

Tab 3	CS/SB 804 by HP, Brandes; (Similar to H 01371) Electronic Health Records					
Tab 4	SB 1086 by Garcia; (Identical to H 00881) Transportation Disadvantaged					
565562	D	S	RCS	TR, Garcia	Delete everything after	03/28 06:07 PM
Tab 5	SB 1118 by Gainer (CO-INTRODUCERS) Rouson; (Similar to CS/H 00865) Transportation					
239440	A	S	RCS	TR, Gainer	Delete L.87 - 91:	03/28 06:07 PM
404272	A	S	UNFAV	TR, Rader	Delete L.312 - 412:	03/28 06:07 PM
Tab 6	SB 1282 by Flores; (Similar to CS/H 00961) Expressway Authority Toll Revenue					
Tab 7	SB 1416 by Young; (Similar to CS/H 00493) Enhanced Safety for School Crossings					
Tab 8	SB 1442 by Broxson; (Identical to H 01123) Fee and Surcharge Reductions					
296480	A	S	RCS	TR, Broxson	Delete L.181 - 183:	03/28 06:07 PM
501846	A	S	RCS	TR, Broxson	btw L.341 - 342:	03/28 06:07 PM
Tab 9	SB 1452 by Book; (Identical to H 01161) Taximeters					
336818	A	S	RCS	TR, Book	Delete L.19 - 21:	03/28 06:07 PM
Tab 10	SB 1646 by Torres; (Compare to H 01039) Hit-and-run Alerts					
Tab 11	SB 1678 by Garcia; (Similar to H 01175) Motor Vehicle Dealers					

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

TRANSPORTATION
Senator Gainer, Chair
Senator Rouson, Vice Chair

MEETING DATE: Tuesday, March 28, 2017
TIME: 3:00—5:00 p.m.
PLACE: James E. "Jim" King, Jr. Committee Room, 401 Senate Office Building

MEMBERS: Senator Gainer, Chair; Senator Rouson, Vice Chair; Senators Baxley, Galvano, Hukill, and Rader

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
1	Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointment to the office indicated.		
	Tampa-Hillsborough County Expressway Authority		
2	Barrow, Bennett H. (Tampa)	07/01/2019	Recommend Confirm Yeas 5 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	CS/SB 804 Health Policy / Brandes (Similar H 1371)	Electronic Health Records; Authorizing a person to donate his or her electronic health records, subject to certain requirements; authorizing electronic health records and qualified electronic health records to be donated to specified entities for specified purposes; requiring the Agency for Health Care Administration and the Department of Highway Safety and Motor Vehicles to develop and implement a program that encourages and authorizes persons to donate electronic health records and qualified electronic health records as part of a process of issuing and renewing identification cards and driver licenses, etc. HP 03/14/2017 Fav/CS TR 03/28/2017 Favorable AHS AP	Favorable Yeas 5 Nays 0
4	SB 1086 Garcia (Identical H 881)	Transportation Disadvantaged; Requiring each coordinating board to evaluate multicounty or regional transportation opportunities with specific consideration given to nonsponsored transportation disadvantaged services that include services between specific origins and destinations selected by the individual user which may require travel across designated service areas to enhance access to health care, shopping, education, employment, public services, and other life-sustaining activities, etc. TR 03/28/2017 Fav/CS ATD AP	Fav/CS Yeas 5 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Transportation

Tuesday, March 28, 2017, 3:00—5:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	SB 1118 Gainer (Similar CS/H 865)	Transportation; Providing for the calculation of fines for unlawful weight and load for a vehicle fueled by natural gas; requiring bridges on public transportation facilities to be inspected for certain purposes at regular intervals as required by the Federal Highway Administration; increasing the allowable amount for contracts for construction and maintenance that the Department of Transportation may enter into, in certain circumstances, without advertising and receiving competitive bids, etc. TR 03/28/2017 Fav/CS ATD AP	Fav/CS Yeas 5 Nays 0
6	SB 1282 Flores (Similar CS/H 961)	Expressway Authority Toll Revenue; Requiring an authority to provide a rebate for certain tolls paid using an electronic toll collection system; requiring transfer of a certain amount of toll revenue from an authority to a county for certain purposes, etc. TR 03/28/2017 Favorable ATD AP	Favorable Yeas 5 Nays 0
7	SB 1416 Young (Similar CS/H 493)	Enhanced Safety for School Crossings; Requiring the Department of Transportation to evaluate the viability and cost of a uniform system of high-visibility markings and signage for designation of safe school crossings, subject to certain requirements; authorizing the department to consider in its evaluation implementation of new technology or innovations that enhance pedestrian and crosswalk visibility, etc. TR 03/28/2017 Favorable ATD AP	Favorable Yeas 5 Nays 0
8	SB 1442 Broxson (Identical H 1123, Compare H 741, S 514, S 1320)	Fee and Surcharge Reductions; Deleting the fee for a commission of an elected officer by the Governor; deleting the fee for a claim for refund of the tax on motor fuel; exempting a surviving spouse from the fee to transfer a motor vehicle title; revising provisions relating to imposition and amount of a delinquency fee for licensees regulated by the Department of Business and Professional Regulation, etc. TR 03/28/2017 Fav/CS AFT AP	Fav/CS Yeas 5 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Transportation

Tuesday, March 28, 2017, 3:00—5:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	SB 1452 Book (Identical H 1161, Compare CS/H 467, CS/CS/S 498)	Taximeters; Deleting a provision exempting certain taximeters from specified permit requirements; deleting a provision prohibiting the annual permit fees for taximeters from exceeding \$50, etc. TR 03/28/2017 Fav/CS ATD AP	Fav/CS Yeas 5 Nays 0
10	SB 1646 Torres (Compare H 1039, S 1212)	Hit-and-run Alerts; Authorizing the use of dynamic message signs that are located along the state's highways to post alerts containing information about certain hit-and-run incidents to assist law enforcement in apprehending a suspect in the incident, etc. TR 03/28/2017 Favorable ATD AP	Favorable Yeas 5 Nays 0
11	SB 1678 Garcia (Similar H 1175, Compare H 1047)	Motor Vehicle Dealers; Providing an exception to the requirement that a specified provision does not affect certain contracts between a licensee and any of its dealers; providing that a motor vehicle dealer who completes certain approved construction or changes to or installation on the dealer's facility in reliance upon a certain program, standard, or policy, or bonus, incentive, rebate, or other benefit is deemed to be in full compliance with all of an applicant's or licensee's requirements related to the facility, sign, and image for a specified period, etc. TR 03/22/2017 Temporarily Postponed TR 03/28/2017 Temporarily Postponed CM RC	Temporarily Postponed

Other Related Meeting Documents

840

STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections

I, Ken Detzner, Secretary of State,
do hereby certify that

Bennett H. Barrow

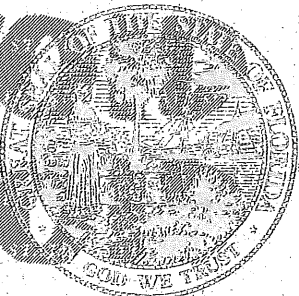
is duly appointed a member of the
**Tampa-Hillsborough County Expressway
Authority**

for a term beginning on the Nineteenth day of October, A.D.,
2016, until the First day of July, A.D., 2019 and is subject to be
confirmed by the Senate during the next regular session of the
Legislature.

*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Seventeenth day of November, A.D., 2016.*

Ken Detzner

Secretary of State



If photocopied or chemically altered, the word "VOID" will appear.

"State of Florida" appears in small letters across the face of this 8 1/2 x 11" document.



RICK SCOTT
GOVERNOR

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DIVISION OF ELECTIONS
SECRETARY OF STATE

October 19, 2016

Kenneth W. Detzner
Secretary of State
State of Florida
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Detzner:

Please be advised I have made the following appointment under the provisions of Section 348.52(2), Florida Statutes:

Mr. Bennett Hilliard Barrow
5432 Lykes Lane
Tampa, Florida 33611

as a member of the Tampa-Hillsborough County Expressway Authority, filling a vacant seat, subject to confirmation by the Senate. This appointment is effective October 19, 2016, for a term ending July 1, 2019.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Scott".

Rick Scott
Governor

RS/sk

OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

16 NOV 14 AM 10:
DIVISION OF ELECTRIC
SECRETARY OF STATE

STATE OF FLORIDA

County of Hillsborough

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

TAMPA - HILLSBOROUGH EXPRESSWAY AUTHORITY
(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]



Bennett H. Barrow
Signature

Sworn to and subscribed before me this 11 day of NOVEMBER, 2016.

Chris Lohnes
Signature of Officer Administering Oath or of Notary Public

Chris Lohnes
Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known OR Produced Identification

Type of Identification Produced FLDL

ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: Home Office

5432 LYRES LANE
Street or Post Office Box

Tampa, FL 33611
City, State, Zip Code

BENNETT H. BARROW
Print name as you desire commission issued

Bennett H Barrow
Signature

QUESTIONNAIRE FOR SENATE CONFIRMATION

The information from this questionnaire will be used by the Florida Senate in considering action on your confirmation. The questionnaire MUST BE COMPLETED IN FULL. Answer "none" or "not applicable" where appropriate. Please type or print in blue or black ink.

1. Name: MR. BARROW BENNETT HILLJARD
Mr./Mrs./Ms. Last First Middle/Maiden

2. Business Address: 3800 W. BAY TO BAY BLVD. 21 TAMPA
Street Office # City

Post Office Box State Zip Code Area Code/Phone Number

3. Residence Address: 5432 LYKES LANE TAMPA HILLSBOROUGH
Street City County

Post Office Box State Zip Code Area Code/Phone Number

Specify the preferred mailing address: Business Residence Fax # _____
(optional)

4. A. List all your places of residence for the last five (5) years.

<u>Address</u>	<u>City & State</u>	<u>From</u>	<u>To</u>
<u>5432 LYKES LANE</u>	<u>TAMPA, FL.</u>	<u>July, 2009</u>	<u>current</u>

B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

<u>Address</u>	<u>City & State</u>	<u>From</u>	<u>To</u>
<u>735 University Ave.</u>	<u>Sowamoo, TN-37383</u>	<u>1998</u>	<u>2002</u>
<u>100 Calle Embajadores</u>	<u>Madrid, Spain 28045</u>	<u>2002</u>	<u>2003</u>

5. Date of Birth: _____ Place of Birth: TAMPA, FL.

6. Social Security Number: _____

7. Driver License Number _____ Issuing State: FLORIDA

8. Have you ever used or been known by any other legal name? Yes No If "Yes" Explain

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 DIVISION OF ELECTIONS
 SECRETARY OF STATE

9. Are you a United States citizen? Yes No If "No" explain:

If you are a naturalized citizen, date of naturalization: _____

10. Since what year have you been a continuous resident of Florida? 1979

11. Are you a registered Florida voter? Yes No If "Yes" list:

A. County of Registration: HILLSBOROUGH B. Current Party Affiliation: REPUBLICAN

12. Education

A. High School: BERKELEY PREPARATORY SCHOOL Year Graduated: 1998
(Name and Location)

B. List all postsecondary educational institutions attended:

<u>Name & Location</u>	<u>Dates Attended</u>	<u>Certificates/Degrees Received</u>
<u>UNIVERSITY OF THE SOUTH (SEWANEE)</u>	<u>1998-2002</u>	<u>B.A. SPANISH</u>

13. Are you or have you ever been a member of the armed forces of the United States? Yes No If "Yes" list:

A. Dates of Service: _____

B. Branch or Component: _____

C. Date & type of discharge: _____

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of \$150 or less was paid.) Yes No If "Yes" give details:

<u>Date</u>	<u>Place</u>	<u>Nature</u>	<u>Disposition</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

<u>Employer's Name & Address</u>	<u>Type of Business</u>	<u>Occupation/Job Title</u>	<u>Period of Employment</u>
<u>BARROW ASSET MANAGEMENT, LLC</u>	<u>INVESTMENT</u>	<u>VICE PRESIDENT</u>	<u>2011-2016</u>
<u>TCWA WEALTH, LLC</u>	<u>FINANCIAL PLANNING</u>	<u>PRESIDENT</u>	<u>2013-2016</u>

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes No
If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

<u>Position</u>	<u>Employing Agency</u>	<u>Period of Employment</u>
<u>Assistant to Chief of Staff</u>	<u>HILLSBOROUGH COUNTY SUPERVISOR OF ELECTIONS</u>	<u>NOV. 2003 - JUNE 2004</u>

17. A. State your experiences and interests or elements of your personal history that qualify you for this appointment.

I am a fifth generation Floridian who has seen the needs regarding area transportation grow on a daily basis. I have grown up personally using the Tampa Expressway & how its critical function relates to Bay area transportation as a whole. I believe this background along with financial background in running small businesses as well as overseeing finances for operational institutions qualifies me for this position.

B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes No If "Yes", list:

C. Have you received any awards or recognitions relating to the subject matter of this appointment? Yes No If "Yes", list:

D. Identify all association memberships and association offices held by you that relate to this appointment:

FLORIDA TAX WATCH

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government? Yes No If "Yes", list:

19. A. Have you ever been elected or appointed to any public office in this state? Yes No If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

<u>Office Title</u>	<u>Date of Election or Appointment</u>	<u>Term of Office</u>	<u>Level of Government</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

B. If your service was on an appointed board(s), committee(s), or council(s):

(1) How frequently were meetings scheduled: _____

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

<u>Meetings Attended</u>	<u>Meetings Missed</u>	<u>Reason for Absence</u>
_____	_____	_____
_____	_____	_____

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes No If "Yes", give details:

<u>Date</u>	<u>Nature of Violation</u>	<u>Disposition</u>
_____	_____	_____
_____	_____	_____

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes No If "Yes", list:

A. Title of office: _____ C. Reason for suspension: _____

B. Date of suspension: _____ D. Result: Reinstated Removed Resigned

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes No If "Yes", list:

A. Title of Office: _____

B. Term of Appointment: _____

C. Confirmation results: _____

23. Have you ever been refused a fidelity, surety, performance, or other bond? Yes No If "Yes", explain:

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes No If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

<u>License/Certificate Title & Number</u>	<u>Original Issue Date</u>	<u>Issuing Authority</u>	<u>Disciplinary Action/Date</u>
5730014	9/14/11	FINRA	NONE
_____	_____	_____	_____
_____	_____	_____	_____

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

<u>Name of Business</u>	<u>Your Relationship to Business</u>	<u>Business' Relationship to Agency</u>
BARLOW ASSET MANAGEMENT, LLC	VICE PRES	
_____	_____	_____
_____	_____	_____

B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

<u>Name of Business</u>	<u>Family Member's Relationship to You</u>	<u>Family Member's Relationship to Business</u>	<u>Business' Relationship to Agency</u>

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes No

A. Did you receive any compensation other than reimbursement for expenses? Yes No

B. Name of agency or entity you lobbied and the principal(s) you represented:

<u>Agency Lobbied</u>	<u>Principal Represented</u>

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

<u>Name</u>	<u>Mailing Address</u>	<u>Zip Code</u>	<u>Area Code/Phone Number</u>
BLAKE CASPER			
JOHN DEBEVOISE			
JOHN TOUCHTON			

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

<u>Name</u>	<u>Mailing Address</u>	<u>Office(s) Held & Term</u>	<u>Date(s) of Membership</u>
St Joseph's Hospital Foundation	2700 W. MLK Blvd. Ste 310 Tampa 33607	Secretary	Sept. 2010 - Current
Berkelox Preparatory School Board of Trustees	4811 Kelly Rd. Tampa, FL 33615	Chair Finance Committee	Sept. 2010 - Current
High Risk Hope	1709 N. Ave. Republica de Cuba	Chair Planned Giving Committee	Sept. 2014 - Current
FL Tax Watch	106 N. Broadway St. Tallahassee, FL 32301	Member At Large	Jan. 2015 - Current

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes No If "Yes", explain:

30. If required by law or administrative rule, will you file financial disclosure statements? Yes No

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CERTIFICATION
DIVISION OF ELECTIONS
SECRETARY OF STATE

STATE OF FLORIDA
COUNTY OF Hillsborough

Before me, the undersigned Notary Public of Florida, personally appeared

_____,
who, after being duly sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

Brent H R

Signature of Applicant-Affiant

Sworn to and subscribed before me this 11 day of NOVEMBER, 2014.

Chris Lohnes

Signature of Notary Public-State of Florida

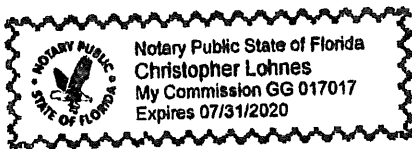
Chris Lohnes

(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: 07/31/2020

Personally Known OR Produced Identification

Type of Identification Produced PDL



(seal)

117249

Senate Confirmation Questionnaire

Please mail to: Room 316, R.A. Gray Building, 500 South Bronough Street, Tallahassee, Florida 32399-0250

The information from this page has been requested and will be used exclusively for Minority Statistics.
Please type or use blue ink.

1. Board of Interest: TAMPA HILLSBOROUGH COUNTY EXPRESSWAY AUTHORITY

2. Current Employer and Occupation: BARROW ASSET MANAGEMENT, LLC

3. Are you applying for reappointment: Yes No

4. *Do you have a disability? Yes No If "Yes", please describe your disability that would qualify you for this appointment, if applicable.

5. *Sex: Male Female

6. *Race: White African-American
Hispanic-American Asian/Pacific Islander
Native-American/Alaskan Native

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SECRETARY OF STATE

7. Do you now, or have you, within the last three years, been a member of any club or organization that, to your knowledge, in practice or policy, restricts membership or restricted membership during the time that you belonged on the basis of race, religion, national origin, or gender? If so, detail the name and nature of the club(s) or organization(s), relevant policies and practices, and state whether you intend to continue as a member if you appointed by the Governor. NO

8. One of the Governor's top priorities is to improve the conditions of the children living in our state. Would you be willing to spend an hour a week with a child in need in your community? If so, please identify the type of program and/or activity you would be willing to participate in as a mentor.

yes. Derrick Brooks Foundation which helps lower income teenagers in the Tampa Bay area.

BENNETT H. BARROW
Applicant's Name, including name commonly used
(Please print)

* This information will be used to provide demographic statistics and is not requested for the purpose of discriminating on any basis

MEMORANDUM

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

- Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.

Because: (please provide cite.) _____

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OF ANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

The Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399
(850) 245-0150

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 Committee on Transportation

BILL: CS/SB 804

INTRODUCER: Health Policy Committee and Senator Brandes

SUBJECT: Electronic Health Records

DATE: March 27, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Stovall	HP	Fav/CS
2.	Jones	Miller	TR	Favorable
3.			AHS	
4.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 804 allows a patient, or the patient's health care surrogate or proxy, to donate the patient's electronic health records (EHR) and qualified electronic health records (QEHR)¹ to an approved² medical or dental school; college; university; hospital; or repository that collects, stores, and shares de-identified electronic health records with the public. The health records may be used for the purposes of educating or developing diagnoses, treatment choices, policies, health care system designs, and innovations in order to improve health outcomes and reduce health care costs.

The bill may have a negative fiscal impact on the Agency for Health Care Administration and the Department of Highway Safety and Motor Vehicles.

II. Present Situation:

The Florida Electronic Health Records Exchange Act

Section 408.051, F.S., establishes the Florida Health Records Exchange Act. The act requires a healthcare provider that receives an authorization form containing a request for the release of an

¹ As defined in s. 408.051, F.S.

² By the Department of Health (DOH).

identifiable health record to accept the form as a valid authorization to release the record.³ Any release of health information after the receipt of an authorization form completed and submitted as prescribed by the Agency for Health Care Administration (AHCA) creates a rebuttable presumption that the release was appropriate.⁴ For the purposes of the act, the term:

- “Electronic health record” means a record of a person’s medical treatment which is created by a licensed health care provider and stored in an interoperable and accessible digital format;⁵ and
- “Qualified electronic health record” means an electronic record of health-related information concerning an individual which includes patient demographic and clinical health information, such as medical history and problem lists, and which has the capacity to provide clinical decision support, to support physician order entry, to capture and query information relevant to health care quality, and to exchange electronic health information with, and integrate such information from, other sources.⁶

In addition to the provisions contained within the Florida Electronic Health Records Exchange Act, s. 408.062(5), F.S., requires the AHCA to develop and implement a strategy for the adoption and use of electronic health records, including the development of an electronic health information network for the sharing of electronic health records among health care facilities, health care providers, and health insurers.

The Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule and the Authorization for Release of Protected Health Information

The HIPAA privacy rule is a federal rule that restricts the use and disclosure of individuals’ health information — called “protected health information”⁷ (PHI) by organizations subject to the Privacy Rule — called “covered entities,”⁸ as well as standards for individuals’ privacy rights to understand and control how their health information is used.⁹ In general, HIPAA grants an individual the right to access his or her own PHI. Included within this right is the right to:

- Ask to see and get a copy the individual’s own health records from most doctors, hospitals, and other health care providers;
- Get either a paper or electronic copy, if the records are kept electronically, of the health records; and
- Have a copy of the records sent to someone else.¹⁰

³ Section 408.051(4)(c), F.S.

⁴ Section 408.051(4)(e), F.S.; however, pursuant to s. 408.051(4)(d), F.S., the use of the form adopted by the AHCA is not required to authorize release of protected health information.

⁵ Section 408.051(2)(a), F.S.

⁶ Section 408.051(2)(b), F.S.

⁷ Protected health information is all individually identifiable health information held or transmitted by a covered entity or its business associate, in any form or media, whether electronic, paper, or oral.

⁸ In general, covered entities are health plans, health care clearinghouses, and to any health care provider who transmits health information in electronic form in connection with transactions for which the Secretary of HHS has adopted standards under HIPAA.

⁹ U.S. Department of Health and Human Services, Health Information Privacy, *Summary of HIPAA Privacy Rule*, <https://www.hhs.gov/hipaa/for-professionals/privacy/laws-regulations/> (last visited Mar. 8, 2017)

¹⁰ Message from Jocelyn Samuels, Director, Office of Civil Rights, U.S. Department of Health and Human Services, *Right to Access* (September 28, 2015) <https://www.hhs.gov/sites/default/files/righttoaccessmemo.pdf>, (last visited Mar. 3, 2017).

HIPAA and De-Identified Health Information

For the purposes of HIPAA, Protected health information is information, including demographic information, which relates to:

- The individual's past, present, or future physical or mental health or condition;
- The provision of health care to the individual; or
- The past, present, or future payment for the provision of health care to the individual, and that identifies the individual or for which there is a reasonable basis to believe can be used to identify the individual. Protected health information includes many common identifiers (e.g., name, address, birth date, Social Security Number) when they can be associated with the health information listed above.

However, information that is not individually identifiable to a particular patient is not considered PHI and, therefore is not covered by HIPAA. For example, a health plan report that only noted the average age of health plan members was 45 years would not be PHI because that information, although developed by aggregating information from individual plan member records, does not identify any individual plan members and there is no reasonable basis to believe that it could be used to identify an individual.¹¹

Potential Rationale for Donation of Electronic Health Records

In addition to pure research related to specific medical conditions, recently, new technologies have been developed that are able to scan large amounts of data and apply the results to individual medical decisions. For example, IBM has begun using its computing system, Watson, within the healthcare field. IBM states that Watson's applications extend over many health fields including genomics, drug discovery, health patient engagement, oncology, and care management.¹² Watson is able to store significant amounts of data, analyze it, and find patterns and meaning within the data much quicker and more efficiently than any human. The abilities of Watson, and other computing systems like it, will be further enhanced by the availability of large amounts of data to work with. Donating EHR and QEHR could help these future technologies become more effective in providing better overall outcomes within the healthcare system.

Organ Donation Encouragement Program

Following direction from the Legislature¹³, the Department of Highway Safety and Motor Vehicles (DHSMV) and AHCA implemented a system to encourage potential donors of anatomical gifts (organ donors) through the process of issuing and renewing driver licenses or identification cards. The DHSMV includes "Organ Donor" notations on identification cards, driver licenses, and driver records to indicate an individual's intent to be a donor. Donor registration cards are distributed by the DHSMV, with necessary supplies and forms provided by AHCA. The DHSMV is responsible for providing the necessary recordkeeping system.

¹¹ U.S. Department of Health and Human Services, Health Information Privacy, *Guidance Regarding Methods for De-identification of Protected Health Information in Accordance with the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule* <https://www.hhs.gov/hipaa/for-professionals/privacy/special-topics/de-identification/index.html#protected> (last visited Mar. 8, 2017).

