>. Last visited January 21, 2016.

³⁹ See the FDOT email to committee staff dated January 21, 2016. (On file in the Senate Transportation Committee.)

⁴⁰ See the Bay News 9 article, “6 Bay area bridges “structurally deficient.”” http://www.baynews9.com/content/news/baynews9/news/article.html/content/news/articles/bn9/2016/1/13/tampa_bay_deficient_.html. Last visited January 21, 2016. See also the FDOT’s e-mailed response to committee staff questions re Pinellas Bayway dated January 5, 2016. (On file in the Senate Transportation Committee.)

⁴¹ Note that replacement of the old drawbridge on State Road 682 connecting St. Petersburg and St. Petersburg Beach was completed in 2014 at a cost of approximately \$41 million. See the 10 News article, “New Pinellas Bayway grand opening Friday:” <http://www.wtsp.com/story/news/traffic/road-warrior/2014/10/16/bayway/17352735/>. Last visited January 21, 2016.

⁴² See the FDOT’s e-mailed response to committee staff questions re Pinellas Bayway System dated January 5, 2016. (On file in the Senate Transportation Committee.)

⁴³ See the FDOT email to committee staff dated January 21, 2016. (On file in the Senate Transportation Committee.)

⁴⁴ Copy on file in the Senate Transportation Committee.

residents of real property in the Bayway Isles Development would have the right to purchase an annual pass through the toll gate at the easterly terminus of the Bayway system in St. Petersburg for \$15 per vehicle. That agreement remains in place.

Chapter 85-364, L.O.F., required a toll of \$.50 cents, following completion of widening to four lanes from the eastern toll booth to State Road 679, at the eastern and western toll plazas on State Road 682. The FDOT was required, after payment of annual operating costs and discharge of bond indebtedness, to establish a reserve construction account to be used for widening to four lanes State Road 682 from State Road 679 west to Gulf Boulevard. Continued collection of tolls was required upon completion of the widening to reimburse the FDOT for all accrued maintenance costs for the Pinellas Bayway. In addition, chapter 85-364, L.O.F., required the FDOT to allow any person to purchase an annual pass for each motor vehicle they own at a cost of \$50 per year which exempts the motor vehicle from any Pinellas Bayway System tolls during its term. Currently the \$50 pass remains available.

Chapter 95-382, L.O.F., required tolls collected to first be placed in the construction reserve account, after payment of operating costs and bond indebtedness, to be used for construction of Blind Pass Road, State Road 699 improvements in Pinellas County, *and then* for Phase II of the Pinellas Bayway widening to four lanes of State Road 682 from State Road 679 west to Gulf Boulevard. Tolls continue to be collected to reimburse the FDOT for all accrued maintenance costs.

Section 48 of chapter 2014-223, L.O.F., repealed reference to the Blind Pass Road/State Road 699 improvements and provided that funds in the reserve construction account be used for the widening of State Road 682 from State Road 679 west to Gulf Boulevard.⁴⁵ These improvements have been completed. As noted, however, the bridge on State Road 679 over Boca Ciega Bay has been declared structurally deficient.

Currently, for a two-axle vehicle, the toll, other than for those that hold the \$15 or the \$50 annual pass, is:

- \$.53 cents for SunPass customers and \$.75 cents for cash customers, both westbound at the East Plaza and eastbound at the West Plaza, plus \$.53 cents and \$.75 cents, respectively, for each additional axle.
- \$.26 cents for SunPass customers and \$.50 cents for cash customers southbound at the south plaza, plus an additional \$.26 cents and \$.50 cents, respectively, for each additional axle.⁴⁶

Effect of Proposed Changes

The bill authorizes the FDOT to transfer the Pinellas Bayway System to become part of the turnpike system. The bill also preserves the provisions of the settlement agreement and final judgment by retaining the ability to purchase a \$15 annual pass. Additionally, the bill transfers the construction reserve account to the FDOT Turnpike Enterprise when ownership of the system is transferred to the Florida Turnpike Enterprise.

⁴⁵ See *supra* note 40.

⁴⁶ See the Florida Turnpike Toll Calculator, click on “Tampa Area,” roll over hot buttons to select the Pinellas Toll Plazas: <http://www.floridasturnpike.com/TollCalcV3/index.htm>. Last visited January 21, 2016.

The FDOT advises that the transfer of the system would allow replacement of the structurally deficient bridge over Boca Ciega Bay on SR 679 to be moved up from 2020 to 2017 in the FDOT work program, and funded through a combination of the accrued reserve account revenues and other financing available to the Florida Turnpike.

Section 25 repeals chapter 85-634, L.O.F., as amended by ch. 95-382 and section 48 of ch. 2014-223, L.O.F. The ability of the specified owners and residents to purchase the \$15 annual passage through the easterly terminus of the Bayway System will remain in place, pursuant to the 1968 settlement agreement. As a result of the repeal of ch. 85-364, L.O.F., the \$50 annual pass authorized in that law would no longer be available for purchase. Current holders of those passes would be required to pay tolls at all of the Bayway toll collection points.

Toll Facilities No Longer Owned by the FDOT

The Beeline-East Expressway (renamed the Beachline East Expressway) became part of the Turnpike Enterprise on July 1, 2012, pursuant to ch. 2012-128, L.O.F.⁴⁷ The Navarre Bridge is now county-owned and no longer a state toll facility. The references to each facility in s. 338.165(4), F.S., are now obsolete.

Effect of Proposed Changes

Subsection (4) of s. 338.165, F.S., is amended to remove obsolete references to the Beeline-East Expressway and the Navarre Bridge within the FDOT's authority to request issuance of bonds secured by toll revenues from certain toll facilities, as the expressway and bridge are no longer owned by the FDOT. The reference to the Pinellas Bayway is also removed.

Florida Seaport Transportation and Economic Development Program (Sections 1 and 2)

Present Situation

Section 311.07(2), F.S., requires a minimum of \$15 million per year from the STTF to fund the Florida Seaport Transportation and Economic Development (FSTED) Program.⁴⁸ The program represents a collaborative relationship between the FDOT and the 15 public seaports.⁴⁹ FSTED funds are to be used on approved projects on a 50-50 matching basis.⁵⁰ Funding grants under the FSTED program are limited to the following port facilities or port transportation projects:

- Transportation facilities within the jurisdiction of the port.
- Dredging or deepening of channels, turning basins, or harbors.
- Construction or rehabilitation of wharves, docks, structures, jetties, piers, storage facilities, cruise terminals, automated people mover systems, or any facilities necessary or useful in connection with the foregoing.
- Acquisition of vessel tracking systems, container cranes, or other mechanized equipment used in the movement of cargo or passengers in international commerce.

⁴⁷ See s. 338.165(10), F.S.

⁴⁸ See also s. 311.09(9), directing the FDOT to include no less than \$15 million annually in its legislative budget request for the FSTED Program.

⁴⁹ Jacksonville (JaxPort), Port Canaveral, Port Citrus, Port of Fort Pierce, Port of Palm Beach, Port Everglades, Port of Miami, Port Manatee, Port of St. Petersburg, Port of Tampa, Port St. Joe, Port Panama City, Port of Pensacola, Port of Key West, and Port of Fernandina. List in s. 311.09(1), F.S.

⁵⁰ Section 311.07(3)(a), F.S.

- Acquisition of land to be used for port purposes.
- Acquisition, improvement, enlargement, or extension of existing port facilities.
- Certain environmental protection projects required as a condition of a permit...
- Transportation facilities which are not otherwise part of the FDOT's Adopted Work Program.⁵¹
- Intermodal access projects.
- Construction or rehabilitation of port facilities with operating revenues of \$5 million or less, provided that such project creates economic development opportunities, capital improvements, and positive financial returns to such ports.
- Seaport master plan or strategic plan development updates.

In order for a project to be eligible for consideration by the FSTED Council, a project must be consistent with the port's comprehensive master plan, which is incorporated as part of the approved local government comprehensive plan.

The FSTED program is managed by the FSTED Council, which consists of the port director or director's designee of the 15 public seaports, the Secretary of FDOT or his or her designee, and the Executive Director of the Department of Economic Opportunity or his or her designee.⁵²

Other statutorily required seaport-related funding programs also include:

- A minimum of \$35 million annually from the STTF for the Strategic Port Investment Initiative under s. 311.10, F.S., to fund projects that meet the state's economic development goal of becoming a hub for trade, logistics, and export-oriented activities.
- A minimum of \$5 million annually from the STTF for the Intermodal Logistics Center Infrastructure Support Program under s. 311.101, F.S., to fund the same type of projects, along with those that enhance transportation facilities for the conveyance or shipment of goods through a seaport to or from an intermodal logistics center.
- Additional debt service funding of \$35 million under ss. 320.20 and 339.0801, F.S., for seaport-related bonds.

Effect of Proposed Changes

Sections 1 and 2 amend s. 311.07(2) and s. 311.09(9), F.S., respectively, to increase the annual minimum funding from the STTF for the FSTED Program from \$15 million to \$25 million. The bill requires FDOT to include no less than the \$25 million in its annual legislative budget request to fund the program.

National Environmental Policy Act/Delegation of Responsibilities to States (Section 21)

Present Situation

The National Environmental Policy Act (NEPA) establishes national environmental policy for protection of the environment. "NEPA's basic policy is to assure that all branches of government give proper consideration to the environment prior to undertaking any major federal action that significantly affects the environment." Federal agencies are required to prepare detailed

⁵¹ The FDOT's work program is adopted pursuant to s. 339.135, F.S.

⁵² Section 311.09(1), F.S.

statements assessing the environmental impact of and alternatives to major federal actions that significantly affect the environment.⁵³

NEPA requirements also apply to *state* highway projects eligible for federal funding. According to the FDOT, when a highway project is advanced and is federally eligible, project development occurs consistent with NEPA requirements, in consultation with and subject to the oversight of the Federal Highway Administration (FHWA). The FDOT utilizes two processes to meet NEPA requirements. One process, the Efficient Transportation Decision Making process, is used during the project's planning phase to initiate contact with agencies and other stakeholders and obtain multiple-party input and information used to inform the second process. The Project Development and Environment (PD&E) process is used to analyze, perform outreach, guide agency coordination, and meet regulatory requirements before a project may be advanced. The FDOT prepares necessary documents, analyzes alternatives, consults with agencies, and makes recommendations. This information is provided to the FHWA, which is the lead agency for review, comment, and ultimate approval.⁵⁴

Following an initial pilot project conducted in California, Congress in 2012 enacted the Moving Ahead for Progress in the 21st Century Act, which established a permanent surface transportation project delivery program.⁵⁵ Under the program, in which California and Texas are already participating, the U.S. Department of Transportation (USDOT) secretary may assign, and any state may assume, pursuant to a written agreement, all or part of the secretary's responsibilities under NEPA with respect to projects or classes of projects. The written agreement must provide that the state:

- Agrees to assume all or part of the described responsibilities;
- Expressly consents, on behalf of the state, to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the secretary assumed by the state;⁵⁶
- Certifies that state laws and regulations are in effect that authorize the state to take the actions necessary to carry out the responsibilities; and
- Agrees to maintain the financial resources necessary to carry out the responsibilities.

The USDOT secretary is authorized to terminate the participation of any state if the state is not adequately carrying out the responsibilities and the secretary notifies the state of the determination of noncompliance. If the state fails to take corrective action as determined by the USDOT secretary within 30 days after notice, the agreement is terminated.⁵⁷

With respect to the consent to federal court jurisdiction, the FDOT advises:

⁵³ See the U.S. Environmental Protection Agency website: <http://www2.epa.gov/laws-regulations/summary-national-environmental-policy-act>. Last visited October 12, 2015.

⁵⁴ See the FDOT 2016 Legislative Proposal form, *Authorization to Participate in Certain Federal Transportation Programs*. On file in the Senate Transportation Committee.

⁵⁵ 23 U.S.C. s. 327 (2013).

⁵⁶ This requirement apparently exists to address the Eleventh Amendment to the U.S. Constitution, which generally prohibits suits in law or equity against one of the United States by its citizens, citizens of another state, or subjects of any foreign state.

⁵⁷ *Supra* note 44.