¹² See IBM Watson Health, <https://www.ibm.com/watson/health/> (last visited Mar. 8, 2017).

¹³ See Section 765.521, F.S.,

Additionally, the DHSMV is required to maintain an integrated link on its website referring individuals conducting business on the site to the donor registry.¹⁴ Approximately 98 percent of people who enroll in Florida's registry do so while obtaining or renewing a driver license.¹⁵

III. Effect of Proposed Changes:

CS/SB 804 amends ch. 765, F.S., relating to health care advance directives, to allow a patient, or the patient's health care surrogate or proxy, to donate the patient's EHR and QEHR¹⁶ to an approved¹⁷ medical or dental school, college, university, hospital, or repository that collects, stores, and shares de-identified electronic health records with the public. The bill authorizes the donation of EHR and QEHR after the patient's death.

Donations of EHR and QEHR by the Patient

The bill specifies that a person may donate all or part of his or her EHR or QEHR by:

- Signing an EHR donor card;
- Indicating an intent to donate on his or her driver license or identification card issued by the DHSMV;
- Expressing the wish to donate in a living will or other advance directive;
- Expressing the wish to donate in a will;¹⁸ or
- Expressing a wish to donate in another document that has been signed by the donor (or his or her designee) and two witnesses.
 - The bill provides a standard form that may be used to indicate the wish to donate EHR and QEHR.

De-identified EHR may be given to one or more donees that are accredited medical or dental schools, colleges, universities, hospitals, or repositories for the purpose of educating or developing diagnoses, treatment choices, policies, health care system designs, and innovations to improve health outcomes and reduce health care costs. Donees must be approved by the DOH and may be specified by name. The bill specifies that identified information may be donated with the written consent of the donor.

Additionally, a person may revoke or amend the terms of a donation of EHR by:

- The execution and delivery to the donee of a signed statement witnessed by at least two adults, one of whom is a disinterested witness;
- An oral statement made in the presence of two adult witnesses, one of whom is not a family member. The statement must be communicated to the donor's family, to the donor's attorney, or to the donee and the donee must have actual notice of the revocation;

¹⁴ Section 765.521(2), F.S.

¹⁵ Donate Life Florida 2015 Annual Report, available at https://www.donateliflorida.org/files/53_file.pdf at p. 12.

¹⁶ The bill references the definitions of EHR and QEHR in s. 408.051, F.S. (See Present Situation for definitions of these terms).

¹⁷ By the DOH.

¹⁸ The bill specifies that, when a wish to donate is expressed in a will, the donation becomes effective upon the death of the testator without entering probate and that the donation is considered valid if made in good faith even if the will is found to be invalid for testamentary purposes.

- An oral statement communicated during a terminal illness or injury to the primary physician who must communicate the revocation to the donee;
- A signed document found on or about the donor's person;
- A later-executed document of donation which amends or revokes a previous health records donation; or
- The destruction or cancellation, with the intent to revoke the donation, of the document, or portion of the document, that indicates the intent to donate.

Donation of EHR and QEHR by the Patient's Health Care Surrogate or Proxy

The bill also allows a patient's health care surrogate or proxy to donate the patient's EHR and QEHR. The bill amends the definition of "health care decision" in s. 765.101, F.S., to include the right of the health care surrogate or proxy to donate the principal's EHR and QEHR upon the principal's death and amends the suggested form of designation of a health care surrogate in s. 765.203, F.S., to include the authorization for the health care surrogate to donate the principal's EHR and QEHR. The bill requires that information donated by a health care surrogate be de-identified.

Donation Encouragement Program

The bill requires the AHCA and the DHSMV to develop and implement a program to encourage and authorize persons to donate EHR and QEHR as part of the process of issuing and renewing identification cards and driver licenses. Donor cards distributed by the DHSMV must include the information and signatures necessary to authorize the donation of EHR and may include any additional information determined necessary by the DHSMV.

The bill also requires the DHSMV to develop and implement a program to identify donors including notations on their identification cards or driver licenses to clearly indicate their intent to donate their EHR. The AHCA is required to provide necessary supplies and forms and the DHSMV is required to provide the necessary recordkeeping system. The DHSMV is also required to maintain a link on its webpage referring visitors renewing identification cards and driver licenses to an electronic health records repository, if such repository is available.

The bill exempts the DHSMV and the AHCA from liability in connection with the performance of any act regarding these programs, and the bill requires the DHSMV, after consultation and concurrence with the AHCA, to adopt rules to implement the programs.

The bill establishes an effective date of July 1, 2017.

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:

CS/SB 804 may have a minor negative fiscal impact on health care facilities that are required to de-identify and electronically transfer records pursuant to a donation as detailed in the bill.

C. Government Sector Impact:

The bill may have a negative fiscal impact on the AHCA and the DHSMV related to the implementation of the donation encouragement program.

The AHCA estimates an initial cost to the agency of \$438,432 and a recurring cost of \$438,432.¹⁹ Of the \$438,432 recurring costs, the AHCA estimates an annual cost of \$300,000 for the production of supplies and forms. The remainder of the recurring costs to the agency are for the hiring of two full-time program staff to facilitate outreach with the DHSMV and to conduct training and education at each of the state's 67 county tax collector offices.

The DHSMV will incur costs to develop and implement the EHR donor program. The bill requires the agency to:

- Identify donors and include notations on their identification cards or driver licenses;
- Provide the necessary recordkeeping system; and
- Maintain a link on the DHSMV webpage referring visitors to electronic health records repositories.

The DHSMV estimates programming and implementation costs to note such election on a driver license record or identification card record and to maintain a link on the DHSMV webpage is approximately \$16,522. Other costs associated with notating the driver license or identification card to indicate such election, staffing, and actual recordkeeping are unknown.

VI. Technical Deficiencies:

None.

¹⁹ AHCA, *Senate Bill 804 Analysis* (Feb. 14, 2017) (on file with the Senate Committee on Health Policy).

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 765.101 and 765.203 of the Florida Statutes.

This bill creates sections 765.114 and 765.1141 of the Florida Statutes.

IX. Additional Information:

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

CS by Health Policy Committee on March 14, 2017:

The CS amends SB 804 to specify that identified EHR and QEHR may be donated with the written consent of the donor and to make other technical changes.

- B. **Amendments:**

None.

By the Committee on Health Policy; and Senator Brandes

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1 A bill to be entitled
 2 An act relating to electronic health records; amending
 3 s. 765.101, F.S.; redefining the terms "health care
 4 decision" and "incapacity" or "incompetent"; creating
 5 s. 765.114, F.S.; authorizing a person to donate his
 6 or her electronic health records, subject to certain
 7 requirements; authorizing electronic health records
 8 and qualified electronic health records to be donated
 9 to specified entities for specified purposes;
 10 providing a form for a uniform donor card; requiring
 11 electronic health records and qualified electronic
 12 health records donated by a health care surrogate or
 13 proxy to be de-identified; authorizing electronic
 14 health records and qualified electronic health records
 15 to contain a donor's identifying information under
 16 certain conditions; authorizing a donor to amend the
 17 terms or revoke an electronic health records donation
 18 in specified manners; creating s. 765.1141, F.S.;
 19 requiring the Agency for Health Care Administration
 20 and the Department of Highway Safety and Motor
 21 Vehicles to develop and implement a program that
 22 encourages and authorizes persons to donate electronic
 23 health records and qualified electronic health records
 24 as part of a process of issuing and renewing
 25 identification cards and driver licenses; requiring
 26 specified information to be included in the donor
 27 registration card distributed by the department;
 28 requiring the agency and the department to develop and
 29 implement a program to identify donors through

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30 notations on identification cards and driver licenses;
 31 requiring the agency to provide certain supplies and
 32 forms, and the department to provide a recordkeeping
 33 system; prohibiting the department and agency from
 34 incurring liability in connection with the performance
 35 of certain acts; requiring the department to maintain
 36 a link on its website referring visitors to an
 37 electronic health records repository under certain
 38 circumstances; requiring rulemaking; amending s.
 39 765.203, F.S.; revising the suggested form for
 40 designation of a health care surrogate to expand
 41 health care decision authority of the health care
 42 surrogate; providing an effective date.

43
 44 Be It Enacted by the Legislature of the State of Florida:

45
 46 Section 1. Paragraph (e) is added to subsection (6) of
 47 section 765.101, Florida Statutes, and subsection (10) of that
 48 section is amended, to read:

49 765.101 Definitions.—As used in this chapter:

50 (6) "Health care decision" means:

51 (e) The right of a health care surrogate or proxy to donate
 52 the principal's electronic health records and qualified
 53 electronic health records, as defined in s. 408.051, upon the
 54 principal's death to an approved medical or dental school,
 55 college, university, hospital, or repository that collects,
 56 stores, and shares de-identified electronic health records in
 57 the public domain for purposes of educating or developing
 58 diagnoses, treatment choices, policies, health care system

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59 designs, and innovations in order to improve health outcomes and
 60 reduce health care costs. For purposes of this paragraph, the
 61 term "approved" means approved by the Department of Health.

62 (10) "Incapacity" or "incompetent" means the patient is
 63 physically or mentally unable to communicate a willful and
 64 knowing health care decision. For the purposes of making an
 65 anatomical gift or donating electronic health records or
 66 qualified electronic health records, the term also includes a
 67 patient who is deceased.

68 Section 2. Section 765.114, Florida Statutes, is created to
 69 read:

70 765.114 Donating electronic health records and qualified
 71 electronic health records.-

72 (1) A person may donate all or part of his or her
 73 electronic health records or qualified electronic health records
 74 by doing any of the following:

75 (a) Signing an electronic health records donor card.

76 (b) Indicating an intent to donate on his or her driver
 77 license or identification card issued by the Department of
 78 Highway Safety and Motor Vehicles. Revocation, suspension,
 79 expiration, or cancellation of the driver license or
 80 identification card does not invalidate the intent to donate.

81 (c) Expressing a wish to donate in a living will or other
 82 advance directive.

83 (d) Expressing a wish to donate in a will. The donation
 84 becomes effective upon the death of the testator without waiting
 85 for probate. If the will is not probated or if it is declared
 86 invalid for testamentary purposes, the donation is nevertheless
 87 valid to the extent that it has been acted upon in good faith.

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88 (e) Expressing a wish to donate in a document other than a
 89 will. The document must be signed by the donor in the presence
 90 of two adult witnesses, who must sign the document in the
 91 donor's presence. If the donor cannot sign, the document may be
 92 signed by another person at the donor's direction and in his or
 93 her presence and in the presence of two witnesses, who must sign
 94 the document in the donor's presence. Delivery of the document
 95 during the donor's lifetime is not necessary to make the intent
 96 to donate valid. The following form of written document is
 97 sufficient for any person to make a donation of electronic
 98 health records or qualified electronic health records for the
 99 purposes of this part:

100 UNIFORM ELECTRONIC HEALTH RECORDS DONOR CARD

101 The undersigned hereby makes this health records donation, to
 102 take effect on death. The words and marks below indicate my
 103 desires:

104 I give:

105 1. all electronic health records;

106 2. only the following electronic health records:

107 ...[Specify the health records]...

108 for the purpose of medical research or education.

109 Signed by the donor and the following witnesses in the presence
 110 of each other:

111 ...(Signature of donor).....(Date of birth of donor)...

112 ...(Date signed).....(City and State)...

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117
 118 ... (Witness)... ... (Witness)...
 119 ... (Address)... ... (Address)...
 120

121 (2) The de-identified electronic health records or
 122 qualified electronic health records may be given to one or more
 123 donees that are accredited medical or dental schools, colleges,
 124 universities, hospitals, or repositories for the purposes of
 125 educating or developing diagnoses, treatment choices, policies,
 126 health care system designs, and innovations to improve health
 127 outcomes and reduce health care costs. Electronic health records
 128 or qualified electronic health records with a donor's
 129 identifying information may be given to a donee upon written
 130 consent of the donor. The donees must be approved by the
 131 Department of Health and may be specified by name.

132 (3) Any electronic health records or qualified electronic
 133 health records donated by a health care surrogate or proxy
 134 designated by the decedent pursuant to part II of this chapter
 135 must be de-identified, unless the donee provides written consent
 136 stating that his or her identifying information may be included
 137 with such records, and such donation must be made by a document
 138 signed by that person or made by that person's witnessed
 139 telephonic discussion, telegraphic message, or other recorded
 140 message.

141 (4) A donor may amend the terms of or revoke a donation of
 142 electronic health records or qualified electronic health records
 143 by any of the following means:

144 (a) The execution and delivery to the donee of a signed
 145 statement witnessed by at least two adults, one of whom is a

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146 disinterested witness.

147 (b) An oral statement that is made in the presence of two
 148 adult witnesses, one of whom is not a family member, and
 149 communicated to the donor's family or attorney or to the donee.
 150 An oral statement is effective only if the medical or dental
 151 school, college, university, hospital, or repository has actual
 152 notice of the oral amendment or revocation.

153 (c) An oral statement made during a terminal illness or
 154 injury addressed to the primary physician, who must communicate
 155 the revocation of the gift to the medical or dental school,
 156 college, university, hospital, or repository.

157 (d) A signed document found on or about the donor's person.

158 (e) A later-executed document of donation which amends or
 159 revokes a previous health records donation or portion of a
 160 health records donation, either expressly or by inconsistency.

161 (f) The destruction or cancellation, with the intent to
 162 revoke the donation, of the document that indicates the intent
 163 to donate or the destruction or cancellation of that portion of
 164 the document which indicates the intent to donate.

165 Section 3. Section 765.1141, Florida Statutes, is created
 166 to read:

167 765.1141 Electronic health records donations as part of
 168 driver license or identification card process.—

169 (1) The Agency for Health Care Administration and the
 170 Department of Highway Safety and Motor Vehicles shall develop
 171 and implement a program encouraging and authorizing persons to
 172 donate electronic health records and qualified electronic health
 173 records, as defined in s. 408.051, as a part of the process of
 174 issuing and renewing identification cards and driver licenses.

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175 The donor registration card distributed by the department must
 176 include the information and signatures required in the uniform
 177 electronic health records donor card under s. 765.114(1)(e) and
 178 such additional information as determined necessary by the
 179 department. The department shall also develop and implement a
 180 program to identify donors which includes notations on
 181 identification cards and driver licenses to clearly indicate the
 182 individual's intent to donate his or her electronic health
 183 records. The agency shall provide the necessary supplies and
 184 forms using appropriated funds or contributions from interested
 185 voluntary, nonprofit organizations. The department shall provide
 186 the necessary recordkeeping system using appropriated funds. The
 187 department and the agency do not incur liability in connection
 188 with the performance of any act authorized in this section.

189 (2) The department shall maintain an integrated link on its
 190 website referring a visitor renewing an identification card or a
 191 driver license or conducting other business to an electronic
 192 health records repository if available.

193 (3) The department, after consultation with and concurrence
 194 by the agency, shall adopt rules to implement this section
 195 pursuant to chapter 120.

196 Section 4. Section 765.203, Florida Statutes, is amended to
 197 read:

198 765.203 Suggested form of designation.—A written
 199 designation of a health care surrogate executed pursuant to this
 200 chapter may, but need not be, in the following form:

201
 202 DESIGNATION OF HEALTH CARE SURROGATE
 203

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204 I, ...(name)..., designate as my health care surrogate under s.
 205 765.202, Florida Statutes:

206
 207 Name: ...(name of health care surrogate)...
 208 Address: ...(address)...
 209 Phone: ...(telephone)...

210
 211 If my health care surrogate is not willing, able, or reasonably
 212 available to perform his or her duties, I designate as my
 213 alternate health care surrogate:

214
 215 Name: ...(name of alternate health care surrogate)...
 216 Address: ...(address)...
 217 Phone: ...(telephone)...

218 INSTRUCTIONS FOR HEALTH CARE

219
 220
 221 I authorize my health care surrogate to:

222 ... (Initial here)... Receive any of my health information,
 223 whether oral or recorded in any form or medium, that:

224 1. Is created or received by a health care provider, health
 225 care facility, health plan, public health authority, employer,
 226 life insurer, school or university, or health care
 227 clearinghouse; and

228 2. Relates to my past, present, or future physical or
 229 mental health or condition; the provision of health care to me;
 230 or the past, present, or future payment for the provision of
 231 health care to me.

232 I further authorize my health care surrogate to:

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233 ... (Initial here)... Make all health care decisions for me,
 234 which means he or she has the authority to:

- 235 1. Provide informed consent, refusal of consent, or
- 236 withdrawal of consent to any and all of my health care,
 237 including life-prolonging procedures.
- 238 2. Apply on my behalf for private, public, government, or
 239 veterans' benefits to defray the cost of health care.
- 240 3. Access my health information reasonably necessary for
 241 the health care surrogate to make decisions involving my health
 242 care and to apply for benefits for me.
- 243 4. Decide to make an anatomical gift pursuant to part V of
 244 chapter 765, Florida Statutes.
- 245 5. Donate my electronic health records and qualified
 246 electronic health records, as defined in s. 408.051, Florida
 247 Statutes, to one or more accredited medical or dental schools,
 248 colleges, universities, hospitals, or repositories, approved by
 249 the Department of Health, to share my de-identified health
 250 records for purposes of developing diagnoses, treatment choices,
 251 policies, health care system designs, and innovations to improve
 252 health outcomes and reduce health care costs.

253 ... (Initial here)... Specific instructions and
 254 restrictions:
 255
 256
 257

258 While I have decisionmaking capacity, my wishes are controlling
 259 and my physicians and health care providers must clearly
 260 communicate to me the treatment plan or any change to the
 261 treatment plan prior to its implementation.

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262

263 To the extent I am capable of understanding, my health care
 264 surrogate shall keep me reasonably informed of all decisions
 265 that he or she has made on my behalf and matters concerning me.
 266

267 THIS HEALTH CARE SURROGATE DESIGNATION IS NOT AFFECTED BY MY
 268 SUBSEQUENT INCAPACITY EXCEPT AS PROVIDED IN CHAPTER 765, FLORIDA
 269 STATUTES.
 270

271 PURSUANT TO SECTION 765.104, FLORIDA STATUTES, I UNDERSTAND THAT
 272 I MAY, AT ANY TIME WHILE I RETAIN MY CAPACITY, REVOKE OR AMEND
 273 THIS DESIGNATION BY:

- 274 (1) SIGNING A WRITTEN AND DATED INSTRUMENT WHICH EXPRESSES
 275 MY INTENT TO AMEND OR REVOKE THIS DESIGNATION;
- 276 (2) PHYSICALLY DESTROYING THIS DESIGNATION THROUGH MY OWN
 277 ACTION OR BY THAT OF ANOTHER PERSON IN MY PRESENCE AND UNDER MY
 278 DIRECTION;
- 279 (3) VERBALLY EXPRESSING MY INTENTION TO AMEND OR REVOKE
 280 THIS DESIGNATION; OR
- 281 (4) SIGNING A NEW DESIGNATION THAT IS MATERIALLY DIFFERENT
 282 FROM THIS DESIGNATION.
 283

284 MY HEALTH CARE SURROGATE'S AUTHORITY BECOMES EFFECTIVE WHEN MY
 285 PRIMARY PHYSICIAN DETERMINES THAT I AM UNABLE TO MAKE MY OWN
 286 HEALTH CARE DECISIONS UNLESS I INITIAL EITHER OR BOTH OF THE
 287 FOLLOWING BOXES:
 288

289 IF I INITIAL THIS BOX [...], MY HEALTH CARE SURROGATE'S
 290 AUTHORITY TO RECEIVE MY HEALTH INFORMATION TAKES EFFECT

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291 IMMEDIATELY.

292

293 IF I INITIAL THIS BOX [...], MY HEALTH CARE SURROGATE'S

294 AUTHORITY TO MAKE HEALTH CARE DECISIONS FOR ME TAKES EFFECT

295 IMMEDIATELY. PURSUANT TO SECTION 765.204(3), FLORIDA STATUTES,

296 ANY INSTRUCTIONS OR HEALTH CARE DECISIONS I MAKE, EITHER

297 VERBALLY OR IN WRITING, WHILE I POSSESS CAPACITY SHALL SUPERSEDE

298 ANY INSTRUCTIONS OR HEALTH CARE DECISIONS MADE BY MY SURROGATE

299 THAT ARE IN MATERIAL CONFLICT WITH THOSE MADE BY ME.

300

301 SIGNATURES: Sign and date the form here:

302 ... (date)... ... (sign your name)...

303 ... (address)... ... (print your name)...

304 ... (city)... ... (state)...

305

306 SIGNATURES OF WITNESSES:

307 First witness	Second witness
308 ... (print name)...	... (print name)...
309 ... (address)...	... (address)...
310 ... (city)... ... (state)...	... (city)... ... (state)...
311 ... (signature of witness)...	... (signature of witness)...
312 ... (date)...	... (date)...

313 Section 5. This act shall take effect July 1, 2017.

APPEARANCE RECORD

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

3/28/17

Meeting Date

804

Bill Number (if applicable)

Topic Electronic Health Records

Amendment Barcode (if applicable)

Name Stephen Winn

Job Title Executive Director

Address 2544 Blairstone Pines Dr.

Phone _____

Street

Tallahassee

FL

32301

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing Florida Osteopathic Medical Association

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)

804
Bill Number (if applicable)

Meeting Date _____

Amendment Barcode (if applicable) _____

Topic _____

Name Jarrod Fowler

Job Title Dir. of Health Care Policy

Address 1430 Piedmont Dr. E

Phone 850-224-6496

Tallahassee FL 32308

Email JFowler@timehealth.org

City State Zip

Speaking: For Against Information

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

Representing _____

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
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 Committee on Transportation

BILL: CS/SB 1086

INTRODUCER: Transportation Committee and Senator Garcia

SUBJECT: Transportation Disadvantaged

DATE: March 28, 2017

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1086 revises the duties of community transportation coordinators and coordinating boards with respect to services provided to transportation disadvantaged persons. The bill requires community transportation coordinators, in cooperation with their respective coordinating boards, to plan and use regional fare payment systems when available and cost effective that enhance cross-county mobility for the transportation disadvantaged to access employment, health care, education, shopping, or other life-sustaining services across one or more county lines.

The bill also requires coordinating boards to include in their evaluations of multicounty or regional transportation opportunities regional fare payment systems, when available, that enhance cross-county mobility for the transportation disadvantaged for the specified access purposes.

The fiscal impact of the bill is indeterminate. However, this revision may increase mobility for the transportation disadvantaged.

The bill takes effect July 1, 2017.

II. Present Situation:

The Transportation Disadvantaged Program

The Legislature created the Transportation Disadvantaged (TD) Program in Part I of ch. 427, F.S., in 1979.¹ The TD Program coordinates a network of local and state programs providing transportation services for elderly, disabled, and low-income citizens. In 1989, the Legislature created the Commission for the Transportation Disadvantaged (Commission) as an independent entity within the Florida Department of Transportation.² The purpose of the Commission is to accomplish the coordination of transportation services provided to the transportation disadvantaged,³ with the goal of such coordination to assure the cost-effective provision of transportation by qualified community transportation coordinators⁴ or transportation operators.⁵ The Commission describes the program “a shared-ride service which, depending on location, may be provided using the fixed route transit or paratransit (door-to-door) service.”⁶

Each metropolitan planning organization (MPO), or the designated official planning agency in an area outside the purview of an MPO, recommends to the Commission a single community transportation coordinator.⁷ A “community transportation coordinator” is a transportation entity responsible for ensuring that coordinated transportation services are provided to the transportation-disadvantaged population in a designated service area.⁸

Coordinators are currently charged with various powers and duties, including, but not limited to establishing eligibility guidelines and priorities with respect to recipients of nonsponsored transportation disadvantaged services,⁹ developing cost-effective coordination strategies and a service plan for the delivery of services, executing uniform contracts for services, and annually reviewing all transportation operator contracts.¹⁰

Coordinators undergo an annual performance evaluation by the local coordinating board.¹¹ A “coordinating board” is an advisory entity in each designated service area, composed of

¹ 79-180, L.O.F.

² 89-376, L.O.F.

³ A “transportation disadvantaged person” is a person who because of physical or mental disability, income status, or age is unable to transport himself or herself or to purchase transportation and is, therefore, dependent on others to obtain access to health care, employment, education, shopping, social activities, or other life-sustaining activities, or children who are handicapped or high-risk or at-risk as defined in s. 411.202, F.S. Section 427.011(1), F.S.

⁴ Section 427.011(5), F.S.