This waiver is limited to only those actions delegated to the Department by the USDOT and related to carrying out its NEPA duties on state highway projects. Challenges to NEPA decision making are filed in federal district court pursuant to the Federal Administrative Procedures Act and are limited to a review of the underlying administrative record. The standard for review is whether the Department's action is arbitrary and capricious. To the extent that a challenger is successful, the remedy is to require additional review, analysis and documentation to support the action. The state's exposure is further limited by 23 U.S.C. 327(a)(2)(G), which provides that a state assuming the responsibilities of the Secretary [of the USDOT] under this section for a specific project may use funds apportioned to the State under section 104(b)(2) for attorneys' fees directly attributable to eligible activities associated with the project.⁵⁸

Effect of Proposed Changes

Section 21 amends s. 334.044, F.S., to authorize the FDOT to assume responsibilities of the USDOT under 23 U.S.C. s. 327 with respect to highway projects, and with respect to related responsibilities for environmental review, consultation, or other action required under any federal environmental law pertaining to review or approval of a highway project, within Florida. The FDOT is authorized to enter into one or more agreements with the U.S. Secretary of Transportation related to the federal surface transportation project delivery program for the delivery of transportation projects, including highway projects. The FDOT is authorized to adopt implementing rules and to adopt relevant federal environmental standards as the standards for this state for the program. The FDOT advises the delegation allows direct consultation between the FDOT and federal regulatory agencies and maximizes efficiency by consolidating all NEPA reviews under the FDOT.

Sovereign immunity to civil suit in federal court is waived consistent with 23 U.S.C. s. 327 and limited to the compliance, discharge, or enforcement of a responsibility assumed by the FDOT. The FDOT advises its district offices would continue to conduct the PD&E process, with the FHWA's project review, legal sufficiency, and approval authority delegated to the FDOT's Central Office and with the FHWA retaining program level oversight. The waiver of sovereign immunity is limited only to those actions delegated to the FDOT and related to carrying out its NEPA duties on state highway projects. The standard for review is whether the FDOT's action is arbitrary and capricious. The remedy for a successful challenge is to require additional review, analysis, and documentation to support the project. Further, a state assuming the NEPA responsibilities may use certain apportioned funds for attorneys' fees directly attributable to eligible activities associated with a project.⁵⁹

⁵⁸ See the FDOT's 2015 and 2016 Legislative Proposal Forms, *Authorization to Participate in Certain Federal Transportation Programs (NEPA)*. On file in the Senate Transportation Committee

⁵⁹ 23 U.S.C. s. 327(a)(G) (2013).

Airport Zoning/Chapter 333 Re-Write (Sections 5 through 20)

Chapter 333, Florida Statutes, contains airport zoning provisions relating to the management of airspace and land use at or near airports. Generally, the chapter:

- Addresses permitting for structures exceeding federal obstruction standards;
- Requires adoption of certain airport zoning regulations;
- Provides a process for seeking variances from the zoning regulations;
- Sets out a process for appeal of decisions based on the zoning regulations;
- Requires boards of adjustment to hear and decide appeals;
- Provides for judicial review of any board of adjustment decision; and
- Establishes penalties and remedies for violations.

The FDOT in 2012 created a stakeholder working group to address problems with implementing this chapter. Representatives from airports, local planning and zoning departments, the Florida Defense Alliance, the League of Cities, the Florida Airports Council, the real estate development community, and the FDOT participated in the working group. The FDOT advises the working group determined that ch. 333, F.S., “contains outdated and inconsistent provisions when compared to applicable federal regulations, contains internal inconsistencies, and requires a local government airport protection zoning process that can be cumbersome and confusing.”

The FDOT advises it expects no substantive changes as a result of the bill’s proposed revisions; e.g., the existing requirements for issuance of permits are substantively unchanged. The number of permits issued or denied is not expected to change. Rather, the changes are designed to facilitate more uniform permitting, appeals, and review processes applied at the local level and provide clarity and predictability for those subject to airport zoning regulations.⁶⁰

Definitions

Present Situation

Section 333.01, F.S., contains definitions related to airport zoning that need updating for internal chapter consistency and for consistency with federal regulations.

Effect of Proposed Changes

Section 5 amends s. 333.01, F.S., to provide, revise, and delete definitions to:

- Reflect terminology used in federal regulations;
- Provide for consistency with Federal Aviation Administration (FAA) advisements;
- Remove antiquated terminology;
- Delete variances from definitions to reflect the streamlined permitting process effected in the bill; and
- Otherwise provide clarity through editorial and grammatical changes.

⁶⁰ Conversation with FDOT Legislative and Legal Staff during joint meeting with Senate and House staff, January 30, 2015.

Permitting for Structures Exceeding Federal Obstruction Standards

Present Situation

The Code of Federal Regulations (CFR) sets forth standards for structures that present a hazard within an area in an airport due to obstruction of the airspace required for aircraft to take off, maneuver, or land.⁶¹ Section 333.025, F.S., requires a permit from the FDOT for any proposed construction or alteration of a structure that would exceed the federal standards.⁶² A permit from the FDOT is not required if a political subdivision⁶³ has adopted adequate airspace protection regulations and filed them with the FDOT.

The FDOT must issue or deny a permit within 30 days of receipt of an application for any structure that would exceed the federal obstruction standards. The FDOT is prohibited from approving a permit unless the applicant submits both documentation showing compliance with federal notification requirements and a valid aeronautical evaluation.

Effect of Proposed Changes

Section 6 amends s. 333.025, F.S., to replace the term “geographic center” with “airport reference point,” which is located at the approximate geometric center of all usable runways and to update references to current federal regulations.

If a political subdivision has adopted adequate airport protection zoning regulations, placed the regulations on file with the FDOT, *and* the political subdivision has established a permitting process, a permit from the FDOT is not required for construction or alteration of an obstruction. Upon receipt of a complete permit application, the local government must provide a copy of the application to the FDOT. The bill provides a 15-day FDOT review period following receipt of the application, which must run concurrently with the established local permitting process.

The FDOT is required to review permit applications in conformity with s. 120.60, F.S., relating to licensing. The list of factors to be considered by the FDOT is revised to remove ambiguity and duplication, and to provide clarity. The FDOT must require the owner of a permitted obstruction to install, operate, and maintain marking and lighting in conformance with FAA standards, at the owner’s expense. The denial of a permit is subjected to the administrative review provisions of the Administrative Procedures Act.

Adoption of Airport Zoning Regulations

Present Situation

Section 333.03, F.S., requires political subdivisions with an airport hazard area⁶⁴ to adopt, administer, and enforce airport zoning regulations for the area. If the airport is owned or

⁶¹ See 14 C.F.R. part 77, subpart C (2015).

⁶² Public airports are licensed under the provisions of ch. 330, F.S.

⁶³ Generally, a local governmental entity, see section 333.01(9), F.S.

⁶⁴ The bill redefines “airport hazard” to mean 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. The definition of “obstruction” is revised, also to reflect terminology used in the federal standards for determining obstructions. “Airport hazard area” is redefined in the bill to mean any area of land or water upon which an airport hazard might be established.

controlled by a political subdivision and has a hazard area outside of its territorial limits, the political subdivision and the political subdivision within which the hazard area is located must either adopt zoning regulations by interlocal agreement or create a joint airport zoning board with the power to do so. The airport zoning regulations must, at a minimum, require:

- A variance for any structure that would exceed the federal obstruction standards;
- Obstruction marking and lighting per s. 333.07(3);
- Documentation of compliance with federal proposed construction notification and a valid aeronautical evaluation submitted by each person applying for a variance;
- Consideration of the same factors when determining whether to issue or deny a variance as required of the FDOT when considering permit applications; and
- No variance be approved solely on the basis that a structure will not exceed the federal obstruction standards.

The FDOT is required to issue copies of the federal obstruction standards in the CFR to each political subdivision with an airport hazard area, and issue certain airport zoning maps at no cost.

Interim land use compatibility zoning regulations must be adopted and must consider whether sanitary landfills are located within certain areas and whether any landfill will attract or sustain hazardous bird movements. If a public-use airport has conducted a federal noise study, residential construction and educational facilities are prohibited within the area. If no study is conducted, the same construction is prohibited within a certain distance.

Airport zoning regulations restricting new incompatible uses within runway clear zones must be adopted. Certain limited exceptions for construction of educational facilities in specified areas are authorized.

Effect of Proposed Changes

Section 7 amends s. 333.03, F.S., to eliminate the duplicative requirement for obtaining a variance for structures that would exceed federal obstruction standards, in favor of a local permitting process. Every political subdivision having an airport hazard area is required to adopt airport *protection* zoning regulations. In addition to editorial and grammatical revisions, this section revises language to:

- Replace citations to the federal obstruction standards contained in the CFR with terminology used in the CFR; *i.e.*, permits for the “construction or alteration of any obstruction.”
- Remove the FDOT’s duty to provide copies of the federal obstruction standards contained in the CFR and to issue maps, and replace it with making the FDOT available to provide assistance with respect to the standards.
- Update citations to the CFR.
- Eliminate the reporting requirements related to birds at airports near landfills in favor of requiring the landfill operator to incorporate bird management techniques.
- Include substantial modification of existing incompatible uses in the required adopted regulations restricting such uses within runway *protection* zones.
- Remove the limited exceptions for construction of educational facilities when a noise study has been conducted in accordance with the federal regulations;
- Delete outdated language.

- Authorize an airport authority, local government, or other governing body operating a public-use airport to adopt more restrictive airport protection zoning regulations, per the FDOT, to allow restrictions appropriate to the local context of the airport.⁶⁵

Guidelines Regarding Land Use Near Airports

Present Situation

Section 333.065, F.S., requires the FDOT, after consultation with the Department of Economic Opportunity, local governments, and other interested persons, to adopt by rule recommended guidelines regarding compatible land uses in the vicinity of airports. The guidelines must use certain acceptable and established quantitative measures.

Effect of Proposed Changes

Section 11 repeals s. 333.065, F.S. The FDOT advises the deletion reflects completion of the FDOT's Airport Compatible Land Use Guidebook.⁶⁶

Permits, Variances, and Appeals

Present Situation

Section 333.07, F.S., authorizes any adopted airport zoning regulations to require a permit be obtained before any new structure or use is constructed or established and before any existing use or structure may be substantially changed or repaired. All such regulations must require a permit before any nonconforming structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted.

If a nonconforming use, structure, or tree has been abandoned or is more than 80 percent torn down or deteriorated, a permit may not be issued under certain conditions. The owner of a nonconforming structure or tree may be compelled, at the owner's expense, to undergo certain actions to conform.

Any person desiring to erect any structure, increase the height of any structure, permit the growth of any tree, or otherwise use his or her property in violation of the adopted airport zoning regulations is authorized to apply to a board of adjustment for a variance from the regulations. Conditions for allowance of variations are provided. The FDOT is authorized to appeal any variance granted and to apply for judicial relief.

As a condition of any granted permit or variance, the administrative agency or board of adjustment must require the structure or tree owner to install, operate, and maintain at the owner's expense marking and lighting necessary to indicate to aircraft pilots the presence of an obstruction.

⁶⁵ See the FDOT document provided to staff, *Proposed ch. 333, F.S. Amendments and Legislative Support Documentation*. On file in the Senate Transportation Committee.

⁶⁶ *Id.*

Section 333.08, F.S., authorizes any affected person or taxpayer; or any governing body of a political subdivision, the FDOT, or any joint airport zoning board, to appeal any decision of an administrative agency in its administration of adopted airport zoning regulations to the board of adjustment authorized to hear and decide appeals from the decisions of such administrative agency.

Effect of Proposed Changes

Section 12 amends s. 333.07, F.S., to streamline the permitting process, repeal the duplicative variance process, and facilitate implementation of the permitting process by local entities. More specifically, rather than authorizing any adopted airport zoning regulations to require a permit be obtained before any new structure or use is constructed or established and before any existing use or structure may be substantially changed or repaired, the bill simply requires a permit to construct, alter, or allow an airport obstruction in an airport hazard area in violation of the adopted airport protection zoning regulations.

The political subdivision or its administrative agency must consider virtually the same standards as must be considered by the FDOT when issuing or denying a permit for structures exceeding federal obstruction standards. All variance provisions are removed in favor of the permitting process. In addition, provisions relating to a lien resulting from an owner's failure to take action to bring a nonconforming structure or tree into regulatory compliance are removed. The FDOT's 45-day comment period is removed in favor of the shortened 15-day period of review for technical consistency described above. Obstruction marking and lighting is required in conformance with specific standards established by the FAA. Outdated language is repealed.

Section 13 repeals s. 333.08, F.S., authorizing and providing requirements for appeals of zoning regulation decisions, in favor of relocated, modified appeals language in s. 333.09, F.S.

Administration of Airport Zoning Regulations

Present Situation

Section 333.09, F.S., requires all adopted airport zoning regulations to provide for administration and enforcement by an administrative agency; by any official, board, or other existing agency of the political subdivision adopting the regulations; or by one of the subdivisions that participated in creating a joint airport zoning board adopting the regulations. The duties of any such administrative agency include hearing and deciding all permits under s. 333.07, F.S., but not any of the powers delegated to the board of adjustment.

Section 333.10, F.S., currently requires all adopted airport zoning regulations to provide for a board of adjustment to hear and decide appeals and variances.

Effect of Proposed Changes

Section 14 amends s. 333.09, F.S., to remove the list of entities that may be an administrative agency, per the FDOT, to reflect correct community planning terminology.⁶⁷ Administration and enforcement is left to the affected political subdivision or its administrative agency. Also

⁶⁷ *Supra* note 54.

removed is the prohibition against an administrative agency exercising the powers delegated to the board of adjustment.

Political subdivisions required to adopt airport zoning regulations must establish a process to:

- Issue or deny permits consistent with s. 333.07, F.S.;
- Provide the FDOT with a copy of a complete permit application; and
- Enforce the issuance or denial of a permit or other determination made by the administrative agency with respect to airport zoning regulations.

Appeals must be taken within a reasonable time provided by the political subdivision or its administrative agency by filing a notice of appeal. An appeal stays all proceedings in the underlying action, unless the entity from which the appeal is taken certifies that a stay would cause imminent peril to life or property.

The political subdivision or its administrative agency must set a reasonable time for the hearing of appeals and decide appeals within a reasonable time. A party may appear in person, by agent, or by attorney. The subdivision or agency may affirm, reverse, or modify the decision on the permit or other determination from which the appeal is taken.

Section 15 repeals s. 333.10, F.S., currently requiring all adopted airport zoning regulations to provide for a board of adjustment to hear and decide appeals and variances, in favor of the local government permitting and appeals process established by the bill in revised s. 333.09, F.S.

Judicial Review

Present Situation

Section 333.11, F.S., authorizes any person aggrieved or any taxpayer affected by a decision of a board of adjustment, any governing body of a political subdivision, the FDOT, any joint airport zoning board, or any administrative agency to apply for judicial relief in the judicial circuit court where the board of adjustment is located. The section provides procedural provisions related to the board of adjustment, describes the court's authorized review of a decision by a board of adjustment, and prohibits judicial review in provisions related to a board of adjustment.

Effect of Proposed Changes

Section 16 amends s. 333.11, F.S., to allow any person, political subdivision, or joint airport zoning board affected by a decision of a political subdivision or its administrative agency to apply for judicial relief and to remove references to the board of adjustment, but otherwise leaves the authorization to apply for judicial review in place. The judicial review prohibition is revised. An appellant is required to exhaust all remedies through application for local government permits, exceptions, and appeals before seeking judicial review.

Transition Provisions

Section 19 of the bill creates s. 333.135, F.S., to:

- Provide that any airport zoning regulation in effect on July 1, 2016, and in conflict with the revised ch. 333, F.S., must be amended to conform by July 1, 2017.

- Require any political subdivision with an airport that has not adopted airport zoning regulations to do so by July 1, 2017, consistent with the chapter.
- Require the FDOT to administer the permitting process as provided in s. 333.025, F.S., for political subdivisions that have not yet adopted the required regulations.

Technical Revisions

Sections 8, 9, 10, 17, and 18, amending ss. 333.04, 333.05, 333.06, 333.12, and 333.13, F.S., respectively, primarily make grammatical and editorial revisions to existing language and modify sections of the chapter for internal consistency with definitions.

Section 20 repeals the short title of chapter 333, F.S., the “Airport Zoning Law of 1945.”

Commercial Motor Vehicles/Port of Entry/Operating Credentials (Sections 3 and 4)

Present Situation

Interstate operators of commercial motor vehicles (CMVs) are required to obtain a number of credentials. Generally, for example, interstate operators of CMVs are required to obtain an International Fuel Tax Agreement (IFTA) license and decal⁶⁸ and, in some cases, to obtain overweight or over-dimensional permits.⁶⁹ Some states allow the purchase of some or all necessary credentials at weigh stations located close to routes entering their borders and at other locations, and these states are known as “port of entry” or “POE” states.⁷⁰ Because these credentials must be obtained prior to entering Florida, the state is known as a “non-POE” state.⁷¹ If a CMV enters the state without proper credentials and the operator seeks to purchase them at any weigh station, any applicable fine is assessed depending on the type of credential at issue. Only then is the operator allowed to purchase the necessary credential.⁷²

Another credential required before entering Florida is registration under the International Registration Plan (IRP). The IRP⁷³ is a plan for registering vehicles that are operated in two or more IRP-member jurisdictions while displaying just one registration license plate for each vehicle.⁷⁴

⁶⁸ See ss. 207.004 and 316.545(4), F.S. The International Fuel Tax Agreement (IFTA) is an agreement among the states and the Canadian provinces to simplify the reporting of interstate fuel taxes. The motor carrier’s base jurisdiction issues the IFTA license and decals, allowing the carrier to file one quarterly tax return reflecting the net tax and any refund due on fuel used in all jurisdictions.

⁶⁹ See s. 316.550, F.S.

⁷⁰ See the *Florida Port of Entry Feasibility Study*, September 2014, prepared for the FDOT, at 3.1 and 3.2: http://www.dot.state.fl.us/trafficoperations/Traf_Incident/Projects_CVO/Presentation/FL%20POE%20Technical%20Study%20Final.pdf. According to the study, 28 states are non-POE states, and 22 states and the District of Columbia consider themselves to be POE jurisdictions. Alabama is a POE state; Georgia is not. Further, the definitions of “POE” vary greatly by state.

⁷¹ *Id.* at 1.1.

⁷² See the FDOT 2016 Legislative Proposal Form, *Port-of-Entry*. On file in the Senate Transportation Committee.

⁷³ Section 320.01(23), F.S., defines the IRP to mean “a registration reciprocity agreement among states of the United States and provinces of Canada providing for payment of license fees on the basis of fleet miles operated in various jurisdictions.”

⁷⁴ See the Florida Department of Highway Safety and Motor Vehicles *International Registration Plan Trucking Manual*, beginning at p. 1, for additional detail. On file in the Senate Transportation Committee.

A “Full Reciprocity Plan” was instituted effective January 1, 2015, under which registrants are billed only for jurisdictions in which actual miles were accrued during the reporting period. If no miles were accrued during the reporting period, registrants are billed based on Florida’s Average Per Vehicle distance chart. The miles reflected on the distance chart is the average distance of all registrants in each jurisdiction. Upon registration, the cab cards will reflect all jurisdictions.⁷⁵

Section 320.0715(1), F.S., requires all apportionable vehicles⁷⁶ domiciled in this state to register under the International Registration Plan and to display the apportioned license plate. If a CMV domiciled elsewhere could be lawfully operated in this state because IRP registration had been obtained prior to entering Florida, but was not, a ten-day Florida trip permit may be obtained for \$30. The permit allows the vehicle to be operated in interstate or intrastate commerce for the ten-day period.

A CMV not registered under the application provisions of ch. 320, F.S., is subject to a penalty of five cents per pound on the weight that exceeds 35,000 pounds on laden truck tractor-semitrailer combinations or tandem trailer truck combinations, 10,000 pounds on laden straight trucks or straight truck-trailer combinations, or 10,000 pounds on any unladen CMV.⁷⁷ Operators of CMVs that fail to obtain the temporary trip permit prior to entering Florida are fined accordingly and then allowed to purchase the temporary trip permit. All such penalties and permit fees are credited to the STTF to be used for repair and maintenance of Florida’s roads and for enforcement purposes.⁷⁸

Effect of Proposed Changes

The bill defines “port-of-entry” and reduces the existing penalty for IRP registration violations.

Section 3 amends s. 316.003, F.S., to define “port-of-entry” as a designated location that allows drivers of commercial motor vehicles to purchase temporary registration permits necessary to operate legally within Florida, and to direct the FDOT to determine the locations and the designated routes to such locations.

Section 4 amends s. 316.545(2)(b), F.S., to provide that if a CMV enters the state at a designated POE or is operating on an FDOT-designated route to a POE, and if the ten-day IRP trip permit is obtained at the POE, the penalty is limited to the difference between the CMV’s gross weight and the declared gross vehicle weight at five cents per pound.

Existing penalties for failure to obtain other required credentials remain unchanged, including, but not limited to, IFTA violations and overweight and over-dimensional permit violations.

⁷⁵ *Id.*

⁷⁶ Section 320.01(24), F.S., defines “apportionable vehicle” to mean “any vehicle [with certain exceptions] which is used or intended for use in two or more member jurisdictions that allocate or proportionally register vehicles and which is used for the transportation of persons for hire or is designed, used, or maintained primarily for the transportation of property and: (a) Is a power unit having a gross vehicle weight in excess of 26,000 pounds; (b) Is a power unit having three or more axles, regardless of weight; or (c) Is used in combination, when the weight of such combination exceeds 26,000 pounds gross vehicle weight.”

⁷⁷ Section 316.545(2)(b), F.S.

⁷⁸ Section 316.545(6), F.S.

The FDOT advises three potential POE locations are under consideration:

- I-10 at the first eastbound weigh station entering the state;
- I-75 at the first southbound weigh station entering the state; and
- I-95 at the first southbound weigh station entering the state.⁷⁹

Turnpike Tolls/Dormant Prepaid Accounts (Section 26)

Present Situation

SunPass is the Florida Turnpike's electronic, prepaid tolls program. SunPass is accepted on all Florida toll roads and nearly all toll bridges. The system uses electronic devices, called transponders, which are attached to the inside of a vehicle's windshield. The transponder sends a signal when the vehicle goes through a tolling location, and the toll is deducted from the customer's pre-paid account. The pre-paid accounts may be set up and replenished with a credit card or with cash.⁸⁰

Under current law, any prepaid toll account of any kind which has been inactive for three years is presumed unclaimed. The Department of Financial Services (DFS) is required to process any such inactive account in accordance with applicable provisions of ch. 717, F.S., relating to the disposition of unclaimed property, and the FDOT is directed to close such accounts.⁸¹

Effect of Proposed Changes

Section 26 amends s. 338.231(3)(c), F.S., to increase the period after which a dormant prepaid toll account is presumed unclaimed from three years to ten years, thereby delaying disposition by the DFS and closing of the account by the FDOT. The FDOT advises:

[T]he deletion is desired because, with multi-state toll interoperability already implemented, and national toll interoperability mandated by federal law,⁸² prepaid customers may live outside Florida and use their Florida prepaid toll account only when vacationing or otherwise visiting the state.

We believe that the affected citizens and businesses would react positively to the proposal as funds on a prepaid toll account continue to be managed by the Department. This provides the customers that have had no activity on a prepaid toll account for the 10 year time with continued direct access to the same agency with whom they established the account.⁸³

⁷⁹ See the FDOT email to committee staff on October 12, 2015. On file in the Senate Transportation Committee.

⁸⁰ See the SunPass website, *Frequently Asked Questions*: <https://www.sunpass.com/faq>. Last visited October 12, 2015.

⁸¹ Section 338.231(3)(c), F.S.

⁸² The Moving Ahead for Progress in the 21st Century Act (MAP-21) requires implementation of technologies or business practices that provide for the interoperability of electronic toll collection on all Federal-aid highway toll facilities by October 1, 2016. See the FHWA website, *Investment* heading, *Tolling [1512]* subheading: <http://www.fhwa.dot.gov/map21/summaryinfo.cfm>. Last visited October 12, 2015.

⁸³ See the FDOT 2015 Legislative Proposal, *Dormant Accounts/Tolls/SunPass*. On file in the Senate Transportation Committee.

The bill takes effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The following sections of the bill are expected to have the indicated impact on the private sector:

Sections 1 and 2: The increase in FSTED funding from \$15 to \$25 million is an increase in the required *minimum* annual funding. The FDOT advises this increases the total statutorily required seaport program funding, along with the Strategic Port Investment Initiative and the Intermodal Logistics Center Infrastructure Support Program, from an annual minimum of \$55 million to \$65 million. The FDOT advises that its proposed 5-year work program for Fiscal Years 2017-2021 already designates between \$82 and \$114 million in annual seaport program funding for each fiscal year.⁸⁴

Sections 3 and 4: The trucking industry is expected to experience an indeterminate positive fiscal impact due to the decreased fines assessed for IRP violations.

Section 21: The private sector is expected to experience an indeterminate but positive fiscal impact from the FDOT's assumption of NEPA responsibilities due to faster delivery of needed transportation projects at reduced costs.

Section 23: Small businesses participating in the BDI would experience indeterminate but positive fiscal impacts associated with gaining contracting experience on projects of

⁸⁴ See the November 4, 2015, FDOT email to Transportation Committee staff. On file in the Senate Transportation Committee.

the FDOT. The traveling public may experience indeterminate but reduced costs related to transportation projects as a result of greater competition.