⁵ A “transportation operator” is one or more public, private for-profit, or private nonprofit entities engaged by the community transportation coordinator to provide service to transportation disadvantaged persons pursuant to a coordinated system service plan. Section 427.011(6), F.S.

⁶ See the Commission’s website available at: <http://www.fdot.gov/ctd/communitytransystem.htm>. (Last visited March 27, 2017.)

⁷ Section 427.015(2), F.S.

⁸ A “designated service area” is a geographical area recommended to and approved by the Commission, which defines the community where coordinated transportation services will be provided to the transportation disadvantaged.

⁹ “Nonsponsored transportation disadvantaged services” means transportation disadvantaged services that are not sponsored or subsidized by any funding source other than the Transportation Disadvantaged Trust Fund. Section 427.011(12), F.S.

¹⁰ Section 427.0155, F.S.

¹¹ A coordinator may provide all or a portion of needed transportation services for the transportation disadvantaged and must subcontract or broker those services that are more cost-effectively and efficiently provided by subcontracting or brokering. Section 427.015(2), F.S.

representatives appointed by the MPO or the designated official planning agency, to provide assistance to the community transportation coordinators relative to the coordination of transportation services.¹² These boards develop local service needs and provide information, advice, and direction to the coordinators.

Section 427.0157, F.S., currently assigns a number of powers and duties to the coordinating boards, including, but not limited to, assisting the coordinators in establishing guidelines and priorities, approving the service plan and services provided in meeting the plan, reviewing coordination strategies, and evaluating multicounty or regional transportation opportunities.

Inter-County Trips and Seamless Regional Travel

Designated service areas may include just one county or multiple counties. Trips involving travel in more than one county are provided to eligible transportation disadvantaged persons on a regular basis.¹³ However, issues may arise for transportation disadvantaged persons who must travel across county boundaries, for example, to go to work and return home, because eligibility for transportation disadvantaged services is determined by application in the county of residence.¹⁴

Solutions to such problems may arise in ongoing efforts to address regional multimodal travel through fare collection systems that are interoperable. One such effort in South Florida involves an agreement between Tri-Rail,¹⁵ Broward County Transit, and Palm Tran to allow for the use of a pay card and mobile app on any of their respective transportation modes.¹⁶ Such a system, designed to allow a transportation disadvantaged person deemed eligible in his or her county of residence to move freely across county boundaries in the same or another designated service area, could increase mobility for the transportation disadvantaged person.

III. Effect of Proposed Changes:

Section 1 amends s. 427.0155, F.S., to add to the powers and duties of coordinators, in cooperation with their coordinating boards, planning and using regional fare payment systems when available and cost-effective, which enhance cross-county mobility for the transportation disadvantaged to access employment, health care, education, shopping, or other life-sustaining services across one or more county.

Section 2 amends s. 427.0157, F.S., relating to the powers and duties of coordinating boards. The bill provides additional direction to coordinating boards with respect to the boards' existing duty to evaluate multicounty or regional transportation opportunities during quarterly

¹² Section 427.011(7), F.S.

¹³ Telephone conversation with Commission staff. March 24, 2017.

¹⁴ Individuals are directed to the local community transportation coordinator to find out if they are eligible for transportation disadvantaged services. See the Commission's website available at: <http://www.fdot.gov/ctd/communitytransystem.htm>. (Last visited March 24, 2017.)

¹⁵ Tri-Rail provides commuter rail service in Miami-Dade, Broward, and Palm Beach Counties.

¹⁶ See the Miami-Dade County News Release available at: http://www.miamidade.gov/releases/2017-03-10-dtpw-regional-fare-collection.asp?utm_source=media&utm_medium=email&utm_campaign=release-distribution&utm_term=transit. (Last visited March 24, 2017.)

meetings.¹⁷The bill requires the boards to include evaluations of regional fare payment systems, when available, that enhance cross-county mobility for the transportation disadvantaged to access employment, health care, education, shopping, or other life-sustaining activities.

Section 3 provides the bill take effect July 1, 2017.

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

IV. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

To the extent that regional fare payment systems are implemented, transportation disadvantaged persons may benefit from increased mobility.

C. Government Sector Impact:

Coordinators and coordinating boards will experience administrative expenses associated with planning for regional fare payment systems. Coordinating boards will experience administrative expenses associated with including regional fare payment systems in their evaluations of multicounty and regional transportation opportunities. The fiscal impact of implementing regional fare payment systems is unknown.

V. Technical Deficiencies:

None.

VI. Related Issues:

None.

¹⁷ That section requires coordinating boards to meet “at least” quarterly.

VII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 427.011, 427.0157, and 427.0159

VIII. Additional Information:

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

CS by Transportation on March 28, 2017:

The CS removed the as-filed language from the bill and replaced it with revision of the duties of community transportation coordinators and coordinating boards as follows:

- Community transportation coordinators, in cooperation with their respective coordinating boards, must plan and use regional fare payment systems, when available and cost effective, that enhance cross-county mobility for the transportation disadvantaged, and
- Coordinating boards must include, in their evaluations of multicounty or regional transportation opportunities, regional fare payment systems, when available, that enhance cross-county mobility for the transportation disadvantaged.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/28/2017	.	
	.	
	.	
	.	

The Committee on Transportation (Garcia) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (10) is added to section 427.0155,
Florida Statutes, to read:

427.0155 Community transportation coordinators; powers and
duties.—Community transportation coordinators shall have the
following powers and duties:

(10) In cooperation with the coordinating board, plan for



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11 and use regional fare payment systems when available and cost-
12 effective, which enhance cross-county mobility for the
13 transportation disadvantaged to access employment, health care,
14 education, shopping, or other life-sustaining services across
15 one or more county lines.

16 Section 2. Subsection (6) of section 427.0157, Florida
17 Statutes, is amended to read:

18 427.0157 Coordinating boards; powers and duties.—The
19 purpose of each coordinating board is to develop local service
20 needs and to provide information, advice, and direction to the
21 community transportation coordinators on the coordination of
22 services to be provided to the transportation disadvantaged. The
23 commission shall, by rule, establish the membership of
24 coordinating boards. The members of each board shall be
25 appointed by the metropolitan planning organization or
26 designated official planning agency. The appointing authority
27 shall provide each board with sufficient staff support and
28 resources to enable the board to fulfill its responsibilities
29 under this section. Each board shall meet at least quarterly and
30 shall:

31 (6) Evaluate multicounty or regional transportation
32 opportunities to include regional fare payment systems, when
33 available, which enhance cross-county mobility for the
34 transportation disadvantaged to access employment, health care,
35 education, shopping, or other life-sustaining services across
36 one or more county lines.

37 Section 3. This act shall take effect July 1, 2017.

38
39 ===== T I T L E A M E N D M E N T =====



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40 And the title is amended as follows:

41 Delete everything before the enacting clause
42 and insert:

43 A bill to be entitled

44 An act relating to the transportation disadvantaged;
45 amending s. 427.0155, F.S.; authorizing community
46 transportation coordinators, in cooperation with the
47 coordinating board, to plan for and use regional fare
48 payment systems under certain circumstances which
49 enhance cross-county mobility for specified purposes
50 for certain persons who are unable to transport
51 themselves or to purchase transportation; amending s.
52 427.0157, F.S.; requiring each coordinating board to
53 evaluate multicounty or regional transportation
54 opportunities to include regional fare payment
55 systems, when available, which enhance cross-county
56 mobility for specified purposes for such persons;
57 providing an effective date.

By Senator Garcia

36-01026-17

20171086__

1 A bill to be entitled
 2 An act relating to the transportation disadvantaged;
 3 amending s. 427.011, F.S.; redefining the term
 4 "nonsponsored transportation disadvantaged services";
 5 defining the term "designated service area"; amending
 6 s. 427.0157, F.S.; requiring each coordinating board
 7 to evaluate multicounty or regional transportation
 8 opportunities with specific consideration given to
 9 nonsponsored transportation disadvantaged services
 10 that include services between specific origins and
 11 destinations selected by the individual user which may
 12 require travel across designated service areas to
 13 enhance access to health care, shopping, education,
 14 employment, public services, and other life-sustaining
 15 activities; amending s. 427.0159, F.S.; authorizing
 16 certain funds to be used to purchase services between
 17 specific origins and destinations selected by
 18 individual users that may require travel across
 19 designated service areas to enhance access to health
 20 care, shopping, education, employment, public
 21 services, and other life-sustaining activities;
 22 prohibiting a cash or in-kind match from being
 23 required if services between specific origins and
 24 destinations selected by a disadvantaged person
 25 require such travel; providing an effective date.

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

28
 29 Section 1. Subsection (12) of section 427.011, Florida

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

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30 Statutes, is amended, and subsection (13) is added to that
 31 section, to read:
 32 427.011 Definitions.—For the purposes of ss. 427.011-
 33 427.017:
 34 (12) "Nonsponsored transportation disadvantaged services"
 35 means transportation disadvantaged services that are not
 36 sponsored or subsidized by any funding source other than the
 37 Transportation Disadvantaged Trust Fund. These services may
 38 include services between specific origins and destinations
 39 selected by the individual user which may require travel across
 40 designated service areas to enhance access to health care,
 41 shopping, education, employment, public services, and other
 42 life-sustaining activities.
 43 (13) "Designated service area" means a geographical area
 44 recommended by a designated official planning agency, subject to
 45 approval by the commission, within which the coordinated
 46 transportation services will be provided to the transportation
 47 disadvantaged.
 48 Section 2. Subsection (6) of section 427.0157, Florida
 49 Statutes, is amended to read:
 50 427.0157 Coordinating boards; powers and duties.—The
 51 purpose of each coordinating board is to develop local service
 52 needs and to provide information, advice, and direction to the
 53 community transportation coordinators on the coordination of
 54 services to be provided to the transportation disadvantaged. The
 55 commission shall, by rule, establish the membership of
 56 coordinating boards. The members of each board shall be
 57 appointed by the metropolitan planning organization or
 58 designated official planning agency. The appointing authority

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

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59 shall provide each board with sufficient staff support and
60 resources to enable the board to fulfill its responsibilities
61 under this section. Each board shall meet at least quarterly and
62 shall:

63 (6) Evaluate multicounty or regional transportation
64 opportunities with specific consideration given to the
65 nonsponsored transportation disadvantaged services under
66 subsection (4) which include services between specific origins
67 and destinations selected by the individual user which may
68 require travel across designated service areas to enhance access
69 to health care, shopping, education, employment, public
70 services, and other life-sustaining activities.

71 Section 3. Subsections (1) and (3) of section 427.0159,
72 Florida Statutes, are amended to read:

73 427.0159 Transportation Disadvantaged Trust Fund.—

74 (1) There is established in the State Treasury the
75 Transportation Disadvantaged Trust Fund to be administered by
76 the Commission for the Transportation Disadvantaged. All fees
77 collected for the transportation disadvantaged program under s.
78 320.03(9) shall be deposited in the trust fund. These funds may
79 be used to purchase services between specific origins and
80 destinations selected by individual users which may require
81 travel across designated service areas to enhance access to
82 health care, shopping, education, employment, public services,
83 and other life-sustaining activities.

84 (3) Funds deposited in the trust fund may be used by the
85 commission to subsidize a portion of a transportation
86 disadvantaged person's transportation costs which is not
87 sponsored by an agency, only if a cash or in-kind match is

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88 required. A cash or in-kind match is not required if services
89 between specific origins and destinations selected by the
90 disadvantaged person require travel across designated service
91 areas to enhance access to health care, shopping, education,
92 employment, public services, and other life-sustaining
93 activities. Funds for nonsponsored transportation disadvantaged
94 services shall be distributed based upon the need of the
95 recipient and according to criteria developed by the Commission
96 for the Transportation Disadvantaged.

97 Section 4. This act shall take effect July 1, 2017.

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 Committee on Transportation

BILL: CS/SB 1118

INTRODUCER: Transportation Committee and Senator Gainer and others

SUBJECT: Transportation

DATE: March 28, 2017

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 1118 reflects the Florida Department of Transportation's (FDOT) 2017 Legislative Package. More specifically, the bill:

- Increases the allowable gross vehicle weight for vehicles using natural-gas fueling systems by up to 2,000 pounds under certain conditions, resulting in a reduced overweight penalty and avoiding a potential loss of federal funds;
- Aligns state and federal law by mandating bridge inspections at regular intervals as required by the Federal Highway Administration, as opposed to intervals not exceeding two years, resulting in compliance with revised national bridge inspection requirements and avoiding a potential but likely insignificant diversion of federal funds;
- Increases the current \$120,000 cap on "fast response" contracts to \$250,000 to account for increased construction costs due to inflation;
- Allows turnpike bonds to be validated at the option of the Division of Bond Finance and limits the location of publication of certain related notices to Leon County;
- Exempts certain work program amendments related to emergency repairs from Legislative Budget Commission review;
- Repeals the Florida Highway Beautification Council and creates the Florida Highway Beautification Grant Program within the FDOT.
- Defines "department" to mean the FDOT for purposes of part II of ch. 343, F.S., relating to the South Florida Regional Transportation Authority (SFRTA);

- Prohibits the SFRTA from entering into, extending, or renewing any contract without the FDOT's prior review and written approval of the proposed expenditures if such contract may be funded with FDOT-provided funds;
- Prohibits the SFRTA from committing FDOT-provided funds without the FDOT's prior review and written approval of the authority's expenditures and requires the SFRTA to promptly provide the FDOT with any additional documentation or information necessary to evaluate the SFRTA's proposed uses of state funds.
- Prohibits the FDOT from providing funding to the SFRTA until the authority withdraws, cancels, or otherwise terminates a specified Notice of Intent of Contract Award; and requires the SFRTA, before entering into a new contract for the same services, to obtain the FDOT's written approval of all terms and conditions of the new procurement and contract.
- Deletes and revises cross-references to conform to changes made in the act.
- Provides the bill take effect on July 1, 2017

The FDOT is expected to absorb insignificant administrative expenses in implementing various provisions of the bill, offset by potential savings. The bill also has an indeterminate fiscal impact relating to specific provisions. See Section V., "Fiscal Impact Statement," for details.

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:

Natural Gas-Fueled Vehicle Weight (Section 1)

Present Situation:

Motor Vehicle Weights and Overweight Penalties

The rate of damage to roads and bridges generally increases as vehicle weight increases, resulting in higher maintenance and replacement costs and potentially creating unsafe conditions. Maximum legal vehicle weights are established for all public roads and bridges and allow compliant vehicles to travel most public highways of the state without causing excessive road damage or bridge failures. However, some roads and bridges have lower weight limits due to their age, condition, or design, and these facilities have posted weight limits; *i.e.*, their lower weight limits are identified through signage at the facility. Vehicles exceeding the maximum weight limits on a facility, including posted facilities, are presumed to have damaged the highways of the state and are subject to fines.¹

Gross vehicle weight is the total weight of a vehicle (or combination of vehicles) and any cargo carried by the vehicle.² Federal and state law generally provide that gross vehicle weight may not exceed 80,000 pounds for both the Interstate and non-interstate highway system,³ or the

¹ See ss. 316.545 and 316.555, F.S.

² Section 316.003(27), F.S.

³ See 23 U.S.C. 127 (2015) and s. 316.535, F.S.

maximum allowed by the Federal Bridge Formula.⁴ In Florida, the maximum weight limit is 22,000 pounds on a single axle, and 44,000 pounds on a tandem axle.⁵ These limits do not apply to those vehicles and loads that cannot be easily dismantled or divided (*i.e.*, “non-divisible”), or to other vehicles exceeding the maximum weight limits, if a special permit has been issued in accordance with applicable state laws.⁶

However, the vehicle’s number of axles and the distance between the axles in part controls a vehicle’s maximum allowable weight. Thus, a vehicle’s maximum allowable gross weight may be reduced because the concentration of weight on a particular axle may reach unacceptable limits. For example, pavement and bridge stress is greater for a 30-foot truck with two axles and a gross vehicle weight of 50,000 pounds than a 54-foot tractor-trailer combination of the same weight because the tractor-trailer distributes the load over a greater area. Therefore, the 30-foot truck will have a lower maximum allowable weight.

For weight violations, including violations of weight criteria contained in a special permit, the penalty is as established in s. 316.545(3)(a), F.S., *i.e.*, \$10 for 200 pounds or less and 5 cents per pound for each pound over 200 pounds. Unlawful axle weights are penalized at \$10 for the first 600 pounds, if the gross weight of the vehicle (or vehicle combination) does not exceed the maximum allowable gross weight.⁷

For each violation of the operational or safety restrictions established in a special permit, *e.g.*, using a restricted bridge, the penalty may be as high as \$1,000. However, the cumulative total for multiple violations may not exceed \$1,000.⁸

These penalties are deposited into the State Transportation Trust Fund and used for roadway maintenance and repair.⁹

Cargo Capacity of Vehicles Fueled by Natural Gas Compared to Gasoline or Diesel-Fueled Vehicles

According to the U.S. Department of Energy, about 150,000 vehicles in this country are powered by natural gas, many of which are heavy-duty vehicles.¹⁰ Natural gas vehicles (NGVs) are reported to be similar to gasoline or diesel-fueled vehicles with respect to power, acceleration, and cruising speed; and the use of natural gas as fuel provides additional advantages, such as its domestic availability, its relative low cost, and lower emissions.¹¹ However, these advantages

⁴ This formula is used to determine the maximum allowable weight that any set of axles on a motor vehicle may carry on the Interstate Highway System. For further detail, see the Federal Highway Administration website:

http://ops.fhwa.dot.gov/freight/sw/brdgc/calc_page.htm. (Last visited January 20, 2017.)

⁵ See the Florida Highway Patrol *Commercial Motor Vehicle Manual*, July 2016, at p. 8, available at:

<https://www.flhsmv.gov/fhp/CVE/2015truckingmanual.pdf>. (Last visited January 26, 2017.)

⁶ 23 U.S.C. 127(a) (2015) and s. 316.550, F.S..

⁷ Section 316.545(3)(a), F.S.

⁸ 316.550(10)(c), F.S.

⁹ Section 316.545(6), F.S.

¹⁰ See the U.S. Department of Energy Alternative Fuels Data Center website available at:

http://www.afdc.energy.gov/vehicles/natural_gas.html. (Last visited November 18, 2016.)

¹¹ *Id.* at: http://www.afdc.energy.gov/fuels/natural_gas_benefits.html. (Last visited November 18, 2016.)

may be offset by displacement of cargo capacity, due to the heavier weight of NGV fueling systems relative to gasoline or diesel systems.¹²

Fast Act Natural Gas Vehicle Weight Allowance

The Fixing America's Surface Transportation Act (FAST Act), which authorized Federal surface transportation programs for fiscal years 2016-2020, contained a number of incentives for natural gas. In apparent recognition of the potential displacement of cargo capacity due to the heavier weight of NGVs, the FAST Act authorized a vehicle, if operated by an engine fueled primarily¹³ by natural gas, to exceed any (single axle, tandem axle and bridge formula) weight limit (up to a maximum gross vehicle weight of 82,000 pounds) by an amount that is equal to the difference between:

- The weight of the vehicle attributable to the natural gas tank and fueling system carried by that vehicle, and
- The weight of a comparable diesel tank and fueling system.¹⁴

The Federal Highway Administration (FHWA) has advised states to review state statutes, regulations, and procedures, as well as load rating and posting calculations and enforcement practices, for necessary updating.¹⁵ Further, the FHWA noted that while the federally increased weight allowance does not preempt a state from enforcing *state* weight limits on all highways, it does “prevent[] the FHWA from imposing funding sanctions if a state authorizes the additional weight limit on its Interstate system.”¹⁶

Florida law has long adhered to the general maximum weight limits contained in the Federal law,¹⁷ and the FDOT issues special permits for vehicles transporting non-divisible loads and for other vehicles exceeding maximum weight limits.¹⁸ Florida law currently grants a 500-pound weight allowance for idle reduction technology consistent with federal law, but does not authorize the additional weight for NGVs allowed in the FAST Act.¹⁹

FDOT Permitting of NGVs

In response to the FAST Act, the FDOT performed an assessment to determine if any bridges, other than those currently posted for weight, would require posting because of the additional

¹² *Id.*. “The driving range of NGVs is generally less than that of comparable conventional vehicles because of the lower energy density of natural gas. Extra storage tanks can increase range, but the additional weight may displace cargo capacity.”

¹³ Some NGVs are fueled solely by natural gas, some are bi-fueled with two separate fueling systems that enable them to run on either natural gas or gasoline, and some are dual-fueled. Dual-fueled vehicles “are traditionally limited to heavy-duty application, have fuel systems that run on natural gas, and use diesel fuel for ignition assistance.” *Supra* note 8.

¹⁴ P.L. 114-94, s. 1410 (2015). *See also* the Federal Highway Administration Memorandum dated February 24, 2016, *Information: Fixing America's Surface Transportation Act (FAST Act) Truck Size and Weight Provisions*. (On file in the Senate Transportation Committee.)

¹⁵ *Id.*, Memorandum Question and Answer 16.

¹⁶ *Id.*, Question and Answer 14.

¹⁷ *See* s. 316.535, F.S.

¹⁸ *See* s. 316.550, F.S.

¹⁹ Section 316.545(3)(b), F.S.

weight allowance for NGVs authorized in the Act. The FDOT advises that the study concluded that the additional weight of NGVs would not require bridges to be re-load rated or posted.²⁰ The FDOT also developed a permit process in June of 2016 to allow the operation of NGVs at the new Federal weight limits, but no permits were issued, perhaps because the industry is unaware of the need for such a permit.²¹ As a result, the FDOT estimates that approximately 292 citations²² have been issued, totaling \$375.00 in fines, 15 of which have been contested before the Commercial Motor Vehicle Review Board.²³ The FDOT advises no relief was granted for any of the 15 contested citations.²⁴

Effect of Proposed Changes:

Section 1 of the bill amends s. 316.545(3), F.S., to provide for a specified reduction in the actual gross weight of an NGV, when calculating the penalty for exceeding maximum weight limits, so long as the actual gross weight of the vehicle does not exceed 82,000 pounds, exclusive of the existing 500-pound weight allowance for idle reduction technology. The bill will create greater uniformity between federal and state law, which is especially important for truck drivers doing interstate business, and avoids a potential withholding of federal funds.

If an NGV is found to be overweight, then the penalty will be calculated by reducing the actual gross vehicle weight by the certified difference in weight between the natural gas tank and fueling system carried by that vehicle, and a comparable diesel tank and fueling system, before applying the currently applicable penalty. If the actual gross weight of the NGV exceeds 80,000 pounds plus the certified weight difference, a penalty of \$.05 per pound of excess weight could be assessed.

If the NGV is also equipped with idle reduction technology, the penalty will be calculated by reducing the actual gross vehicle weight by the certified difference in weight between the natural gas tank and fueling system carried by that vehicle and a comparable diesel tank and fueling system, and by an additional 500 pounds. If the actual gross weight of the NGV with idle reduction technology exceeds 80,500 pounds plus the certified weight difference, a penalty of \$.05 per pound of excess weight could be assessed.

The bill contains a proof requirement; *i.e.*, the vehicle operator must present a written certification that identifies the weight of the natural gas tank and fueling system, and the difference in weight of a comparable diesel tank and fueling system, upon request of a weight inspector or a law enforcement officer. The certification must originate from the vehicle manufacturer or the installer of the natural gas tank and fueling system.

The bill excludes vehicles described in s. 316.535(6), F.S., from qualifying for the reduced calculation. These vehicles, typically called straight trucks, include dump trucks, concrete

²⁰ See the FDOT's response to staff questions. (On file in the Senate Transportation Committee.)

²¹ *Id.*

²² The FDOT notes this estimate is based on a search for companies that utilize NGVs and received an overweight citation in the last year. Because the citation form is not designed to specify this particular infraction, some of the 292 cases may not be related to the FAST Act. *Id.*

²³ Section 316.545(7), F.S., establishes the Board within the FDOT and authorizes the Board to review any penalty imposed under chapter 316, F.S.

²⁴ *Supra* note 11.

mixing trucks, trucks engaged in waste collection and disposal, and fuel oil and gasoline trucks designed and constructed for special type work. The cargo unit and the power unit on these trucks sit on the same frame,²⁵ meaning that the concentration of weight is greater than, for example, a combination vehicle with an axle configuration that distributes the weight over a greater area. These vehicles continue to be limited to a gross weight of 70,000 pounds.