Section 24: Transfer of the Pinellas Bayway System from the FDOT to the Florida Turnpike Enterprise does not appear to have an immediate impact on the private sector but a positive fiscal impact may be realized upon construction of the replacement bridge in terms of more efficient travel. Repeal of the \$50 annual pass may present a positive or a negative fiscal impact, compared to the payment of the required toll amounts, depending upon a former pass-holder’s frequency of use of the Bayway System.

Section 27: To the extent that the issuance of debt to fund transportation projects is accomplished at a lower cost by virtue of the corporation’s ability to participate in the municipal bond market at reduced rates, the state’s traveling public may experience an indeterminate but positive fiscal impact.

C. Government Sector Impact:

The following sections of the bill are expected to have the indicated impact on the government sector:

Section 1 and 2: The increase in the annual minimum FSTED funding does not appear to require any adjustment of FSTED projects in the work program.

Sections 3 and 4: The FDOT advises it expects a negative annual fiscal impact of approximately \$1.6 million due to a decrease in the fines assessed for IRP violations. A portion of the decrease, approximately \$500,000, is attributed to the revised IRP Full Reciprocity Plan.⁸⁵

Section 21: The FDOT anticipates significant savings in project delivery times. The Department advises, based on a random sampling of projects over the last 10 years, federal review of federalized projects has taken 1.8 to 3.5 times longer than state projects. The expected timeframe for projects subject to FHWA review as compared to anticipated timeframes for review by the state following NEPA assignment is as follows:

Class of Action Type	Existing Federal Review Time (months)	Expected State Review Time (months)
Minor projects with minimal or no impact	47	18
Minor projects that require supporting analysis	82	24
Projects that require environmental assessments	121	30
Projects that require environmental impact statements	127	40

⁸⁵ See the October 13, 2015, FDOT email to Transportation Committee staff. On file in the Senate Transportation Committee.

The FDOT also anticipates significant project cost savings associated with the elimination of FHWA review. The Department determined the potential savings over a two-year period would be \$44 million for PD&E and \$30 million for Design project expenditures.⁸⁶

The FDOT further advises, with respect to the limited waiver of sovereign immunity, three NEPA lawsuits have occurred in the past ten years. No increase in the number of lawsuits is currently expected. The FDOT advises it prevailed on the three challenges. However, potential exposure over ten years would be approximately \$1.5 million. As noted, a state assuming the NEPA responsibilities for a specific project may use funds apportioned to the State under section 104(b)(2) of 23 U.S.C. for attorneys' fees directly attributable to eligible activities associated with the project.⁸⁷

Section 23: The FDOT may experience indeterminate but reduced costs associated with transportation projects due to increased competition resulting from small business participation in the BDI.

Section 24: The transfer of the Pinellas Bayway System does not appear to have any immediate fiscal impact, as the transfer occurs without the expenditure of any funds. Aside from the project cost information on replacing the structurally deficient bridge over Boca Ciega Bay on SR 679 provided by the FDOT, the method by which replacement will be funded or financed is unknown. The impact of the repeal of the \$50 annual pass for use of the Pinellas Bayway System is unknown, but will be offset by the payment of the tolls for using the system by persons who formerly could purchase that pass.

Section 27: The FDOT may be able to accomplish faster delivery of transportation projects at reduced costs through participation of the FDOT Financing Corporation in the municipal bond market.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Striking the reference to the Pinellas Bayway on line 1242 may be premature if done before the transfer of the Bayway System occurs.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 311.07, 311.09, 316.003, 316.545, 333.01, 333.025, 333.03, 333.04, 333.05, 333.06, 333.07, 333.09, 333.11, 333.12, 333.13, 334.044, 334.30, 338.165, 338.231, and 348.0004.

⁸⁶ Ibid

⁸⁷ Ibid.

This bill creates the following sections of the Florida Statutes: 333.135, 337.027 and 339.0809.

The bill repeals the following sections of the Florida Statutes: 333.065, 333.08, 333.10, and 333.14.

IX. Additional Information:

A. Committee Substitute – Statement of 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 January 21, 2016:

The recommended CS modifies the bill by:

- Authorizing the transfer of the FDOT's Pinellas Bayway System to become part of the turnpike system and requiring the transfer of certain funds to be used to help fund the costs of repair and replacement of the transferred facilities.
- Correcting a cross-reference.

CS by Transportation on December 3, 2015:

The CS modifies the bill by:

- Substantially revising the provisions of ch. 333, F.S., relating to airport zoning regulations; and
- Requiring the FDOT to consult with and provide information to the Division of Bond Finance in connection with a proposal to finance or refinance a transportation facility through the FDOT's authority to enter into public-private partnerships, and authorizing the division to make an independent recommendation.

B. Amendments:

None.

APPEARANCE RECORD

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

1/21/16

Meeting Date

SE 756
Bill Number (if applicable)

Topic SB 756 / Dept. Legislative Package

Amendment Barcode (if applicable)

Name Jim Boxold

Job Title Secretary

Address 605 Siwannee St.

Phone 414-4100

Tallahassee FL 32399
City State Zip

Email jim.boxold@dot.state.fl.us

Speaking: For Against Information

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

Representing FL Dept of Transportation

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

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

1-20-16

Meeting Date

756

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Richard Pinsky

Job Title _____

Address 106 E. College Ave. Suite 1200

Phone _____

Tallahassee FL 32301

Email _____

Street

City

State

Zip

Speaking: For Against Information →

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

Representing Port of Palm Beach

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

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

1/21
Meeting Date

756
Bill Number (if applicable)

Topic Transportation

Amendment Barcode (if applicable)

Name DOUG Wheeler

Job Title Pres + CEO

Address 502 E JEFFERSON

Phone 222-8028

Street

City

TCH FL 3234
City State Zip

Email Doug@Flports.org

Speaking: For Against Information

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

Representing Florida Ports 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.

APPEARANCE RECORD

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

01/21/2016

Meeting Date

SB 756

Bill Number (if applicable)

Topic Transportation

Amendment Barcode (if applicable)

Name Carl Mikyska

Job Title Executive Director - FL MPOAC

Address 605 Suwannee St - MS 28B

Phone 850/414-4062

Street

Tallahassee, FL 32399

City

State

Zip

Email carl.mikyska@mpoac.org

Speaking: For Against Information

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

Representing Florida Metropolitan Planning Organization Advisory 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.



The Florida Senate

Committee Agenda Request

To: Senator Jack Latvala, Chair
Appropriations Subcommittee on Transportation, Tourism, and Economic
Development

Subject: Committee Agenda Request

Date: December 3, 2015

I respectfully request that **Senate Bill #756**, relating to **Department of Transportation**, be placed on the:

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

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

Senator Jeff Brandes
Florida Senate, District 22

By Senator Margolis

35-01057A-16

20161066__

1 A bill to be entitled
2 An act relating to anatomical gifts; amending s.
3 765.521, F.S.; requiring the Department of Highway
4 Safety and Motor Vehicles to maintain an integrated
5 website link to the organ donation registry; requiring
6 the department to establish a procedure to confirm
7 electronically that persons transacting driver license
8 services at a department office or facility have been
9 informed that they may become organ donors; providing
10 applicability; providing an effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Present subsections (2) and (3) of section
15 765.521, Florida Statutes, are redesignated as subsections (3)
16 and (4), respectively, and a new subsection (2) is added to that
17 section, to read:

18 765.521 Donations as part of driver license or
19 identification card process.—

20 (2) The department shall maintain an integrated link on its
21 website referring a visitor renewing a driver license or
22 conducting other business to the organ donation registry
23 operated under s. 765.5155. The department shall establish a
24 procedure that requires department staff to confirm
25 electronically that each person entering a department office or
26 facility to transact driver license services has been informed
27 that he or she may become an organ donor.

28 Section 2. The amendment made by this act to s. 765.521(2),
29 Florida Statutes, shall apply upon the development and
30 implementation of a vehicle registration system modernization
31 project by the Department of Highway Safety and Motor Vehicles.

32 Section 3. This act shall take effect July 1, 2016.

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 1066 (491260)

INTRODUCER: Fiscal Policy Committee (Recommended by Subcommittee on Transportation, Tourism, and Economic Development) and Senator Margolis

SUBJECT: Anatomical Gifts

DATE: January 22, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Jones</u>	<u>Eichin</u>	<u>TR</u>	Favorable
2.	<u>Gusky</u>	<u>Miller</u>	<u>ATD</u>	Recommended: Fav/CS
3.	_____	_____	<u>FP</u>	_____

I. Summary:

PCS/SB 1066 requires the Department of Highway Safety and Motor Vehicles (DHSMV) to maintain a link on its website referring customers who are renewing their driver license or conducting other business to the organ donation registry. According to the DHSMV, the bill codifies into law a practice that is already in place.¹

To the extent that the bill codifies a current practice, the bill will not have a fiscal impact on the DHSMV.²

The bill has an effective date of July 1, 2016.

II. Present Situation:

Organ Donations in Florida

Over 3,500 people in Florida are registered and waiting for organ transplants, and thousands more wait for tissue donations.³ The most common types of organ transplants include the kidneys, liver, heart, lungs and pancreas, but many other organs and tissues can be transplanted or used for various other medical procedures.⁴ Nationwide, nearly 6,000 people die each year waiting for an organ donation.⁵

¹ Department of Highway Safety and Motor Vehicles, *SB 1066 Agency Bill Analysis* (January 14, 2016)(on file with the Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development).

² *Id.*

³ Donate Life Florida, *FAQs about Donation* (2009), <https://www.donateliflorida.org/content/about/facts/faq/> (last visited Jan. 7, 2016).

⁴ *Id.*

⁵ *Id.*

Florida has four federally designated, non-profit organ procurement agencies exclusively responsible for facilitating the process of organ donation. Each agency serves a different region of the state.⁶ These agencies are certified by the U.S. Centers for Medicare and Medicaid Services, and operate in Florida to increase the number of registered donors and coordinate the donation process when organs become available.⁷

The Joshua Abbott Organ and Tissue Registry⁸ (Donor Registry)

In 2008,⁹ Florida's Legislature found that a shortage of organ and tissue donors existed in Florida, and there was a need for a statewide donor registry with online donor registration capability and enhanced donor education to increase the number of organ and tissue donors. This online registry would afford more persons who are awaiting organ or tissue transplants the opportunity for a full and productive life.¹⁰ As directed by the legislature, the Agency for Healthcare Administration (AHCA) and DHSMV jointly contracted for the operation of Florida's interactive web-based donor registry that, through electronic means, allows for online donor registration and the recording of organ and tissue donation records submitted through the driver license identification program or through other sources. The AHCA and the DHSMV selected Donate Life Florida, which is a coalition of Florida's organ, tissue, and eye donor programs, to run the donor registry and maintain donor records.

Floridians who are age 18 or older can join the donor registry either online,¹¹ at the DHSMV (or their local driver license office), or by contacting Donate Life Florida for a paper application. Children ages 13 to 17 may join the registry, but the final decision on any organ donation of a minor rests with the parent or guardian. The registry collects personal information from each donor including, but not limited to, his or her name, address, date and place of birth, race, and driver's license or identification card number.

As of January 21, 2016, there were 8,608,722 people registered in the donor registry.¹² Its large number of registered donors ranks the Joshua Abbott Organ and Tissue Donor Registry as the second largest donor registry in the United States in terms of enrollment.¹³

⁶ *Id.*; LifeLink of Florida serves west Florida, LifeQuest Organ Recovery Services serves northern Florida, TransLife/Florida Hospital serves eastern Florida, and LifeAlliance Organ Recovery Agency serves southern Florida.

⁷ Organ Procurement Organizations, Organdonor.gov, <http://organdonor.gov/materialsresources/materialsopolist.html>, (last visited Mar. 9, 2015).

⁸ Section 765.5155(5), F.S., designates the donor registry as the Joshua Abbott Organ and Tissue Registry, however it is currently referred to as the Joshua Abbott Organ and Tissue Donor Registry.

⁹ Chapter 2008-223, Laws of Fla.

¹⁰ Section 765.5155(1), F.S.

¹¹ At the Donate Life Florida website, <https://www.donateliflorida.org/register/> (last visited Jan. 21, 2016).

¹² *Id.*

¹³ Donate Life Florida, *2014 Annual Report*, available at: https://www.donateliflorida.org/files/52_file.pdf at p. 7, (last visited Jan 7, 2016).

Information held in the donor registry which identifies a donor is confidential and exempt from the state's public records laws.¹⁴ Donor information may be disclosed to:

- Procurement organizations certified by the AHCA; and
- Persons engaged in bona fide research.¹⁵

The funding for the organ and tissue donor registry and education program is provided from the funds designated for maintaining the registry within the Health Care Trust Fund.¹⁶

Organ Donor Registration at the DHSMV

Section 765.521, F.S., which predates the establishment of the donor registry, requires that the AHCA and the DHSMV implement a system to encourage potential donors to make anatomical gifts through the process of issuing and renewing driver licenses or identification cards. Approximately 95 percent of people who enroll in Florida's registry do so while obtaining or renewing a driver license.¹⁷

III. Effect of Proposed Changes:

The bill requires the DHSMV to maintain an integrated link on its website referring customers who are renewing their driver license or conducting other business to the organ donation registry operated under s. 765.5155, F.S. The bill codifies into law a practice that has already been put into place by the agency.¹⁸

The bill takes effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹⁴ Section 119.07(1), F.S. and FLA. CONST. art. I, s. 24(a).

¹⁵ Section 765.51551, F.S., requires persons engaged in bona fide research to agree to submit a research plan to the AHCA detailing the exact nature of the information requested and intended use, maintain the confidentiality of the information, destroy any confidential records or information obtained after the research is concluded, and not directly or indirectly contact any donor or donee.

¹⁶ Section 765.5155(4), F.S.

¹⁷ *Supra* note 11 at p. 12.

¹⁸ *Supra* note 1.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

SB 1066 may increase the number of organ donors in this state.

C. Government Sector Impact:

To the extent that the bill codifies a current practice, the bill will not have a fiscal impact on the DHSMV.¹⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 765.521 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of 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 January 21, 2016:

The committee substitute removes the provision of the bill that required the DHSMV to implement procedures to require department staff to confirm electronically that each person entering a department office or facility to transact driver license services has been informed that he or she may become an organ donor. As the bill is codifying into law a practice currently in place, the committee substitute also removes the language that would have delayed the bill's implementation until the DHSMV's vehicle registration information technology modernization project is implemented.

¹⁹ *Supra* note 1.

B. Amendments:

None.

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

Wells, Elizabeth

From: BRUNO.DANIEL <BRUNO.DANIEL@flsenate.gov>
Sent: Wednesday, January 20, 2016 4:40 PM
To: Miller, Phillip; Wells, Elizabeth
Subject: SB 1066 Anatomical Gifts

Good afternoon Philip and Elizabeth –

Senator Margolis has asked that I present the bill tomorrow morning as her general government appropriations meeting will be meeting at the same time.

Best regards,

Daniel Bruno, Esq.

*Legislative Assistant for Sen. Margolis
Florida State Senate, District 35
Serving Miami Dade County*

*3050 Biscayne Blvd.
Suite 600
Miami, FL 33137
(305) 571-5777*

*414 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100
(850) 487-5035*

THE FLORIDA SENATE

APPEARANCE RECORD

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

1-21-16

Meeting Date

SB 1066

Bill Number (if applicable)

Topic Anatomical Gifts

Amendment Barcode (if applicable)

Name Erin Morton

Job Title

Address 11621 Research Circle

Phone 386-418-8888

Street

Atachua

FL

32615

Email

City

State

Zip

Speaking: For Against Information

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

Representing Donate Life Florida

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.

Economic Analysis: Reserve vs. Pay-As-You-Go

\$250 Million for Economic Development

Presented by:



The Florida Legislature
Office of Economic and
Demographic Research
850.487.1402
<http://edr.state.fl.us>

January 21, 2016

Appropriations Question...

- The Executive Office of the Governor has proposed the creation of the Florida Enterprise Fund, a dedicated \$250 million fund for Quick Action Closing Fund (QACF) projects.
- The Office of Economic and Demographic Research (EDR) has been asked if there is a difference to the state from an economic perspective between two possible funding choices with the same overall commitment level of \$250 million. The two choices are:
 - 1) Reserve, or
 - 2) Pay-As-You-Go.
- EDR used the Statewide Model to analyze the effects of the two alternative appropriation scenarios on Florida's economy, as well as to calculate the projected return-on-investment (ROI).

Two Scenarios...

- **RESERVE SCENARIO**...In the first scenario, \$250 million in state funds is appropriated and fully transferred to a state trust fund in Year One, effectively acting as a reserve until the payments are actually released to businesses. These payments will not be made until the businesses meet their contractual obligations.
 - This is very similar in construct to the current use of the EFI escrow account. The stated benefit of this scenario is that businesses would be assured that funds have already been set aside for them. Payment would occur once the contractual obligations have been met.
- **PAY-AS-YOU-GO SCENARIO**...In the second scenario, state funds are appropriated on a pay-as-you-go basis, meaning the payments are appropriated in the year that businesses are anticipated to meet their contractual obligations.
 - This would function in a similar manner as the High-Impact Sector Performance Grant (HIPI). The HIPI grant is paid in two equal installments, one upon commencement of operations and the other upon commencement of full operations. In practice, HIPI grants have been appropriated as a line item in the Department's budget in the year in which the scheduled payment is anticipated. Considering that all HIPI project requests have been appropriated as requested, it is reasonable to assume that payments for the new incentive fund projects would be treated the same.

Consistent Framework...

- During fiscal years 2012-13 through 2014-15, the Department placed \$123,693,940 into the EFI escrow account for 51 projects. The timeframe for those projects to receive full payment from the EFI escrow account ranged from 6 months to 10 years from the date of the award. The date of the award was considered to be the date that the QACF was approved by the Governor. Of the projects reviewed by EDR, only \$32,070,553 or 25.93% of the \$123,693,940 was paid to QACF businesses within three fiscal years of the money being placed into escrow. Available data included:
 - The industry of the project's primary job function;
 - The number of new and/or retained jobs the project was supposed to create and the year in which the job creation and/or retention was to supposed to occur;
 - The average annual wage of the new jobs;
 - The amount and timing of capital investment to be made by the project;
 - The number and timing of payments from the Enterprise Florida Inc. (EFI) escrow account to the project recipient; and
 - The amount of additional incentives received by the project.
- Data obtained on the individual projects (including milestones and payments) was grown to simulate a project pool totaling \$250 million in commitments. This project pool is used in both scenarios: same project composition, business activity and capital investments.

**Flow of Funds, \$250 Million Annually
(difference from baseline, in millions of dollars)**

Scenario One: Creation of a \$250 Million Reserve Fund...

	Year 1	Year 2	Year 3	Year 4	Year 5	Total
Appropriated to Reserve	250.00	0.00	0.00	0.00	0.00	250.00
Impact on Government Market Basket	(250.00)	0.00	0.00	0.00	0.00	(250.00)
Release of State Funds to Economy	0.00	7.78	13.73	25.94	19.99	67.45

Scenario Two: Pay-As-You-Go...

	Year 1	Year 2	Year 3	Year 4	Year 5	Total
Appropriated to Reserve	0.00	0.00	0.00	0.00	0.00	0.00
Impact on Government Market Basket	0.00	(7.78)	(13.73)	(25.94)	(19.99)	(67.45)
Release of State Funds to Economy	0.00	7.78	13.73	25.94	19.99	67.45

ROI Results...

RESERVE SCENARIO...

- ROI of 0.6 over a five-year-period.

PAY-AS-YOU-GO SCENARIO...

- ROI of 2.6 over a five-year-period.

GENERAL FINDINGS...

- With respect to state revenues, the Reserve Scenario does not break even, meaning the state only recovers a portion of its cost. In contrast, the Pay-As-You-Go Scenario more than recovers its cost.
- Florida's economy is overall better off under Pay-As-You-Go Scenario.

The state's Gross Domestic Product (GDP), Output, Personal Income, and Job Creation are all higher under Pay-As-You-Go.

Economic Comparison...

Statewide Economic Model Impact Projections (millions)				
	Five-Year TOTAL		Year 5 JOBS	
Scenario One...Reserve Fund				
Real Gross Domestic Product (GDP)	3,301.2		6,481	
Real Output	5,949.0			
Nominal Personal Income	3,867.7			
Scenario Two...Pay-As-You-Go				
Real Gross Domestic Product (GDP)	4,723.4		7,397	
Real Output	7,542.5			
Nominal Personal Income	5,064.7			
Loss Under Reserve Relative To Pay-As-You-Go				
Real Gross Domestic Product (GDP)	(1,422.2)	-30.1%	(916)	-12.4%
Real Output	(1,593.5)	-21.1%		
Nominal Personal Income	(1,197.0)	-23.6%		

Statewide Economic Model Impact Projections of the Creation of a \$250 Million Reserve Fund

Economic Indicator	Units	Year 1	Year 2	Year 3	Year 4	Year 5	Total		Average per Year
Personal Income	Nominal \$ (M)	(277.3)	88.9	694.0	1,466.9	1,895.1	3,867.7		773.5
Real Disposable Personal Income	Fixed 2009 \$ (M)	(206.2)	76.9	530.8	1,111.5	1,411.1	2,924.1		584.8
Real Gross Domestic Product	Fixed 2009 \$ (M)	(368.8)	52.4	654.3	1,338.6	1,624.7	3,301.2		660.2
Consumption by Households and Government	Fixed 2009 \$ (M)	(533.4)	(207.5)	273.1	835.0	1,132.9	1,500.2		300.0
Real Output	Fixed 2009 \$ (M)	(430.4)	199.9	1,133.1	2,264.6	2,781.9	5,949.0		1,189.8

Economic Indicator	Units	Year 1	Year 2	Year 3	Year 4	Year 5	Minimum	Maximum	Average per Year
Total Employment	Jobs	(2,938)	79	3,327	6,302	6,481	(2,938)	6,481	2,650.3
Population	Persons	0	(1,376)	(960)	2,048	7,776	(1,376)	7,776	1,497.6

Tax Type	Units	Year 1	Year 2	Year 3	Year 4	Year 5	Total		Average per Year
TOTAL NET STATE REVENUES	Nominal \$ (M)	-6.6	9.4	30.9	55.3	63.4	152.3		30.5

STATE INCENTIVES	Nominal \$ (M)	250.0	0.0	0.0	0.0	0.0	250.0		15.6
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RETURN ON INVESTMENT 0.6

Statewide Economic Model Impact Projections of the Pay-As-You-Go

Economic Indicator	Units	Year 1	Year 2	Year 3	Year 4	Year 5	Total		Average per Year
Personal Income	Nominal \$ (M)	0.0	361.2	947.4	1,678.9	2,077.1	5,064.7		1,012.9
Real Disposable Personal Income	Fixed 2009 \$ (M)	0.0	277.0	715.0	1,265.6	1,542.0	3,799.6		759.9
Real Gross Domestic Product	Fixed 2009 \$ (M)	0.0	386.4	947.6	1,571.8	1,817.6	4,723.4		944.7
Consumption by Households and Government	Fixed 2009 \$ (M)	0.0	283.1	696.9	1,179.2	1,421.2	3,580.4		716.1
Real Output	Fixed 2009 \$ (M)	0.0	576.5	1,456.5	2,517.9	2,991.5	7,542.5		1,508.5

Economic Indicator	Units	Year 1	Year 2	Year 3	Year 4	Year 5	Minimum	Maximum	Average per Year
Total Employment	Jobs	0	2,110	4,843	7,357	7,397	0	7,397	4,341.1
Population	Persons	0	0	1,472	5,216	11,328	0	11,328	3,603.2

Tax Type	Units	Year 1	Year 2	Year 3	Year 4	Year 5	Total		Average per Year
TOTAL NET STATE REVENUES	Nominal \$ (M)	0.0	15.1	36.1	59.7	67.4	178.3		35.7

STATE INCENTIVES	Nominal \$ (M)	0.0	7.8	13.7	25.9	20.0	67.5		13.5
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RETURN ON INVESTMENT 2.6

Economic Results...

- While the state's obligation is the same over the entire lifetime of the commitments, the difference in the ROIs between the two scenarios is due to the timing and amount of the release of the initial investment. In one case, the entire \$250 million is pulled from alternative expenditures, whereas in the other case, those expenditures continue until the funds are released into the economy.
- The reserve feature of the proposal effectively makes the initial expenditure nonproductive. Growing the data and related payments, jobs, and capital investment results in the release of state funds of \$67 million into the state's economy over a 5-year period. In the Reserve Scenario, the state is investing \$250 million for the exact same increase in business activity and capital investment that a \$67 million investment would have achieved on a pay-as-you-go basis.
- The Reserve Scenario does this by removing those dollars from circulation within the economy, thus negating the multiplier effect of the spending. This can also be thought of as an opportunity cost of the proposal by the Executive Office of the Governor.

Repercussions of a Reserve...