Bridge Inspection Frequency (Section 2)

Present Situation:

National Bridge Inspection Standards

Federal law requires the U.S.D.O.T. Secretary, in consultation with states and Federal agencies having jurisdiction, to inventory all highway bridges on public roads; to classify the bridges according to serviceability, safety, and essentiality for public use; and to assign each bridge a risk-based priority for systematic preventative maintenance, replacement, or rehabilitation.²⁶ The Federal-aid Highway Act of 1968 required the Secretary to develop regulations establishing national bridge inspection standards with the primary purpose of locating and evaluating existing bridge deficiencies to ensure the safety of the traveling public. The current standards are specified in 23 C.F.R. 650, Subpart C, and apply to all highway bridges located on all public roads.

States are required by the standards to inspect all highway bridges located on public roads that are fully or partially located within the state, except for bridges owned by Federal agencies. Inspections are to be conducted in accordance with the American Association of State Highway and Transportation Officials *Manual for Condition Evaluation of Bridges*, which “serves as a standard and provides uniformity in the procedures and policies for determining the physical condition, maintenance needs, and load capacity of the Nation’s highway bridges.”²⁷

National Inspection Frequency Revisions

Before 2005, with specific reference to frequency of bridge inspections, the national standards generally required each bridge to be inspected at regular intervals not to exceed two years but recognized that certain bridges require inspection at less than two-year intervals. Those earlier standards also recognized that the maximum inspection interval for certain bridges could be appropriately increased in cases in which past inspection reports and favorable experience and analysis justified an increase. States were authorized to submit a detailed proposal and supporting data for approval of an increased interval, but in no case could the maximum time period between inspections exceed four years.

²⁵ See s. 316.003(76), F.S.

²⁶ See 23 U.S.C. 144 (2015).

²⁷ *Federal Register*, Vol. 74, no. 246, Thursday, December 24, 2009, at 68378.

Changes to the standards, effective January 13, 2005, among other items, included expansion of the bridge inspection frequency provisions, such that the FDOT is required to:

- Inspect each bridge at regular intervals not exceeding 24 months for routine inspections;²⁸ establish criteria to determine the level and frequency of inspection of bridges at less than 24-month intervals, considering such factors as age, traffic characteristics, and known deficiencies; and seek written approval from the Federal Highway Administration (FHWA) to inspect certain bridges at greater than 24-month intervals if past inspection findings and analyses justify an increased interval.
- Inspect underwater structural elements at regular intervals not exceeding 60 months; establish criteria to determine the level and frequency of inspection of these elements at less than 60-month intervals, considering such factors as construction material, environment, age, scour characteristics, condition rating from past inspections, and known deficiencies; and seek written approval from the FHWA to inspect certain underwater structural elements at greater than 60-month intervals, but not exceeding 72 months, if past inspection findings and analysis justify an increased interval.
- Inspect fracture critical members (FCMs)²⁹ at intervals not to exceed 24 months; establish criteria to determine the level and frequency of inspection of FCMs at less than 24-month intervals, considering such factors as age, traffic characteristics, and known deficiencies; and establish criteria to determine the level and frequency of damage, in-depth, and special inspections.³⁰

Compliance Reviews

States are subject to an annual review for compliance with the national standards using 23 metrics³¹ that contain criteria for assessing a state's compliance with each metric. A state is notified of any finding of noncompliance and provided an opportunity for correction. If a state ultimately remains noncompliant, the penalty is that the state must dedicate certain funds that would otherwise be available for projects to correcting the noncompliance.³² The FDOT advises it has received no such notification.³³

²⁸ "Routine inspection" is defined as a regularly scheduled inspection consisting of observations and/or measurements needed to determine the physical and functional condition of the bridge, to identify any changes from initial or previously recorded conditions, and to ensure that the structure continues to satisfy present service requirements. 23 C.F.R. 650.305 (4-1-16).

²⁹ "Fracture critical member" is defined as a member in tension, or with a tension element, whose failure would probably cause a portion of or the entire bridge to collapse. A "fracture critical member inspection" is defined as a hands-on inspection of a fracture critical member or member components that may include visual and other non-destructive evaluation. *Id.*

³⁰ "Damage inspection" is defined as an unscheduled inspection to assess structural damage resulting from environmental factors or human actions. "In-depth inspection" is defined as a close-up inspection of one or more members above or below the water level to identify any deficiencies not readily detectable using routine inspection procedures, with hands-on inspection being necessary at some locations. "Special inspection" is defined as an inspection scheduled at the discretion of the bridge owner, used to monitor a particular known or suspected deficiency. *Id.*

³¹ See the *Federal Register*, Vol. 79, No. 91, Monday, May 12, 2014, for a listing of each metric and citations to their locations in the Code of Federal Regulations, as well as an overview of the compliance review process.

³² These are National Highway Performance Program funds and Surface Transportation Block Grant Program funds. See 23 U.S.C. 144(h)(5) (2015).

³³ Telephone conversation with the FDOT staff, January 26, 2017.

Florida Bridge Inspection Law

The existing Florida Statutes do not comply with the described national bridge inspection frequency provisions. Currently, Florida law requires the governmental entity having maintenance responsibility for each bridge on a public transportation facility to inspect such bridges at regular intervals not to exceed two years.^{34, 35}

The FDOT does have already-established criteria for routine inspections at intervals not exceeding 24 months, and for certain other inspection levels and frequencies for bridges determined to require inspection at less than 24-month intervals.³⁶ However, because of the existing state mandate for inspection of each bridge at intervals *not exceeding* 2 years, the FDOT has not developed nor sought written approval from the FHWA for the inspection intervals, criteria, and FHWA approvals required by the revised national standards.

Effect of Proposed Changes:

Section 2 of the bill amends s. 335.074(2), F.S., to require bridge inspections at regular intervals *as required by the Federal Highway Administration*, rather than at intervals not exceeding 2 years. This revision will allow the FDOT to seek FHWA approval of its existing procedures, develop and establish the criteria for the required increased inspection intervals, and obtain the FHWA's approval, consistent with the revised national standards. A potential but likely insignificant³⁷ diversion of federal funds from actual projects to noncompliance correction is avoided.

Fast Response Contracts Cap (Section 3)*Present Situation:**FDOT Contracting Authority*

Generally, the FDOT is authorized to enter into contracts for the construction and maintenance of all roads designated as part of the State Highway System, the State Park Road System, or of any roads placed under its supervision by law. This authorization includes construction and maintenance contracts for rest areas, weigh stations, and other structures, including roads, parking areas, supporting facilities and associated buildings used in connection with such facilities. With certain exceptions, these contracts must be advertised for competitive bidding, and such contracts generally must be awarded to the lowest responsible bidder.³⁸

Required Surety Bond

A successful bidder on a construction or maintenance contract is required to post a surety bond in an amount equal to the awarded contract price with certain exceptions. One exception is the FDOT's authorization to waive all or a portion of the bond requirement if the contract price is

³⁴ Section 335.074(2), F.S.

³⁵ Section 335.074(3)(b), F.S., requires each governmental entity to report its inspections to the FDOT.

³⁶ See the FDOT Procedure 850-010-030-j, section 3.2. (Copy on file in the Senate Transportation Committee.)

³⁷ Telephone conversation with the FDOT staff February 1, 2017.

³⁸ Section 337.11, F.S.

\$250,000 or less, and if the FDOT determines that the project is of a noncritical nature and that nonperformance will not endanger public health, safety, or property.³⁹ With respect to construction contracts, the FDOT may waive all or a portion of a bond for contracts of \$150,000 or less if the FDOT makes the same determination.⁴⁰

Fast Response Contracting Cap

One of the exceptions to the competitive bidding requirement currently authorizes the FDOT, under certain conditions, to enter into construction and maintenance contracts, up to the amount of \$120,000, without advertising and receiving competitive bids. The FDOT may exercise this authority when the FDOT determines that doing so is in the best interest of the public for reasons of public concern, economy, or improved operations or safety, and only when circumstances dictate rapid completion of the work:

- To ensure timely completion of projects or avoidance of undue delay for other projects;
- To accomplish minor repairs or construction and maintenance activities for which time is of the essence and for which significant cost savings would occur; or
- To accomplish nonemergency work necessary to ensure avoidance of adverse conditions that affect the safe and efficient flow of traffic.⁴¹

The FDOT is required to make a good faith effort to obtain two or more quotes, if available, from qualified contractors before entering into any contract and give consideration to disadvantaged business enterprise participation. If, however, the work exists within the limits of an existing contract, the FDOT must make a good faith effort to negotiate and enter into a contract with the prime contractor on the existing contract. These contracts fund projects such as sinkhole repairs that protect roadways and other infrastructure, traffic railing and guardrail repairs needed to protect the safety of the traveling public, and drainage and inlet work that prevents roadway flooding during heavy rain.

When first enacted in 1999, the threshold amount was set at \$60,000,⁴² and the Legislature increased that amount to the current \$120,000 in 2002.⁴³

Construction Costs and Inflation

The FDOT advises that the usefulness of this statute has been limited by increased construction costs due to inflation and notes the only issue with meeting the conditions outlined in the statute is the current \$120,000 cap. The FDOT performed an analysis to reach an approximate estimate of the current \$120,000 contract cap converted to present-day costs, concluding that the current cap, adjusted for inflation, amounts to over \$200,000.⁴⁴ The FDOT advises that increasing the current cap to \$250,000 “will account for increased construction costs and extend the

³⁹ Section 337.18(1), F.S.

⁴⁰ Section 337.14(2), F.S.

⁴¹ Section 337.11(6)(c), F.S.

⁴² Ch. 99-385, Laws of Fla.

⁴³ Ch. 2002-20, Laws of Fla.

⁴⁴ See the FDOT’s Office of Policy Planning document, *Advisory Inflation Factors for Previous Years (1987-2016)*, available at: <http://www.fdot.gov/planning/policy/costs/retrocostinflation.pdf>. (Last visited January 25, 2017.)

Department's ability to quickly respond to construction and maintenance needs that are in the best interest of safety and the economy."⁴⁵

Effect of Proposed Changes:

Section 3 of the bill amends s. 337.11(6)(c), F.S., to increase the current \$120,000 threshold amount to \$250,000. The FDOT will be authorized to enter into maintenance and construction contracts, after making the necessary determination and when circumstances dictate rapid completion of the work, up to a contract amount of \$250,000. The FDOT's described authority to waive all or a portion of a required surety bond remains unchanged.

Turnpike Revenue Bonds/Bond Validation (Sections 4 and 10)

Present Situation:

Bond Validation

The Division of Bond Finance (DBF) is authorized to issue revenue bonds on behalf of the FDOT to finance or refinance the cost of legislatively approved turnpike projects in accordance with s. 11(f), Art. VII of the State Constitution.⁴⁶ The state or its agencies may issue revenue bonds without a vote of the electors to finance or refinance the cost of state fixed capital outlay projects⁴⁷ authorized by law, and purposes incidental thereto, which bonds are payable solely from funds other than state tax revenues; e.g., toll revenues.⁴⁸ The DBF must submit a proposed bond issuance for approval by the State Board of Administration.⁴⁹ The Board, by resolution, may authorize the DBF to issue bonds on behalf of a state agency at one time or from time to time,⁵⁰ and the Board must approve all bonds to be issued by the DBF as to fiscal sufficiency.⁵¹

Once approved, such bonds must be validated under ch. 75, F.S.⁵² In a bond validation proceeding, the entity authorized by law to issue bonds files a complaint to establish its authority to incur bonded debt, as well as the legality of all proceedings in connection with the bond issuance.⁵³ A final judgment validating such bonds is "forever conclusive" and may not be challenged in any court by any person or party.⁵⁴

⁴⁵ See the FDOT's 2017 Legislative Proposal, *Rapid-Response Contracts-Price Increase*. (On file in the Senate Transportation Committee.)

⁴⁶ Section 338.227(3), F.S.

⁴⁷ Defined in s. 216.011(1)(p), F.S., to mean the appropriation category used to fund real property (land, buildings, including appurtenances, fixtures and fixed equipment, structures, etc.), including additions, replacements, major repairs, and renovations to real property which materially extend its useful life or materially improve or change its functional use and including furniture and equipment necessary to furnish and operate a new or improved facility, when appropriated by the Legislature in the fixed capital outlay appropriation category.

⁴⁸ See also s. 215.59(2) and s. 215.79, F.S.

⁴⁹ The State Board of Administration, created by the Florida Constitution, is governed by the Governor as the Chair of the Board of Trustees, the Chief Financial Officer, and the Attorney General. The Board is one of several boards and commissions making up the Florida Cabinet system. The Florida Cabinet consists of the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture.

⁵⁰ Section 215.68, (1), F.S.

⁵¹ Section 215.73, F.S.

⁵² Section 215.82(2), F.S.

⁵³ See s. 75.02, F.S.

⁵⁴ Section 75.09, F.S.

As described by the DBF with specific reference to Turnpike bonds:

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. Validation is generally not necessary for established borrowing programs, such as Turnpike bonds, where any legal issues relating to the bonds have been resolved previously. Validation is optional for almost all bonds issued by the Division of Bond Finance, including Public Education Capital Outlay Bonds and University Revenue Bonds. If a constitutional or statutory question arises for a proposed bond issue, a complaint for validation may be filed in circuit court even if validation is not required.⁵⁵

Required Notice Publication

In any action to validate bonds issued pursuant to s. 338.227, F.S., the complaint must be filed in the circuit court of Leon County, and the notice required by s. 75.06, F.S., must be published in a newspaper of general circulation *in Leon County and in two other newspapers of general circulation in the state.*⁵⁶ The complaint and order of the circuit court must be served only on the state attorney of the circuit in which the action is pending (the Second Circuit).

Section 75.06(2), F.S., requires the clerk, before the date set for hearing on a complaint to validate Turnpike bonds, to publish a copy of the court's order requiring appearance at the hearing in Leon County at least once each week for two consecutive weeks, commencing with the first publication, which may not be less than 20 days before the date set for hearing, *in a newspaper in each of the counties where the proceeds of the bonds are to be expended, and in a newspaper published in Leon County.*⁵⁷

However, if publication pursuant to s. 215.82, F.S., would require publication in more newspapers than would publication pursuant to s. 75.06, F.S., then publication pursuant to s. 75.06, F.S., controls.⁵⁸ The currently required publication is dependent upon the geographic reach of the project(s) for which funding through bond issuance is sought.

Effect of Proposed Changes:

The bill leaves validation of turnpike bonds to the discretion of the DBF and limits provisions relating to publication of the required notice.

⁵⁵ See copy of email from the Florida Division of Bond Finance to House staff dated January 27, 2015 (On file with the Senate Committee on Transportation).

⁵⁶ Emphasis added.

⁵⁷ Emphasis added.

⁵⁸ See s. 215.82(2), F.S.

Section 4 of the bill creates subsection (5) of s. 338.227, F.S., to:

- Provide turnpike bonds issued pursuant to that section are not required to be validated pursuant to chapter 75, F.S., notwithstanding s. 215.82, F.S.;
- Provide for validation at the option of the DBF; and
- Require the notice under s. 75.06, F.S., to be published only in Leon County.

Section 10 of the bill amends s. 215.82(2), F.S., to strike the reference to s. 338.227, F.S., and add a reference to the language in newly created s. 338.227(5), F.S.

Emergency Work Program Amendments (Section 5)

Present Situation:

The FDOT's Work Program

The FDOT is responsible for developing a five-year plan of transportation projects in partnership with other entities such as communities, metropolitan planning organizations, local governments, other state and federal agencies, modal partners, and regional entities. Each of the FDOT's districts develops a "district work program," which is a five-year listing of transportation projects planned for each fiscal year and submitted to the FDOT's central office for review. The central office then develops a "tentative work program" (TWP) based on the district work programs. The TWP is a future five-year listing of all projects planned for each fiscal year, setting forth all projects by phase to be undertaken during the ensuing fiscal year and planned for the successive four fiscal years. On July 1 of each year, the FDOT adopts the "adopted work program," (AWP) which is the five-year listing of all projects planned for each fiscal year, including the current fiscal year.⁵⁹

The TWPs and AWP's must set out the proposed commitments and planned expenditures for the projects listed and be based on a complete, balanced financial plan.⁶⁰ Commitments⁶¹ generally must be planned so as to deplete the estimated resources for the fiscal year.⁶² Budgeting in excess of revenues received from various sources is prohibited.⁶³ The FDOT may include in each new TWP proposed changes to the projects contained in the previous AWP but is required to minimize changes to the four common fiscal years contained in the previous AWP and the new TWP.⁶⁴

⁵⁹ See s. 339.135, F.S.

⁶⁰ Section 339.135(3)(a), F.S.

⁶¹ The FDOT operates on a cash flow-commitment basis. Multi-year transportation projects begin before the total amount of cash is available to fund the entire project. Future revenues are used to pay for a project as actual expenditures occur. The FDOT measures and evaluates anticipated future revenues against total and planned project commitments. See the FDOT's *Work Program 101* computer based training available at: <http://wbt.dot.state.fl.us/ois/WorkProgram101CBT/index.shtm>. (Last visited December 2, 2016.)

⁶² Section 339.135(3)(b), F.S.

⁶³ Section 339.315(3)(c), F.S.

⁶⁴ Section 339.315(4)(b)3., F.S.

Amending the Adopted Work Program

The AWP may be amended, subject to certain procedures. The FDOT may amend the AWP to transfer fixed capital outlay appropriations for projects within the same appropriations category or between appropriations categories, including the following:

- To delete any project or project phase estimated to cost over \$150,000;
- To add a project estimated to cost over \$500,000;
- To advance or defer to another fiscal year a right-of-way phase, a construction phase, or a public transportation project phase estimated to cost over \$1.5 million, with certain exceptions; or
- To advance or defer to another fiscal year any preliminary engineering phase or design phase estimated to cost over \$500,000, with certain exceptions.^{65, 66}

If the FDOT proposes any amendment to the AWP described above the FDOT must submit the proposed amendment to the Governor for approval.⁶⁷ The FDOT must notify:

- The chairs of the appropriations and transportation committees;
- Each member of the Legislature representing a district affected by the proposed amendment; and
- Each affected metropolitan planning organization (MPO) and unit of local government, if not notified in connection with the 14-day comment period.⁶⁸

Current law prohibits the Governor from approving a proposed amendment until 14 days following the notification to the committee chairs, Legislative members, MPOs, and local governments.⁶⁹ If either of the appropriations committee chairs, the Senate President, or the House Speaker objects in writing to a proposed amendment within 14 days following the notification and specifies the reason for the objection, the Governor must disapprove the proposed amendment.⁷⁰

Any work program amendment that also requires the transfer of fixed capital outlay⁷¹ appropriations between categories within the FDOT, or the increase of an appropriation category, is subject to the approval of the Legislative Budget Commission (LBC), if not subject to

⁶⁵ Section 339.135(7)(c), F.S.

⁶⁶ FDOT Districts may loan funds between districts, under specified conditions. Such loans constitute an amendment to the AWP per s. 339.135(7)(b), F.S., and are subject to the same budget amendment threshold amounts contained in s. 339.135(7)(c), F.S. The FDOT is required to index the thresholds to the Consumer Price Index or similar inflation indicators no more frequently than once a year, subject to specified notice and review procedures

⁶⁷ If the amendment deletes or defers a capacity project construction phase, affected counties and cities must be given a 14-day comment period prior to the amendment being submitted to the Governor. Section 339.135(7)(d)1., F.S.

⁶⁸ Section 339.135(7)(d)2., F.S.

⁶⁹ Section 339.135(7)(d)3., F.S.

⁷⁰ Section 339.135(7)(d)4., F.S.

⁷¹ Defined in s. 216.011(1)(p), F.S., to mean the appropriation category used to fund real property (land, buildings, including appurtenances, fixtures and fixed equipment, structures, etc.), including additions, replacements, major repairs, and renovations to real property which materially extend its useful life or materially improve or change its functional use and including furniture and equipment necessary to furnish and operate a new or improved facility, when appropriated by the Legislature in the fixed capital outlay appropriation category.

legislation enacted in 2016.⁷² The 2016 legislation required LBC approval of any work program amendment in excess of \$3 million that also adds a new project, or phase thereof, to the AWP.⁷³

Emergency Work Program Amendments

Recognizing that circumstances can arise that would make the above-described processes unworkable, existing law makes provision for emergencies. Notwithstanding the notification and approval requirements described above and the requirement for LBC review of amendments transferring fixed capital outlay appropriations between categories,⁷⁴ current law authorizes the FDOT secretary to request AWP amendments when an emergency⁷⁵ exists and the emergency relates to the repair or rehabilitation of any state transportation facility. The Governor may grant approval and amend the FDOT's approved budget if a delay due to the notification requirements described above would be detrimental to the interests of the state. The FDOT must immediately notify the committee chairs and the affected Legislative members, MPOs, and local governments, and provide written justification for the emergency action within seven days after approval.⁷⁶

The FDOT notes that this exemption ensures that emergency repairs proceed quickly, protecting the safety and convenience of the traveling public.⁷⁷ However, when the 2016 legislation was enacted to require LBC approval of any work program amendment in excess of \$3 million that also adds a new project, or phase thereof, to the AWP, no exception from the notification, approval, and LBC-review requirements was granted for emergencies. The FDOT seeks to clarify that emergency work program amendments are also exempt from the LBC approval requirement of the 2016 legislation. In Fiscal Year 2016-2017 so far, the FDOT advises only one work program amendment was submitted for LBC review that, under the proposed revision, would not have been submitted.⁷⁸

Effect of Proposed Changes:

Section 5 of the bill amends s. 339.135(7)(e), F.S., relating to emergency amendment of the FDOT's work program, to insert a cross-reference to subsection (h), relating to the 2016 requirement for LBC review and approval of any work program amendment in excess of \$3 million that also adds a new project, or phase thereof, to the AWP. This revision results in an exception to LBC review and approval of such amendments in the case of emergencies, under the conditions specified in current law.

⁷² Section 339.135(7)(g), F.S.

⁷³ Section 339.135(7)(h), F.S.

⁷⁴ Section 339.135(7)(e), F.S., also expressly notwithstanding the provisions of s. 216.772(2), F.S., relating to certain other notice, review, and objection procedures with respect to appropriations, and s. 216.351, F.S., providing that subsequent inconsistent laws supersede that chapter only by express reference to that section.

⁷⁵ Defined by s. 252.34(4), F.S., to mean any occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property.

⁷⁶ Current law prohibits amending the AWP for emergency purposes unless the FDOT's comptroller certifies the availability of sufficient funds. Section 339.135(7)(e), F.S.

⁷⁷ See the FDOT's 2017 Legislative Proposal, *Work Program Amendments-LBC/Emergency Projects*. (On file in the Senate Transportation Committee.)

⁷⁸ See the FDOT's response to staff questions. (On file in the Senate Transportation Committee.)

Florida Highway Beautification Council Repeal/FDOT Grant Program (Section 6)

Present Situation:

The Council's Role

Section 339.2405, F.S., established the Florida Highway Beautification Council (Council) within the FDOT in 1987. The Council consists of seven members appointed by and serving at the pleasure of the Governor, with each chair selected by the Council members and serving a two-year term. Currently, all appointed members must be residents of this state. Of the seven members, two must be private citizens and one each must be:

- A licensed landscape architect;
- A representative of the Florida Federation of Garden Clubs, Inc.;
- A representative of the Florida Nurserymen and Grower Association;
- An FDOT representative designated by the FDOT secretary; and
- A representative of the Department of Agriculture and Consumer Services.

The Council is required to meet at least semiannually and may prescribe, amend, and repeal bylaws. The Council's duties are to:

- Provide information to local governments and local highway beautification councils about the state highway beautification grants program;
- Accept and review grant requests from local governments;
- Establish rules for evaluating and prioritizing the grant requests;
- Maintain a prioritized list of approved grant requests;
- Assess the feasibility of planting and maintain indigenous wildflowers and plants, instead of sod groundcovers, along the rights-of-way of state roads and highways;
- At the request of the FDOT secretary, review and make recommendations on any other highway beautification matters; and
- Annually submit to the FDOT secretary a proposal recommending the level of grant funding.

Local councils may be created by local governmental entities or by the Legislature. The local government or governments of the area in which the project is located must approve a grant request before its submission to the Council. After receiving recommendations from the Council, the FDOT secretary must award grants to local governmental entities in the order they appear on the Council's prioritized list and in accordance with available funding.⁷⁹

Beautification grants may be requested only for projects to beautify through landscaping roads on the State Highway System. A grant request must identify all costs associated with the project, including sprinkler systems, plant materials, equipment, and labor. Grant funds must provide for the costs of purchase and installation of a sprinkler system and the cost of plant materials and fertilizer. Grant funds may provide for the costs for labor associated with the installation of plantings.