- The money is idle from the moment it hits the reserve until it is released back into the economy.
- Idle money has an opportunity cost.
 - From an economic perspective, lost economic activity.
 - From the state's perspective, forgone state expenditures on alternative investments—either through appropriation to other programs or through tax relief.
 - From an individual taxpayer's perspective, forgone savings or consumption that could have occurred otherwise; essentially, taxes are being paid before they are needed.
- For these reasons, the creation of a reserve is ultimately the result of a policy decision where the desired benefits are deemed to outweigh the costs described above.
- For example, the state's Budget Stabilization Fund fulfills an overarching purpose of self-insuring the state against emergencies and economic downturns.

Final Note...

When EDR performed the original return on investment analysis for the Quick Action Closing Fund in 2013, the ROI was 1.1. Given the results of Scenario One, it is anticipated that the ROI for the review due January 1, 2017, will be significantly lower than 1.1 due to EFI's increased use of the escrow account. Very few projects in the 2013 review were subject to this type of reserve. During the next review, virtually all projects will have been subject to the reserve. This means the ROI at the next review will be highly unlikely to break even.

**WORKSHOP ON ECONOMIC DEVELOPMENT LEGISLATION
JANUARY 21, 2016**

ECONOMIC DEVELOPMENT "TOOLKIT" PROGRAMS:

Cash Grant Programs:

QUICK ACTION CLOSING (QAC) FUND PROGRAM

The program is designed to be a competitive “deal closing” tool for negotiations where the state’s other incentives are not enough to incentivize a business to remain, locate, or expand in the state. Under current law, in order to be eligible for QAC funds a project must meet 5 criteria:

- Be in a qualified target industry;
- Have a positive economic benefit ratio of at least 5 to 1;
- Be an inducement to the project’s location or expansion in the state;
- Pay an average annual wage of at least 125 percent of the area-wide or statewide private sector average wage; and
- Be supported by the local community in which the project is to be located.

The DEO is permitted to waive these criteria under certain conditions.

All QAC Fund projects have a performance based contract requiring specific scheduled milestones and annual compliance requirements. The program authorizes sanctions and penalties for failure to perform.

Each year, a specific annual appropriation is provided for the DEO to fully obligate, up-front, the entire award amount. The annual appropriation serves as the "cap" for the program.

HIGH-IMPACT PERFORMANCE INCENTIVE (HIPI) PROGRAM

HIPI is a grant reserved for projects operating in designated high-impact portions of certain sectors, determined by the DEO, including clean energy, biomedical technology, financial services, information or silicon technology, or transportation equipment manufacturing. The project could also be a corporate headquarters facility. The cash grant is performance based and paid in two installments. First, upon operational commencement, and the second upon full operational commencement as determined in contract.

The program is funded through a specific appropriation. The program has an annual cap of \$30 million on grant award payments.

Tax Refund Programs:

QUALIFIED TARGET INDUSTRY (QTI) TAX REFUND PROGRAM

The tax refunds are made to qualified, pre-approved businesses creating jobs in target industries. The target industries are identified by the DEO for criteria including future growth, stability, high wages, market and resource independence, industrial base diversification, and positive economic impact. Approved QTI projects have contractual performance measures with specific milestones to be verified prior to payment of any tax refunds. This incentive requires 20 percent of the award to come from the local government. An applicant that is locating in a brownfield area, a rural city, or a rural community can exercise an option to be exempt from the 20 percent local financial support requirements of the program. Under current law, an applicant exercising the local financial support exemption option is not eligible for more than 80 percent of the total tax refunds allowed under the program.

Under current law, additional per-job tax refund payments are available to applicants for each job created if the applicant commits to paying an annual average wage greater than the minimum requirement of 115 percent of the average wage in the area.

The program is funded through a specific annual appropriation. The program shares a \$35 million cap on tax refund payments, per fiscal year, with the Qualified Defense and Space Contractor Tax Refund.

QUALIFIED DEFENSE AND SPACE CONTRACTOR (QDSC) TAX REFUND PROGRAM

The QDSC tax refunds are made to qualified and approved businesses bidding on new or securing existing defense or space contracts. As with the QTI refund, 20 percent of the award comes from the local government. As with other programs, the QDSC tax refunds are awarded after contractual performance-based milestones are met and verified by the state. Since June 30, 2014, no new applicants may be certified as eligible under statute, but tax refund agreements in existence on that date are continued in accordance with their terms.

The program is funded through a specific annual appropriation. The program shares a \$35 million cap on tax refund payments, per fiscal year with the QTI Tax Refund.

INNOVATION INCENTIVE PROGRAM (IIP)

The program is designed to enable the state to compete effectively for research and development, innovation businesses, or alternative and renewable energy projects. The program creates long-term investments, made by the state, in industry clusters critical to the state's future economic diversification. The projects have contractual performance measures and milestones that must be achieved before grant payment. The contracts also include a reinvestment portion, requiring recipients to reinvest a portion of royalty revenues earned back to the state for investment in existing state trust funds.

BROWNFIELD REDEVELOPMENT BONUS (BFRD) TAX REFUND PROGRAM

"Brownfield" areas are designated by the respective community for the presence or perceived presence of economic blight or environmental contamination. As with the QTI and QDSC programs, the Brownfield program requires 20 percent of the award to come from the local government. As with other programs, the Brownfield program requires performance-based contracts and specific milestones to be met in order for a project to receive awards. The Brownfield program offers a bonus for any tax refund awarded to a QTI qualified business for job creation, if that job creation occurred in a Brownfield area. The "bonus" portion of the program shares a \$35 million cap on tax refund payments, per fiscal year with the QTI and QDSC Tax Refunds.

INCENTIVE APPLICATION AND REVIEW PROCESSES**"ECONOMIC BENEFITS" DEFINITION****CURRENT SITUATION:**

The current definition does not specify that the state's investment used in the economic benefits formula includes all state funds spent or foregone to benefit the business. Example: on "bundled" deals, the QAC and QTI awards are included in the calculation but QRT awards are not.

GOVERNOR'S LEGISLATIVE PROPOSAL:

Not included

Issue for Discussion:

Should all state funds spent or forgone to benefit a business be considered the state's investment for purposes of determining the project's economic benefits?

"CUMULATIVE CAPITAL INVESTMENT" DEFINITION**CURRENT SITUATION:**

The current definition does not specify that the "cumulative capital investment" made by the business does not include any state or local funds or funds appropriated to public or private entities.

GOVERNOR'S LEGISLATIVE PROPOSAL:

Revises the definition of "cumulative capital investment" to not include any state or local funds, including funds appropriated to public or private entities, used for capital investment for specific incentive programs, excluding the QAC Program.

Issues for Discussion:

Should state or local funds and funds appropriated to public or private entities be excluded from the definition? Should the definition apply to all programs?

QUICK ACTION CLOSING FUND PROGRAM**ECONOMIC BENEFITS****CURRENT SITUATION:**

Eligible QAC projects must have a positive economic benefit ratio of at least 5 to 1.

GOVERNOR'S LEGISLATIVE PROPOSAL:

Eliminates the current economic benefit ratio requirement and provides that that an eligible project must "be estimated to generate a minimum average annualized rate of return to the state of 20 percent and a maximum incentive payback timeframe of 10 years, based on the present value of the estimated increase in the state's direct and indirect tax collections and the present value of the state incentives proposed to be provided to a project." Effectively, this is a positive economic benefit ratio of at least 2 to 1.

Issue for Discussion:

Should the positive economic benefit ratio be changed?

AVERAGE ANNUAL PRIVATE SECTOR WAGE**CURRENT SITUATION:**

The "average wage in the area" is defined as the average wages and salaries in the state, the county, or in the standard metropolitan area in which the business is located. For a QAC project, the jobs created or retained must pay at least 125% of the "average wage in the area." In FY 2015-16, there was a project that exceeded the local average private sector wage (133%) but did not meet the statewide average private sector wage (117%).

GOVERNOR'S LEGISLATIVE PROPOSAL:

Retains current law.

Issue for Discussion:

Should the definition of "average wage in the area" be changed?

JOB CREATION REQUIREMENT**CURRENT SITUATION:**

While the majority of QAC projects commit to create or retain jobs, the QAC program does not require job creation.

GOVERNOR'S LEGISLATIVE PROPOSAL:

Requires that in order to be eligible for a QAC award, a business must create at least 10 additional jobs.

Issues for Discussion:

*Should every QAC project create a minimum number of additional jobs?
Should there be a separate requirement for new jobs versus retained jobs?
Should there be a minimum amount of job creation tied to the amount a business expects to expand?*

CAPITAL INVESTMENT**CURRENT SITUATION:**

Current law does not require that the capital investment made by a business receiving state incentives remain in the state for the duration of the incentive contract.

GOVERNOR'S LEGISLATIVE PROPOSAL:

Requires that **any** contract (including QAC) that has a capital investment component must require that such investment remain in the state for the duration of the contract.

Issues for Discussion:

*Should the law be changed to require capital investment to remain in the state?
Should there be a penalty if a company leaves the state shortly after receiving the last incentive payment?*

QUICK ACTION CLOSING FUND PROGRAM

LOCAL FINANCIAL SUPPORT

CURRENT SITUATION:

Current law requires the QAC project to "be supported by the local community in which the project is to be located," but does not require a specific financial commitment by the local community. Other programs do require local financial support and allow the requirement to be waived for projects located in certain areas (i.e., brownfield areas and rural cities or communities).

GOVERNOR'S LEGISLATIVE PROPOSAL:

Requires financial support to equal 20 percent or more of the total investment in the project by state and local sources. Financial support includes financial, in-kind or other quantifiable contributions from local sources.

Issues for Discussion:

*Should every QAC project require local financial support?
Should there be circumstances when that requirement could be waived?
How should local financial support be defined? For example, should in-kind contributions be counted?
How should local financial support be calculated? For example, in QTI, it must be 20% of the award.*

WAIVERS

CURRENT SITUATION:

Under current law, in order to be eligible for QAC funds a project must meet 5 criteria:

- Be in a qualified target industry;
- Have a positive economic benefit ratio of at least 5 to 1;
- Be an inducement to the project's location or expansion in the state;
- Pay an average annual wage of at least 125 percent of the area-wide or statewide private sector average wage; and
- Be supported by the local community in which the project is to be located.

The DEO is permitted to waive these criteria under certain conditions.

In FY 2014-15, 16 QAC projects were submitted. Of those, three projects waived both the average wage and ROI requirements (two of those projects were subsequently withdrawn); five projects waived the ROI requirement only; one project waived the average wage requirement only; and seven projects had no waivers.

GOVERNOR'S LEGISLATIVE PROPOSAL:

Eliminates ability to waive 4 of the 5 criteria - exception provided for local financial support.

- Allows DEO to grant waivers for local financial support from 20% to 10%.
- The financial support requirement may be waived completely for local governments located in a rural area of opportunity.
- Requires a local government requesting a waiver to submit a resolution notifying DEO of its request and a statement by a CPA describing the financial constraints preventing the local government from providing the local financial support.
- Allows all of the criteria to be waived in a rural community if the project would significantly benefit the local or regional economy.

Issues for Discussion:

*If the ROI is reduced from 5 to 1 to 2 to 1 as proposed by the Governor, the need for a ROI waiver is all but eliminated. In FY 2014-15, only two of the 16 QAC projects submitted had an ROI of less than 2 to 1 and both of those were withdrawn.
If the Legislature wants to require a higher ROI, should there be consideration of waivers in limited circumstances?*

QUALIFIED DEFENSE AND SPACE CONTRACTORS (QDSC) REFUND PROGRAM**PROGRAM REAUTHORIZATION****CURRENT SITUATION:**

The program expired June 30, 2014. Since then, no new applicants may be certified as eligible to participate in the program, but tax refund agreements in existence on that date are continued in accordance with their terms.

GOVERNOR'S LEGISLATIVE PROPOSAL:

Reauthorizes the program for two years, expiring June 30, 2018.

Issues for

Should the program be reauthorized?

Discussion:

If so, for how long?

FILING EXTENSION**CURRENT SITUATION:**

Companies have until January 31st of each year to submit a claim to DEO for tax refunds scheduled to be paid from the appropriation for the subsequent fiscal year. DEO may, upon written request, grant a 30-day extension of the filing date.

GOVERNOR'S LEGISLATIVE PROPOSAL:

Provides an exception to allow all QDSC applicants that were scheduled to file a claim during the 2014 calendar year but did not, to file late with no deadline and receive a refund if certain conditions are met.

Issue for

Should the proposed extension be authorized?

Discussion:

QUALIFIED TARGET INDUSTRY (QTI) TAX REFUND PROGRAM**INTERNAL REVENUE SERVICE TREATMENT OF QTI REFUNDS****CURRENT SITUATION:**

Current law does not specifically state that incentive payments made to a business under the QTI Tax Refund Program are not repayments of actual taxes paid to a state or local government by the business.