⁷⁹ Section 334.044(26), F.S., requires the FDOT to allocate no less than 1.5 percent of the amount contracted for roadway and bridge construction projects for the purchase of plant materials. The FDOT advises that highway beautification grant funds are included in its calculation of the 1.5 percent requirement. *See* the FDOT's response to staff questions. (On file in the Senate Transportation Committee.)

Each local government that receives a grant is responsible for paying any costs for water, sprinkler system maintenance, and landscaped area maintenance in accordance with a maintenance agreement with the FDOT. Except as provided in the grant, each local government is also responsible for paying any costs for labor associated with plant installation. The FDOT is authorized to provide by contract services to maintain such landscaping at a level not to exceed the cost of routine maintenance of an equivalent un-landscaped area.

The FDOT’s Role

The FDOT reports that each FDOT District appoints a District Highway Beautification Council Grant Manager (District Manager). The District Manager works with the District Landscape Architect and the State Transportation Landscape Architect (STLA), promoting the grant program and assisting applicants through the grant process. Each District Manager compiles and submits to the STLA a district-wide list of all applications received, and the STLA then compiles a statewide list. After the Council ranks each project, the STLA produces a Ranked Listing of the projects. Grants are awarded in the ranked order until the remaining budget is insufficient to fund the next ranked project.⁸⁰

Recent Grant Funding and Council Expenses

The line items for highway beautification included in the FDOT’s budget for the most recent five Fiscal Years is as follows:

<u>Fiscal Year</u>	<u>Line-Item</u>
2012-2013	\$1,000,000
2013-2014	\$1,000,000
2014-2015	\$1,800,000
2015-2016	\$1,817,000
2016-2017	\$1,800,000 ⁸¹

The FDOT is required to provide staff support services to the Council. For Fiscal Years 2012-13 through 2016-17, the FDOT advises it expended \$167,500 for administrative costs and travel to support the Council.⁸²

Effect of Proposed Changes

The bill repeals the Florida Highway Beautification Council and creates the Florida Highway Beautification Grant Program within the FDOT, with the FDOT secretary awarding grants to local governmental entities for beautification of roads on the State Highway System based on the FDOT’s prioritized list.

⁸⁰ See the FDOT’s 2017 Legislative Proposal, *Repeal of the Florida Highway Beautification Council*. (On file in the Senate Transportation Committee.)

⁸¹ *Id.*

⁸² See the FDOT’s *Estimated Admin and Travel Expense to Administer the Grants*. (On file in the Senate Transportation Committee.)

Section 6 of the bill amends s. 339.2405, F.S., creating the Grant Program within the FDOT and repealing all of the provisions relating to the Council, its membership, chair selection, meeting frequency, quorum requirements, compensation, and bylaws, etc.

The current Council duties are transferred to the FDOT, with the exception of assessing the feasibility of planting and maintaining indigenous wildflowers and plants, instead of sod groundcovers, using data from other states. The bill removes the required assessment, as it has been accomplished. The FDOT continues its efforts to improve aesthetics and driver safety while lowering maintenance costs through its Wildflower and Natural Areas Program.⁸³

Also removed to conform to the repeal of the Council is its authorization to make recommendations on other highway beautification matters and direction to the FDOT secretary to provide staff support services to the Council. Authorization to create local councils remains in place. The FDOT would rank the requests, rather than the Council, and the FDOT secretary would award grants based on the FDOT's prioritized list of approved grant requests, until the remaining budget is insufficient to fund the next ranked project.

South Florida Regional Transportation Authority (SFRTA) Funding and Contracting (Sections 7 – 9)

Present Situation:

The SFRTA and Funding

The SFRTA, created in 2003, is an agency of the state established in part II of ch. 343, F.S. The governing body of ten voting members includes:

- One county commissioner each, elected by the county commission from Broward, Miami-Dade, and Palm Beach Counties;
- One citizen who is not a commission member, appointed by each county commission;
- An FDOT district secretary or his designee appointed by the FDOT secretary; and
- Three citizens appointed by the Governor.

Members serve four-year terms, except that the terms of the Governor's appointees must be concurrent.

The SFRTA is authorized to coordinate, develop, and operate a regional transportation system in the tri-county area of Broward, Miami-Dade, and Palm Beach Counties. The SFRTA provides commuter rail service (Tri-Rail) for residents and visitors in the area served. Statutory provisions require each of the three counties served to provide no less than \$2.67 million annually, dedicated by each governing body by October 1 of each year, which funds may be used for capital, operations, and maintenance.⁸⁴ Additionally, current law requires each county to annually fund SFRTA operations in an amount no less than \$1.565 million.⁸⁵

⁸³ See the FDOT website for further information on the current program, including links to the referenced report, a history of the program, the FDOT's current wildflower procedure, and other related details available at: <http://www.fdot.gov/designsupport/wildflowers/default.shtm>. (Last visited March 2, 2017.)

⁸⁴ Section 348.58(1), F.S.

⁸⁵ Section 348.58(3), F.S.

Further, if the SFRTA, by December 31, 2015, had not received federal matching funds based on the dedicated \$2.67 million in tri-county funding, current law provides that funding is repealed. The SFRTA's 2016 Comprehensive Annual Financial Report reflects that the three counties contributed approximately \$1.6 million each towards the SFRTA's operating budget in Fiscal Years 2015 and 2016.⁸⁶ Thus, it appears the SFRTA received no federal matching funds, and the counties are no longer required to provide the annual \$2.67 million to the SFRTA.

The SFRTA is currently responsible for dispatching, maintenance, and inspection of the South Florida Rail Corridor.⁸⁷ Having assumed such responsibility, the FDOT is required to annually transfer to the SFRTA a total of \$42.1 million as follows:

- \$15 million for SFRTA operations, maintenance, and dispatch; and
- \$27.1 million for operating assistance, corridor track maintenance, and contract maintenance for the SFRTA.⁸⁸

According to a Florida Transportation Commission report, the FDOT has agreed to cover 100 percent of annual maintenance costs up to \$14.4 million, with shared costs in excess of that amount, pursuant to an Operating Agreement between the FDOT and the SFRTA setting out agreed-upon percentages.⁸⁹ The SFRTA's 2016 Comprehensive Annual Financial Report indicates that of the \$102,201,506 million in total revenue for 2016, the FDOT contributed \$55,260,036 million or 54.1 percent.⁹⁰

The FDOT's Oversight Role

The SFRTA may not commit any funds provided by the FDOT without the FDOT's approval. The FDOT may not unreasonably withhold approval. At least 90 days before advertising any procurement or renewing any existing contract using state funds for payment, the SFRTA must notify the FDOT of the proposed procurement or renewal and the proposed terms. If the FDOT objects in writing within 60 days of receipt of the notice, the SFRTA may not proceed. Failure of the FDOT to object within 60 days is deemed consent.⁹¹ To enable the FDOT's evaluation of the SFRTA's proposed uses of state funds, the SFRTA must annually provide the FDOT with its proposed budget and with any additional documentation or information required by the FDOT.⁹²

Recent Contracting

According to the SFRTA, services for the operation of Tri-Rail are currently provided through four separate contracts covering train operations, maintenance of equipment, train dispatching, and station maintenance. Those contracts expire in June of this year. The SFRTA made a

⁸⁶ *Supra* note 89.

⁸⁷ *Transportation Authority Monitoring and Oversight Fiscal Year 2015 Report*, pp. 197-199, available at: <http://www.ftc.state.fl.us/documents/reports/TAMO/FY2015Report.pdf>. (Last visited March 2, 2017.)

⁸⁸ Section 348.58(4)(a)1., F.S.

⁸⁹ *Supra* note 86, p. 197.

⁹⁰ At p. 25, available at: <http://www.sfrta.fl.gov/docs/overview/Fiscal-Year-2016-Comprehensive-Annual-Financial-Report-FINAL.pdf>. (Last visited March 2, 2017.)

⁹¹ Section 348.58(4)(c)1., F.S.

⁹² Section 348.58(4)(c)2., F.S.

decision to bundle the four contracts into one and, on September 22, 2016, issued a Request for Proposals (RFP). Eighty percent of the scoring of the proposals was to be based on technical ability to do the work; 20 percent was to be based on price. The RFP cautioned proposers not to condition their prices. Proposals were due by December 16, 2016.⁹³

According to the SFRTA, five of the six proposers submitted with their price proposals “extraneous” pages with labels such as “Proposal Exceptions,” “Exceptions to RFP,” and “Pricing Assumptions.”⁹⁴ Other examples included pages indicating that their price did not include the cost of certain requirements in the RFP or that the price assumed facts that contradicted the RFP.⁹⁵ The SFRTA’s procurement director determined five of the six proposers had materially and significantly conditioned their proposals — specifically, their price — and that the proposals were therefore nonresponsive and should be rejected, based on requirements in the RFP.⁹⁶

On January 27, 2017, the SFRTA’s governing board approved a Notice of Intent of Contract Award for Request for Proposal 16-010 “Operating Services,” reflecting a determination to enter into a contract with an initial seven-year term, plus a three-year renewal option, for a price of \$511,418,271.65.⁹⁷

A request for an injunction to block Tri-Rail from awarding the contract was rejected following issuance of a temporary injunction to enable judicial review of allegations of unfair disqualification. The judge in the case ruled that the plaintiff failed to show any entitlement to a preliminary injunction and had not established a likelihood of success on the merits of their case.”⁹⁸ Four of the five rejected bidders have timely filed a bid protest with the SFRTA, which is currently under review.⁹⁹

Effect of Proposed Changes:

The bill places restrictions on the SFRTA’s contracting authority and use of state funds and revises the FDOT’s oversight role.

Section 8 of the bill creates new subsection (4) of s. 343.54, F.S., prohibiting the SFRTA from entering into, extending, or renewing any contract or other agreement under that part without the FDOT’s prior review and written approval of the SFRTA’s proposed expenditures, if such

⁹³ See the SFRTA presentation to the Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development on February 16, 2017, available at:

http://www.flsenate.gov/media/VideoPlayer?EventID=2443575804_2017021204. (Last visited March 2, 2017.)

⁹⁴ *Id.* at (52:29).

⁹⁵ *Id.* at (53:18).

⁹⁶ *Id.* at (51:15).

⁹⁷ Available at: <http://www.sfrta.fl.gov/docs/Procurement/Posting-Notice-Operating-Services.pdf>. (Last visited March 3, 2017.)

⁹⁸ See *Transdev Services, Inc., et al., v. South Florida Regional Transportation Authority*, Case No.: 17-000877 CACE(21), Broward County Circuit Court, public copy available at:

<https://www.browardclerk.org/Web2/WebForms/Document.aspx?CaseID=ODc4NTc2MA%3d%3d-%2fxl4ct%2bcVyo%3d&CaseNumber=CACE17000877&FragmentID=MjM3NTk1MzQ%3d-tV6MANspieA%3d&DtFile=01/17/2017&DocName=Order&PgCnt=22&UserName=&UserType=Anonymous>. (Last visited March 24, 2017.)

⁹⁹ Telephone conversation with the SFRTA staff, March 24, 2017.

contract or agreement may be funded, in whole or in part, with FDOT-provided funds. The prohibition applies notwithstanding any provision of that part, which contains the SFRTA's authorization to enter into contracts. The SFRTA must obtain the FDOT's approval, under the funding condition specified, to enter into, extend, or renew any contract or other agreement.

Section 9 of the bill amends s. 343.48(4)(c)1., F.S., revising the FDOT oversight provisions. The bill *removes* the current language:

- Prohibiting the FDOT from unreasonably withholding its approval of the SFRTA's commitment of FDOT-provided funds;
- Requiring the SFRTA to notify the FDOT of a proposed procurement or renewal before advertising any procurement or renewing any existing contract that will rely on state funds;
- Requiring the FDOT to object in writing and, if timely, prohibiting the SFRTA from proceeding with the procurement or renewal;
- Providing that the FDOT's failure to timely object constitutes consent; and
- Removing no-impairment-of-contract language for contracts existing as of June 30, 2012.

The bill replaces the notice and objection process with language prohibiting the SFRTA from committing the annual FDOT-provided \$42.1 million without the FDOT's prior review and written approval of the proposed expenditures.

The bill prohibits the FDOT from providing that annual funding until the SFRTA withdraws, cancels, or otherwise terminates its Notice of Intent of Contract Award. The bill also requires the SFRTA to obtain the FDOT's written approval of a new procurement and contract for the services that were the subject of the RFP to ensure the SFRTA has sufficient revenue to fund the contract.

Section 7 of the bill defines "department" to mean the Department of Transportation.

Section 12 provides the act take effect on July 1, 2017.

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:

Section 1: The trucking industry may realize an insignificant positive fiscal impact resulting from the additional weight allowance for natural gas vehicles due to potentially fewer overweight citations.

Section 3: The FDOT notes an indeterminate positive fiscal impact to the extent a private sector company is awarded a fast response contract and is not required to obtain a surety bond.¹⁰⁰

C. Government Sector Impact:

Section 1: The FDOT may realize an insignificant negative fiscal impact resulting from the additional weight allowance for natural gas vehicles due to potentially fewer overweight citations, offset by reduced costs associated with no-longer-needed permits. A potential withholding of federal funds is avoided.

Section 2: The FDOT will experience administrative expenses associated with developing the federally required bridge inspection policies and criteria, seeking FHWA approval, and revising relevant policies and procedures, which expenses are expected to be absorbed within existing resources. The FDOT does expect an indeterminate positive fiscal impact to the extent the FHWA approves bridges for extended inspection frequencies. The FDOT estimates approximately \$500,000 in inspection services could be redirected to bridge repair, rehabilitation, and/or replacement.¹⁰¹

Section 4: The DBF may realize an insignificant positive fiscal impact resulting from reduced demand on staff resources for bond validation proceedings.

Section 6: Based on costs for Fiscal Years 2012-13 through 2016-17, the FDOT is expected to realize a positive fiscal impact of approximately \$33,400 annually resulting from repeal of the Florida Highway Beautification Council, due to removal of the FDOT's duty to provide for administrative costs and travel to support the Council. The FDOT will absorb administrative expenses associated with revising Rule Chapter 14-40, F.A.C., and implementing the grant program, within existing resources.

Sections 8 and 9: The FDOT and the SFRTA may experience administrative expenses associated with the FDOT's review and written approval of the SFRTA's proposed

¹⁰⁰ See the FDOT's 2017 Legislative Proposal, *Rapid Response Contracts – Price Cap Increase*. (On file in the Senate Transportation Committee.)

¹⁰¹ See the FDOT's 2017 Legislative Proposal, *Bridge Inspection Frequency*. (On file in the Senate Transportation Committee.)

expenditures using any funding provided to the SFRTA under s. 343.58(4), F.S. However, the bill prohibits the FDOT from providing funding to the SFRTA under that section until the authority withdraws, cancels, or otherwise terminates the authority's Notice of Intent of Contract Award.

The fiscal impact of this termination requirement is unclear for a number of reasons. First, the outcome of the ongoing bid protest is unknown. Second, regardless of the outcome of the bid protest, the contract may or may not be subject to termination, depending on the contract terms. Those terms may include provisions allowing termination for convenience or termination due to uncontrollable forces such as governmental action. Finally, any action on the part of the SFRTA with respect to withdrawal, cancellation, or termination of the Notice of Intent effectively terminates the underlying contract. In such case, the SFRTA may be subject to a breach of contract claim, depending on the specific language in the RFP and the contract, and on the validity of the underlying contract.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 316.545, 335.074, 337.11, 338.227, 339.135, 339.2405, 343.52, 343.54, 343.58, 215.82, and 343.53.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Transportation March 28, 2017:

A technical amendment to the original bill was adopted to clarify that the 2,000-pound weight allowance for natural gas-powered trucks is in addition to the 500-pound weight allowance for idle reduction technology.

B. Amendments:

None.



239440

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/28/2017	.	
	.	
	.	
	.	

The Committee on Transportation (Gainer) recommended the following:

Senate Amendment (with title amendment)

Delete lines 87 - 91

and insert:

2. The actual gross vehicle weight for vehicles fueled by natural gas may not exceed 82,000 pounds, excluding the weight allowed for idle-reduction technology under paragraph (b).

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

And the title is amended as follows:



239440

11 Delete line 9
12 and insert:
13 vehicles fueled by natural gas;



404272

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
03/28/2017	.	
	.	
	.	
	.	

The Committee on Transportation (Rader) recommended the following:

Senate Amendment (with title amendment)

Delete lines 312 - 412

and insert:

Section 8. Subsection (2) of section 215.82, Florida Statutes, is amended to read:

215.82 Validation; when required.—

(2) Any bonds issued pursuant to this act which are validated shall be validated in the manner provided by chapter 75. In actions to validate bonds to be issued in the name of the



404272

11 State Board of Education under s. 9(a) and (d), Art. XII of the
12 State Constitution and bonds to be issued pursuant to chapter
13 259, the Land Conservation Program, the complaint shall be filed
14 in the circuit court of the county where the seat of state
15 government is situated, the notice required to be published by
16 s. 75.06 shall be published only in the county where the
17 complaint is filed, and the complaint and order of the circuit
18 court shall be served only on the state attorney of the circuit
19 in which the action is pending. In any action to validate bonds
20 issued pursuant to s. 1010.62 or issued pursuant to s. 9(a)(1),
21 Art. XII of the State Constitution or issued pursuant to s.
22 215.605 ~~or s. 338.227~~, the complaint shall be filed in the
23 circuit court of the county where the seat of state government
24 is situated, the notice required to be published by s. 75.06
25 shall be published in a newspaper of general circulation in the
26 county where the complaint is filed and in two other newspapers
27 of general circulation in the state, and the complaint and order
28 of the circuit court shall be served only on the state attorney
29 of the circuit in which the action is pending; provided,
30 however, that if publication of notice pursuant to this section
31 would require publication in more newspapers than would
32 publication pursuant to s. 75.06, such publication shall be made
33 pursuant to s. 75.06.

34
35 ===== T I T L E A M E N D M E N T =====

36 And the title is amended as follows:
37 Delete lines 34 - 65
38 and insert:
39 defining the term "department"; amending s. 215.82,



404272

40
41

F.S.; conforming a provision to changes made by the
act; providing an effective date.

By Senator Gainer

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1 A bill to be entitled
 2 An act relating to transportation; amending s.
 3 316.545, F.S.; providing for the calculation of fines
 4 for unlawful weight and load for a vehicle fueled by
 5 natural gas; requiring the vehicle operator to present
 6 a certain written certification upon request by a
 7 weight inspector or law enforcement officer;
 8 prescribing a maximum actual gross vehicle weight for
 9 vehicles fueled by natural gas; providing a penalty;
 10 providing applicability; amending s. 335.074, F.S.;
 11 requiring bridges on public transportation facilities
 12 to be inspected for certain purposes at regular
 13 intervals as required by the Federal Highway
 14 Administration; amending s. 337.11, F.S.; increasing
 15 the allowable amount for contracts for construction
 16 and maintenance that the Department of Transportation
 17 may enter into, in certain circumstances, without
 18 advertising and receiving competitive bids; amending
 19 s. 338.227, F.S.; providing that certain bonds are not
 20 required to be validated but may be validated at the
 21 option of the Division of Bond Finance; providing
 22 filing, notice, and service requirements for
 23 complaints and circuit court orders concerning such
 24 validation; amending s. 339.135, F.S.; providing an
 25 additional exception related to the amendment of
 26 adopted work programs when an emergency exists;
 27 amending s. 339.2405, F.S.; replacing the Florida
 28 Highway Beautification Council within the department
 29 with the Florida Highway Beautification Grant Program;

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

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30 providing the purpose of the program; providing duties
 31 of the department, including the establishment of
 32 rules related to grant requests; conforming provisions
 33 to changes made by the act; amending s. 343.52, F.S.;
 34 defining the term "department"; amending s. 343.54,
 35 F.S.; prohibiting the South Florida Regional
 36 Transportation Authority from entering into,
 37 extending, or renewing certain contracts or other
 38 agreements without the department's prior review and
 39 written approval if such contracts or agreements may
 40 be funded with funds provided by the department;
 41 amending s. 343.58, F.S.; prohibiting specified funds
 42 provided to the authority by the department from being
 43 committed by the authority without the prior review
 44 and written approval by the department of the
 45 authority's expenditures; deleting requirements
 46 relating to notification by the authority to the
 47 department of a proposed procurement or of a renewal
 48 of any existing contract that will rely on state funds
 49 for payment; requiring the authority to promptly
 50 provide the department any documentation or
 51 information, in addition to the proposed annual
 52 budget, which is required by the department for its
 53 evaluation of the proposed uses of state funds;
 54 prohibiting certain funding from being provided to the
 55 authority by the department until the authority
 56 terminates a Notice of Intent of Contract Award for a
 57 specified request for proposal; requiring the
 58 authority, before entering into a new contract for the

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59 services that were the subject of such request for
 60 proposal, to obtain the department's written approval
 61 of all terms and conditions of the new procurement and
 62 contract for such services; amending s. 215.82, F.S.;
 63 conforming a provision to changes made by the act;
 64 amending s. 343.53, F.S.; conforming a cross-
 65 reference; providing an effective date.

66
 67 Be It Enacted by the Legislature of the State of Florida:

68
 69 Section 1. Present paragraphs (c) and (d) of subsection (3)
 70 of section 316.545, Florida Statutes, are redesignated as
 71 paragraphs (d) and (e), respectively, and a new paragraph (c) is
 72 added to that subsection, to read:

73 316.545 Weight and load unlawful; special fuel and motor
 74 fuel tax enforcement; inspection; penalty; review.—

75 (3)

76 (c)1. For a vehicle fueled by natural gas, the fine is
 77 calculated by reducing the actual gross vehicle weight by the
 78 certified weight difference between the natural gas tank and
 79 fueling system and a comparable diesel tank and fueling system.
 80 Upon the request of a weight inspector or a law enforcement
 81 officer, the vehicle operator shall present a written
 82 certification that identifies the weight of the natural gas tank
 83 and fueling system and the difference in weight of a comparable
 84 diesel tank and fueling system. The written certification must
 85 originate from the vehicle manufacturer or the installer of the
 86 natural gas tank and fueling system.

87 2. Notwithstanding any other provision of this subsection,

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88 the actual gross vehicle weight for vehicles fueled by natural
 89 gas may not exceed 82,000 pounds. If the actual gross vehicle
 90 weight exceeds 82,000 pounds, the penalty shall be assessed as
 91 provided in paragraph (a).

92 3. This paragraph does not apply to vehicles described in
 93 s. 316.535(6).

94 Section 2. Subsection (2) of section 335.074, Florida
 95 Statutes, is amended to read:

96 335.074 Safety inspection of bridges.—

97 (2) At regular intervals as required by the Federal Highway
 98 Administration ~~not to exceed 2 years~~, each bridge on a public
 99 transportation facility shall be inspected for structural
 100 soundness and safety for the passage of traffic on such bridge.
 101 The thoroughness with which bridges are to be inspected shall
 102 depend on such factors as age, traffic characteristics, state of
 103 maintenance, and known deficiencies. The governmental entity
 104 having maintenance responsibility for any such bridge shall be
 105 responsible for having inspections performed and reports
 106 prepared in accordance with the provisions contained herein.

107 Section 3. Paragraph (c) of subsection (6) of section
 108 337.11, Florida Statutes, is amended to read:

109 337.11 Contracting authority of department; bids; emergency
 110 repairs, supplemental agreements, and change orders; combined
 111 design and construction contracts; progress payments; records;
 112 requirements of vehicle registration.—

113 (6)

114 (c) When the department determines that it is in the best
 115 interest of the public for reasons of public concern, economy,
 116 improved operations, or safety, and only for contracts for

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117 construction and maintenance which do not exceed \$250,000 when
 118 circumstances dictate rapid completion of the work, the
 119 department may, ~~up to the amount of \$120,000,~~ enter into
 120 contracts ~~for construction and maintenance~~ without advertising
 121 and receiving competitive bids. The department may enter into
 122 such contracts only upon a determination that the work is
 123 necessary for one of the following reasons:

- 124 1. To ensure timely completion of projects or avoidance of
 125 undue delay for other projects;
- 126 2. To accomplish minor repairs or construction and
 127 maintenance activities for which time is of the essence and for
 128 which significant cost savings would occur; or
- 129 3. To accomplish nonemergency work necessary to ensure
 130 avoidance of adverse conditions that affect the safe and
 131 efficient flow of traffic.

132
 133 The department shall make a good faith effort to obtain two or
 134 more quotes, if available, from qualified contractors before
 135 entering into any contract. The department shall give
 136 consideration to disadvantaged business enterprise
 137 participation. However, when the work exists within the limits
 138 of an existing contract, the department shall make a good faith
 139 effort to negotiate and enter into a contract with the prime
 140 contractor on the existing contract.

141 Section 4. Subsection (5) is added to section 338.227,
 142 Florida Statutes, to read:

143 338.227 Turnpike revenue bonds.—

144 (5) Notwithstanding s. 215.82, bonds issued pursuant to
 145 this section are not required to be validated pursuant to

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146 chapter 75 but may be validated at the option of the Division of
 147 Bond Finance. Any complaint about such validation must be filed
 148 in the circuit court of the county in which the seat of state
 149 government is situated, and the clerk shall publish the notice
 150 as required by s. 75.06 only in the county in which the
 151 complaint is filed. The complaint and order of the circuit court
 152 must be served on the state attorney of the circuit in which the
 153 action is pending.

154 Section 5. Paragraph (e) of subsection (7) of section
 155 339.135, Florida Statutes, is amended to read:

156 339.135 Work program; legislative budget request;

157 definitions; preparation, adoption, execution, and amendment.—

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

159 (e) Notwithstanding paragraphs (d), ~~and~~ (g), and (h) and
 160 ss. 216.177(2) and 216.351, the secretary may request the
 161 Executive Office of the Governor to amend the adopted work
 162 program when an emergency exists, as defined in s. 252.34, and
 163 the emergency relates to the repair or rehabilitation of any
 164 state transportation facility. The Executive Office of the
 165 Governor may approve the amendment to the adopted work program
 166 and amend that portion of the department's approved budget if a
 167 delay incident to the notification requirements in paragraph (d)
 168 would be detrimental to the interests of the state. However, the
 169 department shall immediately notify the parties specified in
 170 paragraph (d) and provide such parties written justification for
 171 the emergency action within 7 days after approval by the
 172 Executive Office of the Governor of the amendment to the adopted
 173 work program and the department's budget. The adopted work
 174 program may not be amended under this subsection without

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175 certification by the comptroller of the department that there
 176 are sufficient funds available pursuant to the 36-month cash
 177 forecast and applicable statutes.

178 Section 6. Section 339.2405, Florida Statutes, is amended
 179 to read:

180 339.2405 Florida Highway Beautification Grant Program
 181 Council.—

182 (1) There is created within the Department of
 183 Transportation the Florida Highway Beautification Grant Program
 184 for the purpose of awarding grants to local governmental
 185 entities for beautification of roads on the State Highway System
 186 as provided in subsections (3) and (4). The department shall
 187 Council. It shall consist of seven members appointed by the
 188 Governor. All appointed members must be residents of this state.
 189 One member must be a licensed landscape architect, one member
 190 must be a representative of the Florida Federation of Garden
 191 Clubs, Inc., one member must be a representative of the Florida
 192 Nurserymen and Growers Association, one member must be a
 193 representative of the department as designated by the head of
 194 the department, one member must be a representative of the
 195 Department of Agriculture and Consumer Services, and two members
 196 must be private citizens. The members of the council shall serve
 197 at the pleasure of the Governor.

198 ~~(2) Each chair shall be selected by the council members and~~
 199 ~~shall serve a 2-year term.~~

200 ~~(3) The council shall meet no less than semiannually at the~~
 201 ~~call of the chair or, in the chair's absence or incapacity, at~~
 202 ~~the call of the head of the department. Four members shall~~
 203 ~~constitute a quorum for the purpose of exercising all of the~~

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204 ~~powers of the council. A vote of the majority of the members~~
 205 ~~present shall be sufficient for all actions of the council.~~

206 ~~(4) The council members shall serve without pay but shall~~
 207 ~~be entitled to per diem and travel expenses pursuant to s.~~
 208 ~~112.061.~~

209 ~~(5) A member of the council may not participate in any~~
 210 ~~discussion or decision to recommend grants to any qualified~~
 211 ~~local government with which the member is associated as a member~~
 212 ~~of the governing body or as an employee or with which the member~~
 213 ~~has entered into a contractual arrangement.~~

214 ~~(6) The council may prescribe, amend, and repeal bylaws~~
 215 ~~governing the manner in which the business of the council is~~
 216 ~~conducted.~~

217 ~~(7) (a) The duties of the council shall be to:~~

218 ~~(a)1- Provide information to local governments and local~~
 219 ~~highway beautification councils regarding the state highway~~
 220 ~~beautification grants program.~~

221 ~~(b)2- Accept grant requests from local governments.~~

222 ~~(c)3- Review grant requests for compliance with department~~
 223 ~~council rules.~~

224 ~~(d)4- Establish rules for evaluating and prioritizing the~~
 225 ~~grant requests. The rules must include, but are not limited to,~~
 226 ~~an examination of each grant's aesthetic value, cost-~~
 227 ~~effectiveness, level of local support, feasibility of~~
 228 ~~installation and maintenance, and compliance with state and~~
 229 ~~federal regulations. Rules adopted by the department council~~
 230 ~~which it uses to evaluate grant applications must take into~~
 231 ~~consideration the contributions made by the highway~~
 232 ~~beautification project in preventing litter.~~

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233 (e)5- Maintain a prioritized list of approved grant
 234 requests. The list must include recommended funding levels for
 235 each request and, if staged implementation is appropriate,
 236 funding requirements for each stage shall be provided.

237 ~~6. Assess the feasibility of planting and maintaining~~
 238 ~~indigenous wildflowers and plants, instead of sod groundcovers,~~
 239 ~~along the rights-of-way of state roads and highways. In making~~
 240 ~~such assessment, the council shall utilize data from other~~
 241 ~~states which include indigenous wildflower and plant species in~~
 242 ~~their highway vegetative management systems.~~

243 ~~(b) The council may, at the request of the head of the~~
 244 ~~department, review and make recommendations on any other highway~~
 245 ~~beautification matters relating to the State Highway System.~~

246 ~~(8) The head of the department shall provide from existing~~
 247 ~~personnel such staff support services to the council as are~~
 248 ~~necessary to enable the council to fulfill its duties and~~
 249 ~~responsibilities.~~

250 (2)(9) Local highway beautification councils may be created
 251 by local governmental entities or by the Legislature. Prior to
 252 being submitted to the department council, a grant request must
 253 be approved by the local government or governments of the area
 254 in which the project is located.

255 (3)(10) The head of the department, ~~after receiving~~
 256 ~~recommendations from the council~~, shall award grants to local
 257 governmental entities that have submitted grant requests for
 258 beautification of roads on the State Highway System and which
 259 requests are on the ~~council's~~ approved list. The grants shall be
 260 awarded in the order they appear on the ~~council's~~ prioritized
 261 list and in accordance with available funding.

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262 (4)(11) State highway beautification grants may be
 263 requested only for projects to beautify through landscaping
 264 roads on the State Highway System. The grant request shall
 265 identify all costs associated with the project, including
 266 sprinkler systems, plant materials, equipment, and labor. A
 267 grant shall provide for the costs of purchase and installation
 268 of a sprinkler system, the cost of plant materials and
 269 fertilizer, and may provide for the costs for labor associated
 270 with the installation of the plantings. Each local government
 271 that receives a grant is ~~shall be~~ responsible for any costs for
 272 water, for the maintenance of the sprinkler system, for the
 273 maintenance of the landscaped areas in accordance with a
 274 maintenance agreement with the department, and, except as
 275 otherwise provided in the grant, for any costs for labor
 276 associated with the installation of the plantings. The
 277 department may provide, by contract, services to maintain such
 278 landscaping at a level not to exceed the cost of routine
 279 maintenance of an equivalent unlandscaped area.

280 ~~(12) The council shall annually submit to the head of the~~
 281 ~~Department of Transportation a proposal recommending the level~~
 282 ~~of grant funding.~~

283 Section 7. Section 343.52, Florida Statutes, is reordered
 284 and amended to read:

285 343.52 Definitions.—As used in this part, the term:

286 (2)(1) "Authority" means the South Florida Regional
 287 Transportation Authority.

288 (3)(2) "Board" means the governing body of the authority.

289 (4) "Department" means the Department of Transportation.

290 (1)(3) "Area served" means Miami-Dade, Broward, and Palm

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291 Beach Counties. However, this area may be expanded by mutual
292 consent of the authority and the board of county commissioners
293 of Monroe County. The authority may not expand into any
294 additional counties without the department's prior written
295 approval.

296 ~~(8)(4)~~ "Transit system" means a system used for the
297 transportation of people and goods by means of, without
298 limitation, a street railway, an elevated railway having a fixed
299 guideway, a commuter railroad, a subway, motor vehicles, or
300 motor buses, and includes a complete system of tracks, stations,
301 and rolling stock necessary to effectuate passenger service to
302 or from the surrounding regional municipalities.

303 ~~(7)(5)~~ "Transit facilities" means property, avenues of
304 access, equipment, or buildings built and installed in Miami-
305 Dade, Broward, and Palm Beach Counties which are required to
306 support a transit system.

307 ~~(6)(6)~~ "Member" means the individuals constituting the
308 board.

309 ~~(5)(7)~~ "Feeder transit services" means a transit system
310 that transports passengers to or from stations within or across
311 counties.

312 Section 8. Present subsections (4) and (5) of section
313 343.54, Florida Statutes, are redesignated as subsections (5)
314 and (6), respectively, and a new subsection (4) is added to that
315 section, to read:

316 343.54 Powers and duties.—

317 (4) Notwithstanding any other provision of this part, the
318 authority may not enter into, extend, or renew any contract or
319 other agreement under this part without the department's prior

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320 review and written approval of the authority's proposed
321 expenditures if such contract or agreement may be funded, in
322 whole or in part, with funds provided by the department.

323 Section 9. Paragraph (c) of subsection (4) of section
324 343.58, Florida Statutes, is amended, and paragraph (e) is added
325 to that subsection, to read:

326 343.58 County funding for the South Florida Regional
327 Transportation Authority.—

328 (4) Notwithstanding any other provision of law to the
329 contrary and effective July 1, 2010, until as provided in
330 paragraph (d), the department shall transfer annually from the
331 State Transportation Trust Fund to the South Florida Regional
332 Transportation Authority the amounts specified in subparagraph
333 (a)1. or subparagraph (a)2.

334 (c)1. Funds provided to the authority by the department
335 under this subsection may not be committed by the authority
336 without the prior review and written approval by ~~of~~ the
337 department of the authority's expenditures, ~~which may not be~~
338 ~~unreasonably withheld. At least 90 days before advertising any~~
339 ~~procurement or renewing any existing contract that will rely on~~
340 ~~state funds for payment, the authority shall notify the~~
341 ~~department of the proposed procurement or renewal and the~~
342 ~~proposed terms thereof. If the department, within 60 days after~~
343 ~~receipt of notice, objects in writing to the proposed~~
344 ~~procurement or renewal, specifying its reasons for objection,~~
345 ~~the authority may not proceed with the proposed procurement or~~
346 ~~renewal. Failure of the department to object in writing within~~
347 ~~60 days after notice shall be deemed consent. This requirement~~
348 ~~does not impair or cause the authority to cancel contracts that~~

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349 ~~exist as of June 30, 2012.~~

350 2. To enable the department to evaluate the authority's
351 proposed uses of state funds, the authority shall annually
352 provide the department with its proposed budget for the
353 following authority fiscal year and shall promptly provide the
354 department with any additional documentation or information
355 required by the department for its evaluation of the proposed
356 uses of the state funds.

357 (e) Funding may not be provided to the authority by the
358 department under this subsection until the authority withdraws,
359 cancel, or otherwise terminates the authority's Notice of
360 Intent of Contract Award for Request for Proposal 16-010
361 "Operating Services," approved by the authority's board on
362 January 27, 2017. Before entering into a new contract for the
363 services that were the subject of the Request for Proposal 16-
364 010, the authority must obtain the department's written approval
365 of all terms and conditions of a new procurement and contract
366 for the services that were the subject of such request for
367 proposal to ensure that the authority has sufficient revenues to
368 fund the contract.

369 Section 10. Subsection (2) of section 215.82, Florida
370 Statutes, is amended to read:

371 215.82 Validation; when required.—

372 (2) Any bonds issued pursuant to this act which are
373 validated shall be validated in the manner provided by chapter
374 75. In actions to validate bonds to be issued in the name of the
375 State Board of Education under s. 9(a) and (d), Art. XII of the
376 State Constitution and bonds to be issued pursuant to chapter
377 259, the Land Conservation Program, the complaint shall be filed

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378 in the circuit court of the county where the seat of state
379 government is situated, the notice required to be published by
380 s. 75.06 shall be published only in the county where the
381 complaint is filed, and the complaint and order of the circuit
382 court shall be served only on the state attorney of the circuit
383 in which the action is pending. In any action to validate bonds
384 issued pursuant to s. 1010.62 or issued pursuant to s. 9(a)(1),
385 Art. XII of the State Constitution or issued pursuant to s.
386 215.605 ~~or s. 338.227~~, the complaint shall be filed in the
387 circuit court of the county where the seat of state government
388 is situated, the notice required to be published by s. 75.06
389 shall be published in a newspaper of general circulation in the
390 county where the complaint is filed and in two other newspapers
391 of general circulation in the state, and the complaint and order
392 of the circuit court shall be served only on the state attorney
393 of the circuit in which the action is pending; provided,
394 however, that if publication of notice pursuant to this section
395 would require publication in more newspapers than would
396 publication pursuant to s. 75.06, such publication shall be made
397 pursuant to s. 75.06.

398 Section 11. Paragraph (d) of subsection (2) of section
399 343.53, Florida Statutes, is amended to read:

400 343.53 South Florida Regional Transportation Authority.—

401 (2) The governing board of the authority shall consist of
402 10 voting members, as follows:

403 (d) If the authority's service area is expanded pursuant to
404 s. 343.54(6) ~~s. 343.54(5)~~, the county containing the new service
405 area shall have two members appointed to the board as follows:

406 1. The county commission of the county shall elect a

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407 commissioner as that commission's representative on the board.
408 The commissioner must be a member of the county commission when
409 elected and for the full extent of his or her term.

410 2. The Governor shall appoint a citizen member to the board
411 who is not a member of the county commission but who is a
412 resident and a qualified elector of that county.

413 Section 12. This act shall take effect July 1, 2017.

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/28/17

Meeting Date

SB 1118

Bill Number (if applicable)

404272

Amendment Barcode (if applicable)

Topic SB 1118 Amendment

Name Rachel Cone

Job Title Interim Secretary

Address 605 Suwannee St.

Phone

Tallahassee, FL 32399

Email Rachel.cone@dot

City State Zip

State.fl.us

Speaking: For Against Information

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

Representing Florida 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)

3/28/17
Meeting Date

1118
Bill Number (if applicable)

404272
Amendment Barcode (if applicable)

Topic SFRTA / FDOT FUNDING

Name ANDRES TRUJILLO

Job Title SMART-TD FLORIDA DIRECTOR

Address 11774 SW 137th PATH
Street

Phone 786-348-5771

City State Zip

Email FLTRUJILLOUTU@aol.com

Speaking: For Against Information

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

Representing SMART-TRANSPORTATION DIVISION

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

03.28.17

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

Meeting Date

1118

Bill Number (if applicable)

Topic TRANSPORTATION

404272
Amendment Barcode (if applicable)

Name VICKI A. WOOLDRIDGE

Job Title GOV. AFFRS. MGR.

Address 801 NW 33rd St.

Phone 954-213-8690

Street

POMPANO BCH FL 33060

City

State

Zip

Email wooldridgev@srta.fl.gov

Speaking: For Against Information

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

Representing SO. FLA. REGIONAL TRANS. AUTHORITY

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

SB1118

Bill Number (if applicable)

404272

Amendment Barcode (if applicable)

Meeting Date

Topic

Name JACK CORY

Job Title

Address 730 East Perd A

Phone 856-893-0993

Street

Jalohse

FL

32301

City

State

Zip

Email

Speaking: For Against Information

Waive Speaking: In Support Against

(The Chair will read this information into the record.)

Representing AMENDMENT Stiles Corporation

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

3-28-17

Meeting Date

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

1118

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Dale Calhoun

Job Title Executive Director

Address 201 S Monroe St Unit A

Phone 850 681 0496

Street

Tallahassee

FL

32301

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing Florida Natural Gas Association

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)

Transposition

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

3/28/17

Topic

SB ~~1118~~ 1118

Name

Rachel Cone

Job Title

Interim Secretary / FDOT

Address

1005 Swannee Street

Street

Tallahassee FL

City

State

Zip

32399

Phone

Email

Rachel.Cone@dot.fl.us

Speaking: For Against Information

Waive Speaking: In Support Against

(The Chair will read this information into the record.)

Representing

Florida 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.

Amendment Barcode (if applicable)

Bill Number (if applicable)

1118

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 Committee on Transportation

BILL: SB 1282

INTRODUCER: Senator Flores

SUBJECT: Expressway Authority Toll Revenue

DATE: March 28, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Miller	TR	Favorable
2.			ATD	
3.			AP	

I. Summary:

SB 1282 requires the Miami-Dade County Expressway Authority (MDX) to provide to each person who pays a toll on its transportation facilities using an electronic toll collection system a rebate of three percent of such toll.

The bill also requires the MDX to transfer 20 percent of the toll revenue collected from the MDX's transportation facilities in excess of operating costs and debt obligations to Miami-Dade County exclusively for expenses directly associated with public transportation facilities, transit facilities, intermodal facilities, or multimodal corridors owned or operated by that county. Additionally, the bill requires Miami-Dade County to submit a specified report to the Senate President and House Speaker within 90 days after a transfer of revenue as provided in the bill.

The MDX will incur costs associated with providing the toll rebates. Due to the required transfers to Miami-Dade County, the MDX will also have less net toll revenue available for other authority purposes. The amount of such transfers, however, is indeterminate. Miami-Dade County will receive additional revenue for the specified uses in an indeterminate amount.

The bill takes effect July 1, 2017.

II. Present Situation:

Miami-Dade County

Section 125.011(1), F.S. defines a county as: "[A]ny county operating under a home rule charter adopted pursuant to ss. 10, 11, and 24, Art. VIII of the Constitution of 1885, as preserved by Art. VIII, s. 6(e) of the Constitution of 1968, which county, by resolution of its board of county commissioners, elects to exercise the powers herein conferred."

The local governments authorized to operate under a home rule charter by the State Constitutions of 1885 and 1968 are the City of Key West and Monroe County,¹ Dade County,² and Hillsborough County.³ Of these, only Miami-Dade County operates under a home-rule charter, which was adopted on May 21, 1957, under this constitutional provision.⁴

Miami-Dade County Expressway Authority

The Florida Expressway Authority Act (Act),⁵ authorizes any county or two or more contiguous counties within a single Florida Department of Transportation (FDOT) district, by resolution adopted by the board of county commissioners, to form an expressway authority, which is an agency of the state.⁶ The Miami-Dade County Commission adopted ordinance 94-215 in 1994 creating the Miami-Dade County Expressway Authority (MDX).⁷ MDX is the only expressway authority created under the Act.

MDX's system⁸ consists of the following roadways in Miami-Dade County:

- Airport Expressway (SR 112);
- Dolphin Expressway (SR 836);
- Don Shula Expressway (SR 874);
- Snapper Creek Expressway (SR 878); and
- Gratigny Parkway (SR 924).

Purposes and Powers

Section 348.0004, F.S., provides the purposes and powers of expressway authorities created in part I of Ch. 348, F.S. Section 348.0004(2)(e), F.S., gives expressway authorities created under the Act the power to fix, alter, charge, establish, and collect tolls, rates, fees, rentals, and other charges for the services and facilities system, which tolls, rates, fees, rentals, and other charges must always be sufficient to comply with any covenants made with the holders of any bonds issued pursuant to the Florida Expressway Authority Act.⁹ However, such right and power may be assigned or delegated by the authority to the FDOT.

As provided in s. 348.004(7), F.S., and after a public hearing and county approval, MDX may use surplus toll revenues to fund:

- County public transportation facilities;
- Intermodal facilities;

¹ FLA. CONST. art. VIII, s. 6, n. 2.

² FLA. CONST. art. VIII, s. 6, n. 3.

³ FLA. CONST. art. VIII, s. 6, n. 4.

⁴ Florida Association of Counties, Charter County Information, <https://www.fl-counties.com/charter-county-information#>. (Last visited March 19, 2017.)

⁵ Part I of Ch. 348, F.S.

⁶ Section 348.0003(1), F.S.

⁷ A copy of the ordinance is available at http://miamidadefl.elaws.us/code/coor/coor_ptiii_ch2_artxviii/. (Last visited March 19, 2017.)

⁸ See MDX System Map available at [http://mdxway.com/about/expressway-map\(last](http://mdxway.com/about/expressway-map(last) visited March 19, 2017).

⁹ Section 348.0010, F.S., provides a covenant of the state relating to the Florida Expressway Authority Act. In that statute the state pledges that it will not limit or alter the rights vested in an authority and FDOT until all bonds, together with their interest, are fully paid and discharged.

- Multimodal corridors, including bicycle facilities or greenways that improve transportation services in the county; or
- Any programs or projects that improve the expressway system's level of service.

These expenditures must be consistent with the metropolitan planning organization's adopted long-range plan.

MDX Frequent Drivers Rewards Program

The MDX currently offers frequent users a rewards program, the operation of which the MDX describes as follows:

Each fiscal year (July 1st to June 30th) after the close of its financial books, MDX will declare a toll distribution of dividends to members of the Frequent Driver Rewards Program. This is after the agency meets its financial obligations, including making its annual principal and interest payments, meeting its senior debt coverage ratio, and covering its operation and maintenance costs. MDX will give back those savings generated by operational efficiencies of the agency directly to its customers through the Frequent Driver Rewards Program.¹⁰

To participate in the program, MDX customers must register each year, be a SunPass¹¹ customer in good standing, have a two-axle vehicle, and spend at least \$100 annually between July 1st to June 30 in tolls per transponder on any of the MDX's five expressways. Any tolls paid using Toll-By-Plate¹² or Image Toll transactions (IToll) are considered ineligible for the annual calculation. Eligibility of SunPass tolls paid during the fiscal year is determined solely by the MDX. The most recent registration period for tolls paid between July 1, 2016, to June 30, 2017, ended on March 31, 2017. Reward checks to eligible recipients are expected in December of 2017.¹³

III. Effect of Proposed Changes:

The bill creates a new subsection (6) in s. 348.0010, F.S., requiring the MDX to provide to each person who pays a toll on the MDX's transportation facility using an electronic toll collection system a rebate of three percent of such toll.

¹⁰ See the MDX website available at: <http://mdxway.com/frequentdriver/faqs>. (Last visited March 19, 2017.)

¹¹ SunPass is the Florida Turnpike Enterprise's pre-paid electronic toll program. A transponder inside the vehicle communicates via radio frequency with toll plaza reading equipment. As the car passes through SunPass equipped lanes, the toll charges are electronically deducted from the user's prepaid toll account. A SunPass customer may use this pre-paid toll account on a variety of non-FDOT facilities. See the SunPass website for additional information and a list of participating agencies, including the MDX, available at: <https://www.sunpass.com/faq>. (Last visited March 19, 2017.)

¹² Toll-By-Plate is an FDOT image-based *electronic toll collection system* that uses photographic images of the vehicles license plate to identify the customer responsible for payment. The customer receives an invoice for payment. This feature is available on the Homestead Extension of Florida's Turnpike from Florida City to Miramar in Miami-Dade County. See the FDOT website available at: <https://www.tollbyplate.com/index>. (Last visited March 20, 2017.)

¹³ *Supra* note 10.

The bill also creates a new subsection (11) in s. 348.0010, F.S., requiring the MDX to transfer to Miami-Dade County 20 percent of the toll revenue collected from the MDX's transportation facilities in excess of the MDX's operating costs and debt obligations. The transferred funds must be used exclusively for expenses directly associated with the planning, design, acquisition, construction, extension, rehabilitation, equipping, preservation, maintenance, or improvement of public transportation facilities, transit facilities, intermodal facilities, or multimodal corridors owned or operated by Miami-Dade County.

Within 90 days after a revenue transfer, Miami-Dade County must submit to the Senate President and House Speaker a report that includes the amount of the transfer, a description of each project to be funded by the transfer, and the proposed budget and completion date for such project.