GOVERNOR'S LEGISLATIVE PROPOSAL:

Not included.

Issue for

Should the law be amended to clarify that incentive payments made to a business under the QTI tax refund program are not repayments of the actual taxes paid to the state or to a local government by the business. The amount of state and local taxes paid by the business serve as a limitation on the amount of incentive payments a business may receive.

Discussion:

INCENTIVE APPROVAL PROCESSES - GRANT PROGRAMS (QAC, IIP and HIPI)

CURRENT SITUATION:

QAC PROGRAM - within 7 business days after evaluating a project, DEO must recommend to the Governor approval or disapproval of a project. The process is three-tiered, based on the amount of the award:
 - Less than \$2 million - Governor may approve projects without legislative consultation;
 - Between \$2 million and \$5 million - 14-day legislative consultation period. The chair or vice-chair of the LBC, the Senate President or the House Speaker may object; and
 - \$5 million and above - LBC must approve.

GOVERNOR'S LEGISLATIVE PROPOSAL:

QAC PROGRAM -

The governor may approve projects without consulting the Legislature for projects with anticipated awards of \$1 million or less.

For projects with anticipated awards that exceed \$1 million, the Governor shall provide a description and evaluation of the project for approval to the Senate President and the House Speaker at least 5 business days before giving final approval of a project. Failure of either the Senate President or the House Speaker to reply to the Governor's request within 5 business days shall be considered a rejection of the request. The recommendation presented to the Legislature must include proposed performance conditions that the project must meet to receive funds.

INNOVATION INCENTIVE PROGRAM - DEO is required to recommend evaluated projects to the Governor, who will then consult with the Senate President and House Speaker and either approve or deny the award. The LBC must review and approve all IIP awards.

For both the **HIPI and IIP PROGRAMS**, the Governor proposes that within 7 business days after evaluating a project, DEO must recommend to the Governor approval or disapproval of a project. The process is three-tiered, based on the amount of the award:
 - Less than \$2 million - Governor may approve projects without legislative consultation;
 - Between \$2 million and \$7.5 million - Governor must provide a description and evaluation of the project to the chair and vice-chair of the LBC at least 10 days before giving final approval of the project. If either the chair or vice-chair of the LBC objects, the Governor shall instruct DEO to suspend any action until the LBC or the Legislature makes a determination on the project.
 - Above \$7.5 million - LBC must approve. LBC must review all projects of \$5 million or more that waive program requirements.

HIPI - DEO has the authority to grant awards without the approval of the Governor or any legislative consultation (including LBC approval). Note: in contrast to other programs, the HIPI program sets specific parameters for award amounts based on total capital investment and job creation and specifies how award payments are made.

Issues for Discussion: **Should any or all of these approval processes be changed?**
Should the approval processes for the cash grant programs be consistent?

INCENTIVE CONTRACTS AND AMENDMENTS

DURATION OF INCENTIVE CONTRACTS

CURRENT SITUATION:

Current law does not restrict the duration of economic development contracts. DEO has negotiated contracts with businesses that are longer than 10 years.

GOVERNOR'S LEGISLATIVE PROPOSAL:

Limit contracts to no more than 10 years with caveats:
 - DEO may enter into successive contracts for a specific project past the initial 10-year term if each successive contract is contingent upon the successful completion of the previous contract.
 - 10-year term restriction does not apply to projects receiving \$20 million or more in state incentives.

Issues for Discussion: **Should the duration of contracts be restricted?**
Should there be any exceptions?

INCENTIVE CONTRACTS AND AMENDMENTS**TERMS AND CONDITIONS OF CONTRACTS****CURRENT SITUATION:**

Current law does not specifically require that executed contracts embody the payment and performance conditions presented to the Legislature.

GOVERNOR'S LEGISLATIVE PROPOSAL:

Not included.

Issue for Discussion:

Should the law be amended to address this?

CONTRACT AMENDMENTS**CURRENT SITUATION:**

DEO extends and amends payment and performance conditions and may or may not: notify the Legislature, recalculate the economic benefits, or modify the incentive award.

GOVERNOR'S LEGISLATIVE PROPOSAL:

DEO will notify the Legislature of extensions and may not execute an amendment if the economic benefits have been reduced unless the award of incentives outlined in the contract have been reduced by a proportionate amount. Provides for the ability to amend incentive agreements with no legislative consultation.

Issues for Discussion:

Should the law be amended to address this?

Should the Legislature review contract amendments that materially change payment and performance conditions?

CAPITAL INVESTMENT TO REMAIN IN STATE**CURRENT SITUATION:**

Most incentive contracts require a capital investment by the business. Current law does not require a capital investment purchase to remain in the state for the duration of the incentive contract.

GOVERNOR'S LEGISLATIVE PROPOSAL:

Any contract that requires a capital investment component must also require that such investment remain in the state for the duration of the contract

Issue for Discussion:

Should the law be amended to address this?

FLORIDA SPORTS FOUNDATION (FSF)**DIVISION WITHIN EFI****CURRENT SITUATION:**

Sports Industry Development is currently a division of Enterprise Florida, Inc. (EFI), and at least one member of EFI's board must have expertise in sports marketing. In the FY 2015-2016 General Appropriations Act, funding for the Florida Sports Foundation was removed from EFI's budget and DEO is now directly contracting with the FSF.

GOVERNOR'S LEGISLATIVE PROPOSAL:

Not included.

Issue for Discussion:

Should the law be amended to remove the Florida Sports Foundation from EFI's organizational structure?

FILM AND ENTERTAINMENT INDUSTRY**ENTERTAINMENT INDUSTRY INCENTIVES****CURRENT SITUATION:**

The current tax credit program for the industry ends on July 1, 2016. The program was operated on a first-come, first-served basis. Because demand was high, the program's \$296 million allocated tax credits were all certified before the 5-year program was even halfway through.

GOVERNOR'S LEGISLATIVE PROPOSAL:

Not included.

Issues for Discussion:

*Should the state continue to incentivize the entertainment industry?
If so, should it continue the current program, amend an existing program to include the industry, or create a new program?
If not, should the Office of Film and Entertainment be abolished?*

DEO's OFFICE OF FILM AND ENTERTAINMENT**CURRENT SITUATION:**

The Office of Film and Entertainment is currently housed in DEO. The executive director of DEO appoints the Film and Entertainment Commissioner. There is also an Advisory Council, but the Office is not subject to control by the Advisory Council.

GOVERNOR'S LEGISLATIVE PROPOSAL:

Not included.

Issues for Discussion:

*Should the Office be housed in EFI, as part of EFI's business recruitment efforts?
If the Office is moved, should the Advisory Council be continued or should the EFI board advise the Office?
Should the membership of the EFI board be changed to include an individual with film and entertainment industry experience?*

FLORIDA ENTERPRISE TRUST FUND PROPOSAL**CURRENT SITUATION:**

This trust fund does not currently exist. Currently, up-front funding for QAC obligations is appropriated in a lump sum with the other toolkit programs. The primary source of funds that support economic development incentives is the State Economic Enhancement and Development (SEED) Trust Fund.

GOVERNOR'S LEGISLATIVE PROPOSAL:

Creates the Florida Enterprise Trust Fund within DEO for the purpose of receiving and disbursing funds for the QAC program. Unappropriated cash balances may not be transferred to the Budget Stabilization Fund or the General Revenue Fund and are exempt from the GR service charge.

The Governor's proposal provides \$180 million of nonrecurring general revenue funds and \$70 million of nonrecurring SEED trust funds to establish the fund.

THE FLORIDA SENATE

APPEARANCE RECORD

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

1-21-16

Meeting Date

Bill Number (if applicable)

Topic Economic Development

Amendment Barcode (if applicable)

Name Crystal Sircy

Job Title EVP/COO

Address 850 N Magnolia Ave

Phone 850 445 6551

Street Orlando FL 32803

Email csircy@eflorida.com

City State Zip

Speaking: For Against Information

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

Representing Enterprise Florida

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

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

1/21/16
Meeting Date

Bill Number (if applicable)

Topic Film, TV & Digital Media Industry

Amendment Barcode (if applicable)

Name Michelle Hilkey

Job Title Film Florida President

Address 1555 Palm Beach Lakes Blvd. Ste 900

Phone 561 233.1000

Street

West Palm Beach, FL 33463

City

State

Zip

Email MHilkey@pbfilm.com

Speaking: For Against Information

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

Representing Film Florida

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

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

Workshop
(Film)

1/21/16
Meeting Date

Bill Number (if applicable)

Topic Film / Economic Dev. Workshop

Amendment Barcode (if applicable)

Name CHRIS RAWNS

Job Title _____

Address 403 Shamrock Road

Phone 904/800-6369

Street St. Augustine, Fla.

Email chisrawns@aol.com

City St. Augustine State Fla. Zip 32086

Speaking: For Against Information

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

Representing COMPASS

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

COMMITTEES:

Finance and Tax, *Chair*
Communications, Energy, and Public Utilities,
Vice Chair
Appropriations
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Banking and Insurance
Fiscal Policy

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR DOROTHY L. HUKILL
8th District

January 20, 2016

The Honorable Jack Latvala
Appropriations Subcommittee on Transportation, Tourism, and Economic Development, Chair
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399-1100

Re: Request for Excusal from Committee Meeting

Dear Chairman Latvala:

Please excuse me from the Appropriations Subcommittee on Transportation, Tourism, and Economic Development on January 21, 2016 as I am out of town due to illness.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Dorothy L. Hukill".

Dorothy L. Hukill
State Senator, District 08

cc: Phillip Miller, Staff Director of Appropriations Subcommittee on Transportation, Tourism, and Economic Development

A handwritten signature in cursive script, likely belonging to Phillip Miller, the staff director mentioned in the cc line.

REPLY TO:

- 209 Dunlawton Avenue, Unit 17, Port Orange, Florida 32127 (386) 304-7630 FAX: (888) 263-3818
- Ocala City Hall, 110 SE Watula Avenue, 3rd Floor, Ocala, Florida 34471 (352) 694-0160

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

CourtSmart Tag Report

Room: SB 301

Case:

Type:

Caption: Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development **Judge:**

Started: 1/21/2016 9:03:26 AM

Ends: 1/21/2016 11:47:03 AM

Length: 02:43:38

9:03:31 AM Meeting called to order
9:03:32 AM Sen. Latvala (chair)
9:04:19 AM Tab 3 - S 1066
9:04:30 AM Daniel Bruno, Legislative Assistant, Sen. Margolis - introduces bill
9:05:18 AM Sen. Latvala - asks to repeat
9:05:27 AM D. Bruno - introduces again
9:05:58 AM Sen. Sachs - asks about last year's bill
9:06:02 AM D. Bruno - responds
9:06:03 AM Sen. Sachs - asks about the differences
9:06:08 AM D. Bruno - responds
9:06:18 AM Sen. Sachs - further question
9:06:27 AM D. Bruno - responds
9:06:50 AM Erin Morton, Donate Life Florida (waives in support)
9:07:02 AM Sen. Detert - asks about amendment
9:07:30 AM Am. 128202
9:07:37 AM D. Bruno - introduces amendment
9:07:53 AM Sen. Detert - asks for explanation
9:08:04 AM D. Bruno - responds
9:08:53 AM Sen. Latvala - comments
9:09:38 AM D. Bruno - closes on bill
9:10:18 AM Tab 1 - S 608
9:10:32 AM Chad Davis - introduces bill
9:11:06 AM Sen. Clemens - asks about geographic data
9:11:16 AM C. Davis - responds
9:11:26 AM Sen. Clemens - further question
9:11:46 AM Carolyn Johnson, Policy Director, Florida Chamber of Commerce (waives in support)
9:11:54 AM Samantha Padgett, Vice President and General Counsel, Florida Retail Federation (waives in support)
9:12:18 AM C. Davis - closes on bill
9:12:46 AM Tab 2 - S 756
9:12:52 AM Sen. Brandes - introduces bill
9:14:51 AM Am. 520720
9:15:07 AM Sen. Latvala - introduces amendment
9:15:46 AM Sen. Diaz de la Portilla - asks about practical effect
9:15:58 AM Sen. Latvala - responds
9:16:41 AM Am. 822048
9:16:46 AM Sen. Brandes - introduces amendment
9:16:57 AM Am. 329342
9:17:04 AM Sen. Detert - withdraws amendment
9:17:06 AM Sen. Latvala
9:17:29 AM S 756 (cont.)
9:17:41 AM Jim Boxold, Secretary, Florida Dept. of Transportation - comments on bill
9:18:29 AM Sen. Diaz de la Portilla - comments on speed of reconstruction
9:18:32 AM J. Boxold - responds
9:18:57 AM Sen. Diaz de la Portilla - comments on Florida Turnpike having more money
9:18:59 AM J. Boxold - responds
9:19:05 AM Sen. Detert - praises J. Boxold and Dept. of Transportation
9:19:51 AM Sen. Latvala - praises Dept. of Transportation
9:20:08 AM Sen. Sachs - praises J. Boxold
9:20:42 AM Sen. Gibson - asks about refinancing
9:21:32 AM J. Boxold - responds
9:22:22 AM Richard Pinsky, Port of Palm Beach (waives in support)
9:22:29 AM Doug Wheeler, President and CEO, Florida Ports Council (waives in support)

9:22:40 AM Carl Mikyska, Executive Director, Florida Metropolitan Planning Organization Advisory Council (waives in support)

9:23:47 AM Tab 4 - Workshop on Economic Development

9:24:04 AM Sen. Latvala - opening remarks

9:27:30 AM Sen. Thompson - asks for her votes to be recorded

9:27:37 AM Sen. Diaz de la Portilla - asks for his votes to be recorded

9:27:53 AM Amy Baker - presents

9:28:39 AM Sen. Latvala - asks everyone to pay attention

9:28:57 AM A. Baker - continues

9:37:10 AM Sen. Clemens - asks what the numbers are based on

9:37:26 AM A. Baker - responds

9:37:52 AM Sen. Clemens - further question

9:37:54 AM A. Baker - responds

9:38:37 AM Sen. Clemens

9:38:52 AM A. Baker

9:39:06 AM Sen. Detert - asks about unspent money

9:40:24 AM A. Baker - responds

9:42:07 AM Sen. Detert - asks about tax incentives

9:43:09 AM A. Baker - responds

9:46:23 AM Sen. Diaz de la Portilla - asks about dollars released into the economy

9:46:39 AM A. Baker - responds

9:46:46 AM Sen. Diaz de la Portilla - further questions

9:47:13 AM A. Baker - responds

9:47:19 AM Sen. Diaz de la Portilla - further questions

9:47:56 AM A. Baker - responds

9:48:54 AM Sen. Detert - comments on return on investment

9:49:13 AM A. Baker - responds

9:51:02 AM Sen. Sachs - asks about reserve scenario

9:52:04 AM Sen. Detert - comments

9:52:20 AM Sen. Sachs - further question

9:53:01 AM Sen. Clemens - comments

9:53:03 AM Sen. Sachs - responds

9:53:15 AM Sen. Detert - comments

9:54:04 AM A. Baker - explains

9:55:42 AM Sen. Latvala - asks about return on investment

9:56:26 AM A. Baker - responds

9:58:07 AM Sen. Latvala - further question

9:58:20 AM A. Baker - responds

9:59:33 AM Sen. Latvala - asks about interest

10:00:07 AM A. Baker - responds

10:00:35 AM Sen. Latvala - further question

10:00:43 AM A. Baker - responds

10:01:10 AM Sen. Latvala - comments

10:01:12 AM A. Baker

10:06:50 AM Sen. Latvala - asks about job calculation

10:07:13 AM A. Baker - responds

10:09:36 AM Sen. Diaz de la Portilla - comments on scenario differences

10:10:39 AM A. Baker - responds

10:11:34 AM Sen. Diaz de la Portilla - further comment

10:11:37 AM A. Baker - responds

10:11:49 AM Sen. Latvala - asks about history

10:11:51 AM A. Baker - responds

10:14:51 AM Sen. Gibson - asks about the model used for projection

10:15:16 AM A. Baker - responds

10:15:50 AM Sen. Gibson - asks how many years until capital investment stabilizes

10:16:14 AM A. Baker - responds

10:16:56 AM Sen. Brandes - asks about tax cuts and jobs

10:17:30 AM A. Baker - responds

10:17:58 AM Sen. Brandes - further question on tax cuts

10:18:08 AM A. Baker - responds

10:18:23 AM Sen. Latvala - asks about effect of economy on projection

10:18:40 AM A. Baker - responds

10:19:30 AM Sen. Latvala - further question about economy
10:20:00 AM A. Baker - responds
10:20:55 AM Sen. Latvala - further question
10:21:11 AM A. Baker - responds
10:21:50 AM Sen. Sachs - asks about effect of economy
10:22:40 AM A. Baker - responds
10:23:16 AM Sen. Sachs - comments
10:23:49 AM Sen. Clemens - asks about differences in scenarios
10:24:02 AM A. Baker - responds
10:24:09 AM Sen. Clemens - asks to move on
10:24:45 AM A. Baker
10:26:23 AM Sen. Latvala - asks about return on investment
10:26:40 AM Sen. Clemens - asks for recommendations on how to structure pay-as-you-go scenario
10:26:50 AM A. Baker - responds
10:27:13 AM Sen. Latvala
10:28:08 AM Crystal Sircy, EVP/COO, Enterprise Florida - comments on presentation
10:31:27 AM Sen. Latvala - asks about why High Impact Performance Incentive Grants (HIPI) are necessary
10:31:41 AM C. Sircy - responds
10:32:00 AM Sen. Latvala - further question
10:33:04 AM C. Sircy
10:33:07 AM Sen. Latvala
10:33:27 AM C. Sircy
10:35:50 AM Sen. Detert - asks about requirement differences for funds
10:36:14 AM C. Sircy - responds
10:36:20 AM Sen. Detert - further question about guidelines
10:36:32 AM C. Sircy - responds
10:38:14 AM Sen. Latvala - asks about difference in rate of investment for the scenarios
10:38:24 AM C. Sircy - responds
10:38:58 AM Sen. Latvala - comments on payment options
10:40:31 AM C. Sircy - responds
10:41:01 AM Sen. Latvala - asks about missed deals because of lack of pot of money
10:41:39 AM C. Sircy - responds
10:42:25 AM Sen. Clemens - asks about projection and rate of investment
10:43:04 AM C. Sircy - responds
10:43:45 AM Sen. Clemens - further comment on rate of investment gap between scenarios
10:43:51 AM C. Sircy responds
10:44:15 AM Sen. Clemens - asks about pay-as-you-go with exceptions
10:44:58 AM C. Sircy - responds
10:45:09 AM Sen. Latvala - moves to film section
10:45:34 AM Michelle Hillery, President, Film Florida
10:46:44 AM Chris Ranung, COMPASS
10:49:08 AM Sen. Latvala
10:51:39 AM Sen. Clemens
10:52:01 AM Sen. Detert - comments on the film industry in Florida and past mistakes
10:54:49 AM Sen. Latvala
10:56:36 AM Phillip Miller, Staff Director, Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development - economic benefits definition
10:57:36 AM Sen. Latvala - comments
10:58:47 AM P. Miller - cumulative capital investment definition
10:59:19 AM Sen. Latvala - comments
10:59:40 AM Sen. Detert - asks about which kind of programs
10:59:50 AM Kristin Gusky, Legislative Analyst, Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development - responds
11:00:20 AM Sen. Clemens - why is definition change so important
11:00:30 AM Sen. Latvala - responds
11:01:18 AM P. Miller - quick action closing fund program
11:01:45 AM Sen. Detert - comments
11:02:10 AM Sen. Gibson - asks about middle ground for requirement
11:02:31 AM Sen. Detert - responds
11:02:34 AM Sen. Gibson - comments
11:02:37 AM Sen. Latvala - comments on waivers
11:03:01 AM K. Gusky - comments further on waivers

11:03:07 AM Sen. Latvala
11:03:19 AM Sen. Brandes - asks about return on investment
11:03:21 AM Sen. Latvala - comments
11:03:38 AM Sen. Detert
11:04:09 AM Sen. Brandes
11:04:37 AM Sen. Clemens
11:05:01 AM Sen. Latvala
11:05:07 AM Sen. Detert
11:05:40 AM Sen. Clemens
11:06:19 AM Sen. Gibson
11:06:47 AM Sen. Latvala
11:06:51 AM P. Miller - average annual private sector wage
11:07:13 AM Sen. Latvala - asks about last year's language
11:07:41 AM K. Gusky - responds
11:07:52 AM Sen. Latvala - asks to find the information
11:08:19 AM P. Miller - job creation requirement
11:08:37 AM Sen. Latvala - comments
11:08:47 AM Sen. Detert
11:08:49 AM Sen. Latvala
11:09:09 AM Crystal Sircy - comments on job creation
11:10:12 AM Sen. Latvala - asks about job creation requirement
11:10:22 AM C. Sircy - responds
11:10:30 AM Sen. Latvala - comments
11:10:42 AM Sen. Brandes - comments job minimum is too low
11:10:58 AM C. Sircy - responds
11:11:34 AM Sen. Detert - comments
11:11:41 AM Sen. Latvala
11:11:52 AM Sen. Detert
11:11:58 AM Sen. Latvala
11:12:13 AM Sen. Gibson - asks about time period for new jobs
11:12:28 AM K. Gusky - responds
11:12:41 AM Sen. Latvala - comments
11:12:51 AM Sen. Thompson - how is retention of companies in Florida measured
11:13:14 AM C. Sircy - responds
11:14:09 AM Sen. Thompson - asks about frequency of reports
11:14:12 AM C. Sircy - responds
11:14:24 AM Sen. Gibson - asks about retention contracts
11:14:48 AM C. Sircy - responds
11:15:14 AM Sen. Latvala
11:15:20 AM P. Miller - capital investment
11:16:24 AM Sen. Latvala
11:16:35 AM C. Sircy - responds
11:16:44 AM Sen. Latvala
11:17:30 AM P. Miller - local financial support
11:19:07 AM Sen. Diaz de la Portilla - asks about poor urban areas that could use support
11:19:38 AM Sen. Latvala - responds
11:20:03 AM Sen. Diaz de la Portilla - comments should not limit only to rural areas
11:21:05 AM Sen. Latvala - work with Enterprise Florida to find common ground
11:21:20 AM Sen. Diaz de la Portilla
11:21:29 AM Sen. Latvala
11:21:54 AM Sen. Gibson - asks about average wage section
11:22:16 AM Sen. Latvala
11:22:21 AM Sen. Gibson
11:22:36 AM C. Sircy - responds
11:24:04 AM Sen. Latvala - asks for objections to extending programs
11:24:50 AM P. Miller - qualified target industry tax refund program
11:25:10 AM Sen. Latvala - explains further
11:25:57 AM Sen. Detert - clarifies is just a language change
11:26:02 AM Sen. Latvala
11:26:18 AM P. Miller - approval processes
11:27:26 AM Sen. Latvala - asks about time period for approval
11:27:58 AM K. Gusky - responds

11:28:38 AM Sen. Latvala
11:28:47 AM Sen. Detert - wants to find an alternative
11:28:58 AM Sen. Latvala
11:29:45 AM Sen. Detert
11:29:56 AM Sen. Latvala
11:30:02 AM Sen. Detert
11:30:07 AM Sen. Latvala
11:30:15 AM Sen. Detert
11:30:35 AM Sen. Latvala
11:30:39 AM K. Gusky - will work on finding an alternative
11:30:46 AM Sen. Latvala
11:30:48 AM K. Gusky
11:30:51 AM Sen. Latvala
11:31:20 AM Sen. Detert
11:31:33 AM P. Miller - innovation incentive program
11:32:48 AM Sen. Detert - comments on authority to grant awards
11:33:00 AM Sen. Latvala - discusses duration of incentives projects
11:33:57 AM Sen. Gibson - comments
11:34:17 AM C. Sircy - explains
11:35:14 AM Sen. Detert - explains further
11:35:44 AM Sen. Gibson - asks about how duration is projected
11:36:31 AM C. Sircy - responds
11:37:35 AM Sen. Latvala - asks about payment and performance conditions
11:38:18 AM C. Sircy - responds
11:39:28 AM Sen. Latvala
11:39:31 AM K. Gusky - comments on notification of changes
11:40:13 AM Sen. Latvala - comments on capital investment remaining in state, and payments to Florida Sports Foundation
11:41:15 AM K. Gusky - responds
11:41:22 AM Sen. Latvala
11:41:27 AM Sen. Detert - asks about who tracks the money for the Florida Sports Foundation
11:42:15 AM Sen. Latvala - responds
11:42:37 AM Sen. Detert - comments on annual report
11:42:40 AM Sen. Latvala - responds
11:42:54 AM Sen. Diaz de la Portilla - comments on direct contracting
11:43:26 AM Sen. Latvala - comments on film issues and trust fund amount
11:44:07 AM K. Gusky - responds
11:44:12 AM Sen. Latvala - closing comments
11:46:57 AM Meeting adjourned