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:

Users of the MDX's facilities who pay tolls using an electronic toll collection system will receive a three percent rebate on incurred tolls.

C. Government Sector Impact:

The bill requires the MDX to rebate three percent of tolls paid by anyone using an electronic toll collection system. According to the MDX, the rebate would reduce its revenue by approximately \$7 million in the first year. The MDX advises it would also incur significant operating costs to accomplish the rebates.¹⁴

While the amount is indeterminate, the required 20 percent transfers from the MDX to Miami-Dade County of toll revenues in excess of operating costs and debt obligations,

¹⁴ See the MDX's email to House Transportation and Infrastructure Subcommittee staff, March 20, 2017, (On filed in the Senate Transportation Committee.

according to the MDX, would cause its credit rating to be downgraded.¹⁵ A reduced credit rating would increase the MDX's borrowing costs.

Miami-Dade County would receive increased revenues for the specified uses.

VI. Technical Deficiencies:

The following issues may lead to difficulties in interpretation or implementation without further clarification:

- The bill does not specify when such rebates are to occur; *e.g.*, at the same time as any toll transaction, monthly, or annually. The bill also does not specify how such rebates are to occur; *e.g.*, through a credit to a person's prepaid SunPass account.
- While the FDOT apparently views its Toll-By-Plate program as an electronic toll collection system, because the MDX currently deems tolls paid using Toll-By-Plate ineligible for the annual calculation under its existing Frequent Drivers Rewards Program, it is unclear whether tolls paid by persons using Toll-By-Plate are entitled to a three percent rebate of those tolls under the bill.
- The bill does not specify when the revenue transfers between the MDX and Miami-Dade County must occur.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 348.0004.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

¹⁵ *Id.*

By Senator Flores

39-01351A-17

20171282__

1 A bill to be entitled
 2 An act relating to expressway authority toll revenue;
 3 amending s. 348.0004, F.S.; conforming a cross-
 4 reference; requiring an authority to provide a rebate
 5 for certain tolls paid using an electronic toll
 6 collection system; requiring transfer of a certain
 7 amount of toll revenue from an authority to a county
 8 for certain purposes; requiring a report to the
 9 Legislature; providing an effective date.

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

12
 13 Section 1. Subsections (6) through (9) of section 348.0004,
 14 Florida Statutes, are renumbered as subsections (7) through
 15 (10), respectively, paragraph (e) of subsection (2) is amended,
 16 and new subsections (6) and (11) are added to that section, to
 17 read:

18 348.0004 Purposes and powers.—

19 (2) Each authority may exercise all powers necessary,
 20 appurtenant, convenient, or incidental to the carrying out of
 21 its purposes, including, but not limited to, the following
 22 rights and powers:

23 (e) To fix, alter, charge, establish, and collect tolls,
 24 rates, fees, rentals, and other charges for the services and
 25 facilities system, which tolls, rates, fees, rentals, and other
 26 charges must always be sufficient to comply with any covenants
 27 made with the holders of any bonds issued pursuant to the
 28 Florida Expressway Authority Act. However, such right and power
 29 may be assigned or delegated by the authority to the department.

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30 Notwithstanding s. 338.165 or any other provision of law to the
 31 contrary, in any county as defined in s. 125.011(1), to the
 32 extent surplus revenues exist, they may be used for purposes
 33 enumerated in subsection (8) ~~(7)~~, provided the expenditures are
 34 consistent with the metropolitan planning organization's adopted
 35 long-range plan. Notwithstanding any other provision of law to
 36 the contrary, but subject to any contractual requirements
 37 contained in documents securing any outstanding indebtedness
 38 payable from tolls, in any county as defined in s. 125.011(1),
 39 the board of county commissioners may, by ordinance adopted on
 40 or before September 30, 1999, alter or abolish existing tolls
 41 and currently approved increases thereto if the board provides a
 42 local source of funding to the county expressway system for
 43 transportation in an amount sufficient to replace revenues
 44 necessary to meet bond obligations secured by such tolls and
 45 increases.

46 (6) An authority in any county as defined in s. 125.011(1)
 47 shall provide to each person who pays a toll on an authority
 48 transportation facility using an electronic toll collection
 49 system a rebate of 3 percent of such toll.

50 (11) Notwithstanding any other provision of the Florida
 51 Expressway Authority Act, 20 percent of the toll revenue
 52 collected from the transportation facilities of an authority in
 53 any county as defined in s. 125.011(1) in excess of the
 54 operating costs and debt obligations of the authority shall be
 55 transferred to the county in which the authority operates
 56 exclusively for expenses directly associated with the planning,
 57 design, acquisition, construction, extension, rehabilitation,
 58 equipping, preservation, maintenance, or improvement of public

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59 transportation facilities, transit facilities, intermodal
60 facilities, or multimodal corridors owned or operated by such
61 county. Within 90 days after a transfer of revenue under this
62 subsection, the county shall submit a report to the President of
63 the Senate and the Speaker of the House of Representatives which
64 includes the amount of the transfer, a description of each
65 project to be funded by the transfer, and the proposed budget
66 and completion date for each such project.

67 Section 2. This act shall take effect July 1, 2017.

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 Committee on Transportation

BILL: SB 1416

INTRODUCER: Senator Young

SUBJECT: Enhanced Safety for School Crossings

DATE: March 28, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Miller	TR	Favorable
2.			ATD	
3.			AP	

I. Summary:

SB 1416 requires the Florida Department of Transportation (FDOT) to evaluate the viability and cost of a uniform system of pavement markings and signage for use on all state and local arterial or collector roads within a one-mile radius of all public and private schools for the purpose of designating safe school crossing locations.

The bill may have a negative but likely insignificant fiscal impact to the FDOT for conducting the evaluation.

The bill takes effect July 1, 2017.

II. Present Situation:

School Zones

Section 316.1895(1), F.S., directs the FDOT to adopt a uniform system of traffic control devices and pedestrian control devices for use on the streets and highways surrounding all schools, public and private. Pursuant to direction in s. 316.0745, F.S., the FDOT has adopted the Manual on Uniform Traffic Control Devices (MUTCD) as the uniform system.¹ The FDOT is required to transmit the manual containing all specifications and requirements with respect to the uniform system to the governing body of each county and municipality in the state. The FDOT and each county and municipality must maintain such traffic and pedestrian control devices in conformity with the uniform system.²

¹ The MUTCD is the national standard for all traffic control devices installed on any street, highway, bikeway, or private road open to travel and is intended to obtain basic uniformity of traffic control devices.

² Section 316.1895(2), F.S.

On request from the appropriate local government, the FDOT must install and maintain³ traffic and pedestrian control devices on state-maintained roads for all prekindergarten early-intervention schools that receive federal funding through the Head Start program.⁴ The FDOT must maintain a school zone located on a state-maintained primary or secondary road, but the FDOT may enter into agreements with counties or municipalities under which the local governmental entities maintain such zones.⁵ A county must maintain a school zone located outside of any municipality and on a county road. A municipality must maintain a school zone located in the municipality.⁶

Permanent signs designating school zones and school zone speed limits must be uniform in size and color and must clearly designate on the signs the times during which the restrictive speed limit is enforced. Flashing beacons activated by a time clock or other automatic device, or manually activated, may be used as an alternative to posting the times during which the restrictive speed limit is enforced. Any school zone established, or any school zone in which the signing has been replaced, on or after July 1, 2008, must have a sign stating “Speeding Fines Doubled” installed within the school zone. The FDOT is required to establish adequate standards for the sign.⁷ A school zone speed limit may not be less than 15 miles per hour except by local regulation. A school zone speed limit may not be more than 20 miles per hour in an urbanized area.⁸

Portable signs designating school zones and school zone speed limits must be uniform in size and color and may be erected on the roadway only during those hours when students are arriving at and leaving regularly scheduled school sessions. The FDOT must establish adequate standards for the signs.⁹

Safe Routes to Schools Program

The FDOT operates a Safe Routes to Schools program¹⁰ for which the FDOT has set aside \$7 million a year for 10 years beginning this year.¹¹ The FDOT describes the program as follows:

³ “Maintained” is defined with respect to any school zone to mean the care and maintenance of all school zone signs, markers, traffic control devices, and pedestrian control devices. Section 316.1895(3)(d), F.S.

⁴ Section 316.1895(3), F.S. Head Start programs promote school readiness of children ages birth to five from low-income families. See the U.S. Department of Health & Human Services website available at: <https://www.acf.hhs.gov/ohs/about/head-start>. (Last visited March 22, 2017.)

⁵ Section 316.1895(3)(a), F.S.

⁶ Section 316.1895(3)(b) and (c), F.S.

⁷ Section 316.1895(6), F.S.

⁸ Section 316.1895(5), F.S. “Urbanized area” is defined in s. 334.03, F.S., to mean a geographic region comprising as a minimum the area inside an urban place of 50,000 or more persons, as designated by the U.S. Bureau of the Census, expanded to include adjacent developed areas as provided for by Federal Highway Administration regulations. Urban areas with a population of fewer than 50,000 persons that are located within the expanded boundary of an urbanized area are not separately recognized.

⁹ Section 316.1895(7), F.S.

¹⁰ The program is authorized under s. 335.066, F.S., as the Safe *Paths* to Schools Program, but it is the same program. This program receives a portion of the 15 percent of proceeds from concession agreements for the sponsorship of state greenways and trails under s. 260.0144, F.S. A portion of the proceeds is also directed for use in the FDOT’s Traffic and Bicycle Safety Program.

¹¹ Under MAP-21, federal Highway Safety Program funds were transferred to the Surface Transportation Program for Safe Routes funding. The FDOT coordinates the statewide program using the federal funds. Telephone conversation with the FDOT staff, March 24, 2017.

Safe Routes to School is a growing movement that has taken hold in communities throughout the United States. The concept is to increase the number of children who walk or bicycle to school by funding projects that remove the barriers currently preventing them from doing so. Those barriers include lack of infrastructure, unsafe infrastructure, and a lack of programs that promote walking and bicycling through education/encouragement programs aimed at children, parents, and the community.¹²

Eligible projects include planning, design, and construction of infrastructure-related projects that will substantially improve the ability of students to walk and bicycle to school. The projects should directly support increased safety and convenience for school children in grades K-12. Eligible applicants are public, private, and tribal schools serving kindergarten through high school who have partnered with a “maintaining agency.” That agency is a government agency with the ability to:

- Enter into a legal agreement with the FDOT,
- Design and construct the project in accordance with all federal requirements,
- Provide the initial funding for the project before being reimbursed, and
- Maintain the completed infrastructure project.¹³

III. Effect of Proposed Changes:

The bill requires the FDOT to evaluate the viability and cost of a uniform system of specific, high-visibility pavement markings and signage for use on all state and local arterial roads¹⁴ and collector roads¹⁵ within a one-mile radius of all private and public schools. The bill authorizes the FDOT in its evaluation to consider implementation of new technology or innovations that enhance pedestrian and crosswalk visibility.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

¹² See the FDOT’s website available at: http://www.fdot.gov/safety/2A-Programs/Safe-Routes_Funding.shtml. (Last visited March 22, 2017.)

¹³ See the FDOT’s website for additional details available at: http://www.fdot.gov/safety/2A-Programs/Safe-Routes_ProgramGuidelines.shtml. (Last visited March 22, 2017.)

¹⁴ Section 334.03(1), F.S., defines “arterial road” as a route providing service which is relatively continuous and of relatively high traffic volume, long average trip length, high operating speed, and high mobility importance. Every United States numbered highway is an arterial road.

¹⁵ Defined in s. 334.03(4), F.S., as a route providing service which is of relatively moderate average traffic volume, moderately average trip length, and moderately average operating speed. Such a route also collects and distributes traffic between local roads or arterial roads and serves as a linkage between land access and mobility needs.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The FDOT may incur likely insignificant expenses associated with conducting the evaluation required by the bill.

VI. Technical Deficiencies:

The bill requires the FDOT to conduct the specified evaluation but does not require a report on its evaluation to be provided to a specific entity.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following section of the Florida Statutes: 316.1896.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Young

18-01248A-17

20171416__

1 A bill to be entitled
2 An act relating to enhanced safety for school
3 crossings; creating s. 316.1896, F.S.; requiring the
4 Department of Transportation to evaluate the viability
5 and cost of a uniform system of high-visibility
6 markings and signage for designation of safe school
7 crossings, subject to certain requirements;
8 authorizing the department to consider in its
9 evaluation implementation of new technology or
10 innovations that enhance pedestrian and crosswalk
11 visibility; providing an effective date.

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

14
15 Section 1. Section 316.1896, Florida Statutes, is created
16 to read:

17 316.1896 Safe school crossing locations; evaluation by
18 Department of Transportation.—The Department of Transportation
19 shall evaluate the viability and cost of a uniform system of
20 specific, high-visibility pavement markings and signage for use
21 on arterial roads or collector roads, as defined in s. 334.03,
22 within a 1-mile radius of all schools, public and private, to
23 designate safe school crossing locations. In its evaluation, the
24 department may consider implementation of new technology or
25 innovations that enhance pedestrian and crosswalk visibility.

26 Section 2. This act shall take effect July 1, 2017.

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 Committee on Transportation

BILL: CS/SB 1442

INTRODUCER: Transportation Committee and Senator Broxson

SUBJECT: Fee and Surcharge Reductions

DATE: March 29, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Miller	TR	Fav/CS
2.			AFT	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1442 reduces or eliminates numerous fees or surcharges imposed in the Florida Statutes. Specifically, the bill:

- Eliminates a \$10 fee for commissions for elected officers;
- Eliminates the \$2 fee deducted from each motor fuel sales tax refund claim;
- Eliminates the \$5 registration fee for persons or businesses required to register with the Department of Revenue for collecting, reporting, and remitting sale and use tax;
- Exempts a surviving spouse of a deceased motor vehicle owner from the motor vehicle title transfer fees when transferring the title into the surviving spouse's name;
- Eliminates the \$1 and \$2 fees for a veteran to receive a "Veteran" designation on his or her driver license or identification card;
- Exempts a veteran from the fee for an original commercial driver license;
- Exempts a person who is 80 years of age or older from the \$25 identification card fees;
- Provides a flat \$25 delinquency fee for specified professional licensees, and removes that the delinquency fee is set by each professional board at a rate not to exceed the biennial renewal fee for such active status license;
- Reduces the application and license fees for commercial driver schools by half;
- Reduces the surcharge assessed on all building permit fees from 1.5 percent to one percent of the permit fee; and
- Eliminates or waives fees for professional educator certificates and required examinations for specified persons.

The bill will likely have a negative impact to state and local government. *See* V. Fiscal Impact Statement.

Sections 3, 4, and 5 of the bill take effect January 1, 2018. The remaining sections of the bill take effect July 1, 2017.

II. Present Situation:

Elected Officer's Fee for Commission (Sections 1 and 2)

Section 113.01, F.S., prescribes a \$10 fee for the issuance of each commission issued by the Governor and attested by the Secretary of State for elected officers or a notary public. The commission shall not be issued or bear the state seal until the required fee is paid.¹ A commission to officers is a warrant or authority granted by government, which empowers the named individual to execute official acts. The \$10 fee is charged to persons elected or appointed to fill vacant positions, paid to the Chief Financial Officer, and deposited in the General Revenue Fund.²

The number of people charged the \$10 fee varies each year due to the number of elections and appointments. In Fiscal Year 2016-2017, there were 1,936 commissions issued, and 202 commissions that will be issued upon payment of the fee, totaling \$21,380 for the fiscal year.³

Motor Fuel Tax Refund Claims (Section 3)

Section 206.41, F.S., imposes the following state taxes on motor fuel:

- A “constitutional fuel tax” of two cents per net gallon;⁴
- A “county fuel tax” of one cent per net gallon;⁵
- A “municipal fuel tax” of one cent per net gallon;⁶
- A “ninth-cent fuel tax” may be imposed by each county of one cent per net gallon;⁷
- A “local option fuel tax” may be imposed by each county of between one and eleven cents per net gallon;⁸

¹ Section 113.02, F.S.

² Section 15.09(3), F.S.

³ Office of Economic and Demographic Research (EDR), Revenue Estimating Conference (REC), *Elimination of \$10 Elected Officer's Commission Fee* (Mar. 10, 2017), available at p. 319 at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2017/pdf/page319-332.pdf> (last visited Mar. 22, 2017).

⁴ To be placed monthly in the state roads distribution fund in the state treasury and distributed as required by s. 9(c), Art. XII of the State Constitution.

⁵ To be used for public transportation purposes as required by s. 206.60, F.S.

⁶ Which is transferred into the Revenue Sharing Trust Fund for Municipalities to be used for transportation purposes as authorized in s. 206.605, F.S.

⁷ County and municipal governments may use the moneys received only for transportation expenditures; See s. 336.021, F.S.

⁸ Section 336.025, F.S.; County and municipal governments may use the moneys received only for transportation expenditures needed: to meet the requirements of the capital improvements element of an adopted comprehensive plan; to meet immediate local transportation problems; and for building comprehensive roadway networks by local governmental, excluding routine road maintenance.

- The State Comprehensive Enhanced Transportation System Tax, which is a motor fuel tax equal to two-thirds of the lesser of the sum of a county's ninth-cent fuel tax and the local option fuel tax or six cents, rounded to the nearest tenth of a cent;⁹
- The "fuel sales tax" of at least 6.9 cents per net gallon, which may be increased by a percentage change in the average of the Consumer Price Index issued by the U.S. Department of Labor for the most recent 12-month period ending September 30, compared to the base year average (the average for the 12-month period ending September 30, 1989);¹⁰ and
- An additional 0.125 cents per net gallon to defray expenses related to inspecting, testing, and analyzing motor fuel in this state.

Section 206.41, F.S., exempts qualified entities from certain motor fuel taxes, and authorizes refunds for qualified entities that have purchased and used tax-paid fuel for an exempt purpose. For example, any person who uses motor fuel for the following purposes on which the local option fuel tax, State Comprehensive Enhanced Transportation System Tax, or fuel sales tax was imposed is entitled to a refund of such tax:

- *Agricultural purposes*: motor fuel used in any tractor, vehicle, or farm equipment used exclusively on a farm or for processing farm products on the farm; and motor fuel used for transporting bees by water and the operating of equipment used in the apiary of a beekeeper;
- *Commercial fishing and aquacultural purposes*: motor fuel used in the operation of boats, vessels, or equipment used exclusively for the taking of fish, crayfish, oysters, shrimp, or sponges from salt or fresh water under the jurisdiction of the state for resale to the public. This does not include any fuel used for sport or pleasure fishing, or for any fuel used in any vehicle or equipment operated upon Florida highways; and
- *Commercial aviation purposes*: motor fuel used in the operation of aviation ground support vehicles or equipment, not used in any vehicle or equipment operated on Florida highways.¹¹

A person must apply to receive a permit from the Department of Revenue (DOR) to be issued a refund. Such permits are in effect for a year and shall be continuous as long as the person files refund claims with the DOR each year. A person will need to apply for a new permit if he or she does not file a claim for any year.¹²

Refunds are issued quarterly, and no refund will be authorized unless the amount due is for at least \$5. Additionally, DOR is authorized to deduct a fee of \$2 for each refund claim, which will be deposited into the General Revenue Fund.¹³

In Fiscal Year 2015-2016, the DOR withheld \$2,020 from fuel refunds.¹⁴

⁹ Majority of the funds are deposited into and used from the State Transportation Trust Fund and may be used only for projects in the adopted work program in the district in which the tax proceeds are collected. See s. 206.608, F.S.

¹⁰ Section 206.606, F.S., provides such proceeds are deposited in the Fuel Tax Collection Trust Fund to be distributed among the State Transportation Trust Fund, the Invasive Plant Control Trust Fund, the State Game Trust Fund, the Agricultural Emergency Eradication Trust Fund, and the Marine Resources Conservation Trust Fund.

¹¹ Additional entities entitled to certain motor fuel tax refunds are listed in s. 206.41(4), F.S., more information is available on the Department of Revenue website, *Fuel Tax Refunds*, http://floridarevenue.com/dor/taxes/fuel/fuel_tax_refunds.html (last visited Mar. 24, 2017).

¹² Section 206.41(5)(a), F.S.

¹³ Section 206.41(5)(c), F.S.

¹⁴ EDR, REC, *supra* note 3, *Elimination of the \$2 Deduction* at p. 320.

Registration Fee for Dealers and Businesses (Sections 4 and 5)

Section 212.18, F.S., provides that every person desiring to engage in or conduct business in this state as a sales and use tax dealer, or to lease, rent, or let or grant license in transient lodgings or real property, and every person who receives money for admissions must register with the DOR to collect, report, and remit such taxes. A \$5 registration fee must accompany the application for a certificate of registration; however, the registration fee is not required to accompany an application to engage in or conduct business to make mail order sales. Additionally, the DOR may waive the registration fee for applications submitted through the DOR Internet registration process.

A person who engages in activities that require registration but fails or refuses to do so is subject to a \$100 registration fee in lieu of the \$5 fee. However, the DOR may waive the increase in the fee if it finds that the failure to register was due to reasonable cause and not to willful negligence, willful neglect, or fraud.¹⁵

Section 212.0596, F.S., provides that DOR may establish procedures to provide for the waiver of registration fees from unregistered persons who make mail order purchases for which tax is required to be remitted.

According to the DOR, in Fiscal Year 2015-2016, DOR collected \$130,766 of such fees.¹⁶

Motor Vehicle Title Transfer Fee (Sections 6 and 7)

Florida law provides the fees, service charges, and disposition of funds for certificates of title. Specifically, s. 319.32(1), F.S., provides that DHSMV charges a \$70 fee for each original and duplicate certificate of title, except for motor vehicles for hire¹⁷, which are \$49, and \$2 for each salvage certificate of title. The DHSMV also charges \$2 to note a lien on the certificate, \$1 to cover the cost of materials, and \$2.50 for shipping and handling. Additionally, s. 319.32(2), F.S., provides that there is a \$4.25 service charge for each certificate of title application, a \$10 additional fee for an original certificate of title issued for a vehicle registered outside of Florida, and a \$7 additional fee for each lien placed on a vehicle by the state child enforcement program.

The \$70 fee is distributed between the State Transportation Trust Fund and the General Revenue Fund, excluding \$1 that is deposited into the Highway Safety Operating Trust Fund to fund the DHSMV's efforts to prevent and detect odometer fraud.¹⁸ The DHSMV or the tax collector who processes the application retains the \$4.25 service charge.¹⁹

¹⁵ Section 212.18(3)(c), F.S.

¹⁶ EDR, REC, *supra* note 3, *Elimination of the \$5 Registration Fee for Certain Dealers or Businesses* at p.321.

¹⁷ Vehicles registered under s. 320.08(6), F.S.

¹⁸ Sections 319.32(5) and 319.324, F.S.; Section 319.32(5), F.S., provides that \$47 of each fee collected for an original or duplicate certificate of title is deposited into the State Transportation Trust Fund, which may receive up to \$200 million in any fiscal year. The remainder of the fee and any fees in excess of the \$200 million are deposited into the General Revenue Fund.

¹⁹ Section 319.32(2)(b), F.S.

A surviving spouse who inherits the deceased spouse's motor vehicle may dispose of the vehicle without being required to obtain a certificate of title in his or her name.²⁰ If the married couple are co-owners of the vehicle with names appearing conjoined by an "or" on the title, it is not necessary for the surviving spouse to apply for a new title, as he or she already has absolute rights to the vehicle. However, if the names are conjoined by "and" or if the vehicle is not co-owned by the surviving spouse and he or she wishes to maintain ownership of the vehicle, the surviving spouse will be required to apply for an original certificate in his or her own name.

"Veteran" Designation Fee (Sections 8 and 9)

Florida provides the option for a veteran²¹ designation to be placed on a veteran's driver license or identification card upon request from the veteran, payment of a fee, and the presentation of a copy of the veteran's DD Form 214²² or other acceptable form specified by the Florida Department of Veterans' Affairs (FDVA).²³ The designation is added onto a driver license or identification card for a \$1 fee when the license or card is being issued or renewed, or a \$2 fee solely to replace a license or card in order to add on the designation, which is deposited in the Highway Safety Operating Trust Fund.²⁴

Commercial Driver License (CDL) for Veterans (Section 10)

An original or renewal CDL is \$75; however, if an applicant for a CDL has completed training and is applying for employment or is currently employed in a public or nonpublic school system that requires a CDL, the CDL is \$48.²⁵ These fees are deposited in the General Revenue Fund.²⁶

Free Identification (ID) Card for Persons 80 Years of Age and Older (Section 10)

Section 322.21(1)(f), F.S., provides that there is a \$25 fee for an original, renewal, or replacement ID card. The fee is deposited as follows:

- For an original ID card, the fee is deposited into the General Revenue Fund;
- For a replacement ID card, \$6 is deposited into the HSOTF and \$19 into the General Revenue Fund;
- For a renewal ID issued by the DHSMV, \$9 is deposited into the HSOTF and \$16 into the General Revenue Fund; and

²⁰ Section 319.28(1)(c), F.S.

²¹ Section 1.01(14), F.S., defines a "veteran" as "a person who served in the active military, naval, or air service who was discharged or released under honorable conditions only or who later received an upgraded discharge under honorable conditions, notwithstanding any action by the United States Department of Veteran Affairs on individuals discharged or released with other than honorable discharges."

²² The Department of Defense issues each veteran a DD-214. This form identifies the veteran's condition of discharge, and contains information commonly needed to verify military service for benefits, retirement, employment, and membership in veterans' organizations. See DD214 website, <http://www.dd214.us/> (last visited Mar. 23, 2017).

²³ See ss. 322.051(8)(b) and 322.14(1)(d), F.S.

²⁴ The current veteran designation is a "V" printed on the license or card; however, the designation will be changed to read "Veteran" upon implementation of new designs for the license and card by the DHSMV. See ss. 322.051(8)(b) and 322.14(1)(d), F.S.

²⁵ Section 322.21(1)(a), F.S.

²⁶ Section 322.21(5), F.S.

- For a renewal ID issued by the tax collector, \$9 is retained by the tax collector and \$16 is deposited into the General Revenue Fund.

Currently, the fee for an ID card is waived for the following individuals:

- A person who is homeless;
- A person whose annual income is at or below 100 percent of the federal poverty level; and
- A juvenile offender in the custody or under the supervision of the Department of Juvenile Justice who is participating in transition-to-adulthood services under s. 985.461, F.S., and issued the ID card from a DHSMV mobile issuing unit.

Delinquency Fee for Professional License (Section 11)

The Department of Business and Professional Regulation (DBPR), as the name implies, is the governmental agency responsible for licensing and regulating many businesses and professionals in the State of Florida.²⁷

Chapter 455, F.S., provides the general powers of the DBPR and sets forth the procedural and administrative framework for all of the professional boards housed under the DBPR as well as the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation.²⁸ When a person is authorized to engage in a profession or occupation in Florida, the DBPR issues a “permit, registration, certificate, or license” to the licensee.²⁹

Sections 455.203 and 455.213, F.S., establish general licensing authority for the DBPR, including the authority to charge license fees and license renewal fees. Each board within the DBPR must determine by administrative rule³⁰ the amount of license fees for each profession, based on estimates of the required revenue to implement the regulatory laws affecting the profession.³¹

Licenses may practice a profession only if they have an active status license.³² Generally, most licensees who practice a profession without an active status license³³ are subject to discipline, fines, or assessments as described in s. 455.227, F.S. At least 90 days before the end of a licensure cycle, the DBPR must provide a licensure renewal notification to an active or inactive licensee, and a notice of pending cancellation of licensure to a delinquent status licensee.³⁴

²⁷ See Florida DBPR website, <http://www.myfloridalicense.com/dbpr/os/os-info.html> (last visited Mar. 23, 2017).

²⁸ See s. 455.203, F.S. The DBPR must also provide legal counsel for boards within the DBPR by contracting with the Department of Legal Affairs, by retaining private counsel, or by providing DBPR staff counsel. See s. 455.221(1), F.S.

²⁹ Sections 455.01(4) and (5), F.S.

³⁰ The administrative rules of the DBPR and of each Board are available through the DBPR’s website at <http://www.myfloridalicense.com/dbpr/divisions.html> (last visited Mar. 23, 2017).

³¹ Section 455.219(1), F.S.

³² Section 455.271(1), F.S.

³³ Section 455.271, F.S., on inactive and delinquent status of licenses, does not apply to a business establishment registered, permitted, or licensed by the department to do business or to a person licensed, permitted, registered, or certified pursuant to ch. 310, F.S. on Pilots, Piloting, and Pilotage, or ch. 475, F.S., on Real Estate Brokers, Sales Associates, Schools, and Appraisers.

³⁴ See s. 455.273, F.S.

Each board, or the department when there is no board,³⁵ must permit a licensee to choose active or inactive status at the time of licensure renewal, and impose a fee for an inactive status license that does not exceed the fee for an active status license.³⁶ An inactive status licensee may change to active status at any time, if the licensee meets all requirements for active status, including payment of all required fees, and meeting all continuing education requirements. Failure of a licensee to renew a license before its expiration causes the license to become delinquent in the license cycle following expiration (delinquency cycle).³⁷

A delinquent status licensee must re-apply for active or inactive status during the delinquency cycle. Failure by a delinquent status licensee to become active or inactive before the expiration of the delinquency cycle renders the license void, with no further action by the board.³⁸

The DBPR may, at its discretion, reinstate a license that has become void (excepting those public accountancy licenses issued under ch. 473, F.S.) if the DBPR determines that the individual failed to comply because of illness or economic hardship. The individual must apply to the DBPR for reinstatement, pay all required fees, including a reinstatement fee, meet all continuing education requirements, and otherwise be eligible for renewal of licensure.³⁹

Section 477.271(7), F.S., provides that each board must impose an additional delinquency fee, not to exceed the biennial renewal fee for an active status license, when a delinquent status licensee applies for active or inactive status. According to the DBPR, all boards have adopted delinquency fees, which vary by profession ranging from \$25 to \$260.⁴⁰ The fees collected are deposited into the Professional Regulation Trust Fund, which is used to carry out the provisions of ch. 455, F.S., as well as “provisions of law with respect to professions regulated by the department and any board within the department.”⁴¹

Commercial Driver School License Fee (Section 12)

DHSMV is responsible for overseeing and licensing all commercial driver schools except commercial truck driving schools. A commercial driving school, also known as “traffic school,” educates individuals on driving skills, traffic laws, road safety, substance abuse, and other behind-the-wheel skills necessary for non-commercial vehicle drivers.⁴²

To become a licensed commercial driving school, the applicant must submit an application to the DHSMV. The application must include: the business’s name and a certified copy of a certificate

³⁵ Whenever a board for a profession does not exist, the DBPR is generally authorized by law to act instead. *See e.g.*, ss. 455.219 and 455.271, F.S., for multiple references to actions of “the board, or the department when there is no board.”

³⁶ The status or a change in status of a licensee does not alter the board’s right to impose discipline or to enforce discipline previously imposed on a licensee for acts or omissions committed by the licensee while holding a license, whether active, inactive, or delinquent. *See s.* 455.271(11), F.S.

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ DBPR, *2017 Agency Legislative Bill Analysis: SB 514* (identical language in SB 1442) (Feb. 28, 2017) (on file with the Senate Committee on Transportation).

⁴¹ Section 455.219(3), F.S.

⁴² DHSMV website, *Commercial Driving Schools*, <https://www.flhsmv.gov/driver-licenses-id-cards/education-courses/commercial-driving-schools/> (last visited Mar. 23, 2017).

of Fictitious Name or Certificate of Incorporation from the Department of State; the business's address with a certificate of occupancy or a lease agreement; the names of all owners and operators of the business; a list of instructors and agents employed by the school; a list of the school's vehicles (including current certificates of insurance for each vehicle); fingerprints for a background check of every owner, officer, or partner of the school; and a nonrefundable application fee of \$50.⁴³

If the application is approved the school must pay a \$200 fee to receive the license. The license is valid for one year, and costs \$100 to renew. Additionally, the license is nontransferable. In the event that there is any change in ownership or interest in the business, the commercial driving school must surrender its current license and apply for a new license.⁴⁴

Application and license fees, including the renewal fee, are deposited into the General Revenue Fund.⁴⁵

Florida Building Code Permit Surcharge (Section 13)

Section 553.721, F.S., provides that all local building departments are required to assess and collect a surcharge at the rate of 1.5 percent on building permit fees (with a minimum surcharge of \$2) for the purpose of administering and enforcing the Florida Building Code⁴⁶.

The governmental authority responsible for collecting building permit fees in its local jurisdiction is authorized to retain 10 percent of the surcharge amount, which must be used to fund participation of building departments in the national and state building code adoption processes and to provide education related to enforcement of the Florida Building Code. The remaining amount is remitted to the DBPR quarterly to be deposited into the Professional Regulation Trust Fund to fund the Florida Building Commission and the Florida Building Code Compliance and Mitigation Program.

From these funds, the Florida Building Code Compliance and Mitigation Program must be allocated \$925,000 each fiscal year, and the Program shall fund recommendations made by the Building Code System Uniform Implementation Evaluation Workgroup, dated April 8, 2013, from existing resources, not to exceed \$30,000 in Fiscal Year 2016-2017. Additionally, funds collected from the surcharge must be used to fund Florida Fire Prevention Code informal interpretations managed by the State Fire Marshall for each fiscal year; however, funds used for this purpose may not exceed \$15,000. Funds collected from the surcharge may not be used to fund research on techniques for mitigation of radon in existing buildings.

⁴³ DHSMV, *Form HSMV 77074S – CDS Application* (September 2010), available at <https://www.flhsmv.gov/pdf/forms/77074s.pdf> (last visited Mar. 23, 2017).

⁴⁴ Section 488.03, F.S.

⁴⁵ Section 488.08, F.S.

⁴⁶ Part IV of ch. 553, F.S., is cited as the "Florida Building Codes Act."

Florida Professional Educator's Certificate Fees (Sections 14 and 15)

Florida educators⁴⁷ must be certified by the state to teach in Florida's public schools as well as many private schools.⁴⁸ The State Board of Education establishes, by rule, educator certification fees for such applications, examinations, certifications, certification renewals, late renewals, recordmaking and recordkeeping.⁴⁹ Such fees are required to be based on Florida Department of Education (DOE) estimates of the revenue required to implement the provisions of law with respect to certification of school personnel, and are deposited into DOE's Educational Certification and Service Trust Fund.⁵⁰

The DOE issues three types of educator certificates:⁵¹

- A professional educator certificate is the highest type of full-time certificate issued. The professional certificate is a 5-year renewable certificate.⁵²
- A temporary educator certificate is a 3-year nonrenewable certificate issued to an applicant who does not qualify for a professional certificate.⁵³
- An Athletic Coaching certificate covers a full-time or part-time individual who is employed as an athletic coach in any public school in any district of the state.⁵⁴

To be eligible to seek a Florida educator's certificate, an individual must submit an application and meet specified requirements:⁵⁵

- Be at least 18 years of age;
- File an affidavit to uphold the principles incorporated in the Constitution of the United States and the Constitution of the State of Florida;
- Document receipt of a bachelor's or higher degree from an accredited institution of higher learning, or a nonaccredited institution of higher learning that the DOE has identified as having a quality program resulting in a bachelor's degree, or higher;
- Submit to a background screening;
- Be of good moral character;
- Be competent and capable of performing the duties, functions, and responsibilities of an educator; and
- Demonstrate mastery of general knowledge, subject area knowledge, and professional preparation and education competence.

⁴⁷ In addition to classroom teachers, "educators" include school administrators and other school support professionals. *See* s. 1012.01(2) and (3), F.S.

⁴⁸ Florida Department of Education website, *Educator Certification*, <http://www.fldoe.org/teaching/certification/> (last visited Mar. 28, 2017).

⁴⁹ Section 1012.59, F.S.

⁵⁰ *Id.*

⁵¹ Section 1012.55, F.S.

⁵² Section 1012.56(1), (2), (3), (5), (6), and (7), F.S.

⁵³ Section 1012.56(7)(b), F.S.; Rule 6A-4.004(1), F.A.C.

⁵⁴ Section 1012.55(2)(a), F.S.

⁵⁵ Section 1012.56(2), F.S.; Rule 6A-4.002, F.A.C.

An applicant may demonstrate mastery of general knowledge, subject area knowledge, and professional preparation and education competence by passing state examinations. The registration fees for such examinations are as follows:⁵⁶

Examination	First-Time Registration Fee	Retake Registration Fee
General Knowledge Exam	\$130	\$150
Professional Education Test	\$150	\$170
Subject Area Examination	\$200	\$220

The fee for an initial and a subsequent renewal of the professional certificate is \$75. A 2016 preliminary survey by DOE indicates there are currently 171,468 teachers staffed in Florida’s public schools.⁵⁷

III. Effect of Proposed Changes:

The bill removes or reduces numerous fees or surcharges in the Florida Statutes.

Sections 1 and 2 eliminate the \$10 fee for commissions for elected officers.

Section 3 eliminates the \$2 fee deducted from each motor fuel sales tax refund claim.

Sections 4 and 5 eliminate the \$5 registration fee for persons or businesses required to register with the DOR in order to collect, report, and remit sales and use tax.

Sections 6 and 7 exempt a surviving spouse from motor vehicle title transfer fees provided under s. 319.32(1), F.S., when the title is being transferred from the deceased motor vehicle owner to the surviving spouse. The fee exemption is for a surviving spouse regardless of whether he or she is named on the deceased motor vehicle owner’s title.

Sections 8 and 9 eliminate the \$1 and \$2 fee to receive the “Veteran” designation on a driver license or ID card. Veterans will not be required to pay any fee to add the Veteran designation to their driver license or ID card, or pay any fee to replace their driver license or ID card in order to add the Veteran designation.

Section 10 exempts a veteran from the fee for an original CDL upon presentation of his or her DD Form 214 or another acceptable form specified by the FDVA. Veterans will not have to pay the \$75 or \$48 fee to receive an original CDL.

Section 10 also exempts a person who is 80 years of age or older from the \$25 fee for an original, renewal, or replacement ID card.

Section 11 provides a flat \$25 delinquency fee that is assessed against a licensee applying for active or inactive status while in delinquent status. The bill removes that the delinquency fee is

⁵⁶ Rule 6A-4.0021, F.A.C.

⁵⁷ This count does not include administrative staff or other instructional staff such as guidance counselors or librarians. See DOE website, *Staff – Instructional Staff* (Fall 2016), <http://www.fldoe.org/core/fileparse.php/7584/urlt/ARInstructionalStaff.xls> (last visited Mar. 28, 2017).

adopted by rule by each board at a rate *not to exceed the biennial renewal fee for an active status license*. This change provides consistency among all licensees regulated by the DBPR, and eliminates the needs for boards to engage in continued rulemaking authority regarding delinquency fees.

Section 12 reduces the application and license fees, by half, for commercial driver schools. For commercial driver schools, the license application fee is \$25, instead of \$50; the license issuance fee is \$100, instead of \$200; and the annual license renewal fee is \$50, instead of \$100.

Section 13 reduces the surcharge assessed on all building permit fees from 1.5 percent of the permit fee to one percent of the permit fee.

Sections 14 and 15 eliminate the \$75 application fee for an initial Florida Professional Educator's Certificate, and eliminate the fee for first-time registration of the General Knowledge Test (\$130) and the Professional Education Test (\$150). One subject area examination fee (\$200) is also waived for an initial Florida Professional Educator's Certificate applicant. In addition, the renewal fee (\$75) for a Florida Professional Educator's Certificate is no longer required for a certified teacher employed at a Florida public school. The changes made by sections 14 and 15 begin in Fiscal Year 2017-2018, and are subject to funding appropriated in the General Appropriations Act.

Sections 3, 4, and 5 of the bill take effect January 1, 2018. The remaining sections of the bill take effect July 1, 2017.

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:

The Revenue Estimating Conference (REC) reviewed the bill on March 10, 2017.⁵⁸

⁵⁸ EDR, REC, *Various State Fees – HB 1123 (SB 1442 identical)* (Mar. 10, 2017), available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2017/pdf/page319-332.pdf> (last visited Mar. 24, 2017).

The REC estimates the bill's reduction and elimination of certain fees and surcharges will have the following fiscal effect on state and local government from Fiscal Years 2017 to 2022:

- Sections 1, 2, 3, and 12 of the bill will have a negative insignificant impact;
- Sections 4 and 5 will have a recurring \$100,000 negative impact to the General Revenue Fund (GR);
- Sections 6 and 7 will have a recurring negative impact of \$1.5 to \$1.6 million, of which \$500,000 will be to the HSOTF and the remaining to GR;
- Sections 8 and 9 will negatively impact the HSOTF by a recurring \$100,000;
- Section 10, Veteran CDL fee exemption, will have a recurring negative impact to GR of about \$100,000; and
- Section 10, ID card fee exemptions, will have a recurring negative impact of \$500,000 to \$600,000 to GR and \$100,000 to the HSOTF;

Additionally, the DBPR estimates⁵⁹ the reduction in fees and surcharges in:

- Section 11 of the bill will have a negative impact of approximately \$700,000, of which eight percent is to GR and the remaining is to the Professional Regulation Trust Fund; and
- Section 13 will have a negative impact of approximately \$2.6 million, of which eight percent is to GR and the remaining is to the Professional Regulation Trust Fund. Local governments retain 10 percent of the surcharge; thus, local governments will experience a negative impact as well.

Sections 14 and 15 of the bill have not been reviewed by the REC. The number of initial applicants for a professional educator's certificate who will take advantage of the up to \$555 in waived fees established in the bill is unknown. The bill also eliminates the \$75 professional educator's certificate renewal fee for certified Florida public school teachers. Currently, there are 171,468 teachers staffed in Florida's public schools. These teachers may be eligible for this waiver upon renewal of their 5-year certification. However, sections 14 and 15 of the bill are subject to funding appropriated in the General Appropriations Act.

B. Private Sector Impact:

Due to the reduction of fees and surcharges, the bill may have an indeterminate positive fiscal impact on: elected officers; persons receiving a motor fuel sales tax refund; persons or businesses required to register with DOR for sales and use tax purposes; surviving spouses transferring a motor vehicle title into their name from their deceased spouse; veterans receiving a "Veteran" designation on the driver license or ID card; veterans applying for an original CDL; persons 80 years of age or older receiving an ID card; licensees required to pay a delinquency fee to the DBPR; commercial driver schools; persons or businesses acquiring a building permit; initial applicants for the professional educator's certificate and Florida public school teachers.

⁵⁹ *Id.* at p. 329.

C. Government Sector Impact:

The bill, in total, is estimated to have a significant negative impact to GR, the HSOTF, the Educational Certification and Service Trust Fund, and the Professional Regulation Trust Fund.

The bill will also negatively impact local trust funds, DOR, and the State Transportation Trust Fund.

DOR, DHSMV, DBPR, and DOE will likely experience programming and administrative costs to implement the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 15.09, 113.01, 206.41, 212.0596, 212.18, 319.28, 319.32, 322.051, 322.14, 322.21, 455.271, 488.03, and 553.721.

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

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

CS by Transportation on March 28, 2017:

The CS:

- Clarifies that, for the title transfer fee exemption, the surviving spouse does not have to be named on the deceased vehicle owner's title to receive the fee waiver.
- Adds, beginning in Fiscal Year 2017-2018 and each year thereafter (subject to funding appropriated), the fees are eliminated for:
 - The application fee for an initial Florida Professional Educator's Certificate;
 - A first-time registration for the General Knowledge Test;
 - A first-time registration for the Professional Education Test;
 - One subject area examination for an initial Florida Professional Educator's Certificate applicant; and
 - The renewal of a Florida Professional Educator's Certificate by a certified teacher employed at a Florida public school.

B. Amendments:

None.

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



296480

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/28/2017	.	
	.	
	.	
	.	

The Committee on Transportation (Broxson) recommended the following:

Senate Amendment

Delete lines 181 - 183
and insert:

(d) The surviving spouse of a deceased motor vehicle owner who applies for a transfer of title in his or her own name, regardless of whether the surviving spouse is named on the deceased motor vehicle owner's title, is exempt from the fees imposed under this subsection.



501846

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/28/2017	.	
	.	
	.	
	.	

The Committee on Transportation (Broxson) recommended the following:

Senate Amendment (with title amendment)

Between lines 341 and 342
insert:

Section 14. Subsection (1) of section 1012.56, Florida Statutes, is amended to read:

1012.56 Educator certification requirements.—

(1) APPLICATION.—Each person seeking certification pursuant to this chapter shall submit a completed application containing the applicant's social security number to the Department of



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11 Education and remit the fee required pursuant to s. 1012.59 and
12 rules of the State Board of Education.

13 (a) Beginning in the 2017-2018 fiscal year and each year
14 thereafter, the application fee and the fees for the following
15 examinations are eliminated for an applicant for the initial
16 Florida Professional Educator's Certificate: the General
17 Knowledge Test, for a first-time registration; and the
18 Professional Education Test, for a first-time registration. This
19 paragraph is subject to funding appropriated in the General
20 Appropriations Act.

21 (b) Beginning in the 2017-2018 fiscal year and each year
22 thereafter, one subject area examination fee is waived for an
23 applicant for the initial Florida Professional Educator's
24 Certificate. This paragraph is subject to funding appropriated
25 in the General Appropriations Act.

26 (c) Beginning in the 2017-2018 fiscal year and each year
27 thereafter, the fee for renewing a Florida Professional
28 Educator's Certificate is eliminated for a certified teacher
29 employed at a Florida public school. This paragraph is subject
30 to funding appropriated in the General Appropriations Act.

31 (d) Pursuant to the federal Personal Responsibility and
32 Work Opportunity Reconciliation Act of 1996, each party is
33 required to provide his or her social security number in
34 accordance with this section. Disclosure of social security
35 numbers obtained through this requirement is limited to the
36 purpose of administration of the Title IV-D program of the
37 Social Security Act for child support enforcement. Pursuant to
38 s. 120.60, the department shall issue within 90 calendar days
39 after the stamped receipted date of the completed application:



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40 1.~~(a)~~ If the applicant meets the requirements, a
41 professional certificate covering the classification, level, and
42 area for which the applicant is deemed qualified and a document
43 explaining the requirements for renewal of the professional
44 certificate;

45 2.~~(b)~~ If the applicant meets the requirements and if
46 requested by an employing school district or an employing
47 private school with a professional education competence
48 demonstration program pursuant to paragraphs (6) (f) and (8) (b),
49 a temporary certificate covering the classification, level, and
50 area for which the applicant is deemed qualified and an official
51 statement of status of eligibility; or

52 3.~~(e)~~ If an applicant does not meet the requirements for
53 either certificate, an official statement of status of
54 eligibility.

55
56 The statement of status of eligibility must advise the applicant
57 of any qualifications that must be completed to qualify for
58 certification. Each statement of status of eligibility is valid
59 for 3 years after its date of issuance, except as provided in
60 paragraph (2) (d).

61 Section 15. Section 1012.59, Florida Statutes, is amended
62 to read:

63 1012.59 Certification fees.—

64 (1) The State Board of Education, by rule, shall establish
65 separate fees for applications, examinations, certification,
66 certification renewal, late renewal, recordmaking, and
67 recordkeeping, and may establish procedures for scheduling and
68 administering an examination upon an applicant's request. Each



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69 fee shall be based on department estimates of the revenue
70 required to implement the provisions of law with respect to
71 certification of school personnel. The application fee shall be
72 nonrefundable. Each examination fee shall be sufficient to cover
73 the actual cost of developing and administering the examination.

74 (a) Beginning in the 2017-2018 fiscal year and each year
75 thereafter, the application fee and the fees for the following
76 examinations are eliminated for an applicant for the initial
77 Florida Professional Educator's Certificate: the General
78 Knowledge Test, for a first-time registration; and the
79 Professional Education Test, for a first-time registration. This
80 paragraph is subject to funding appropriated in the General
81 Appropriations Act.

82 (b) Beginning in the 2017-2018 fiscal year and each year
83 thereafter, one subject area examination fee is waived for an
84 applicant for the initial Florida Professional Educator's
85 Certificate. This paragraph is subject to funding appropriated
86 in the General Appropriations Act.

87 (c) Beginning in the 2017-2018 fiscal year and each year
88 thereafter, the fee for renewing a Florida Professional
89 Educator's Certificate is eliminated for a certified teacher
90 employed at a Florida public school. This paragraph is subject
91 to funding appropriated in the General Appropriations Act.

92 (2) The proceeds from the collection of certification fees,
93 fines, penalties, and costs levied pursuant to this chapter
94 shall be remitted by the Department of Education to the Chief
95 Financial Officer for deposit into a separate fund to be known
96 as the "Educational Certification and Service Trust Fund" and
97 disbursed for the payment of expenses incurred by the



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98 Educational Practices Commission and in the printing of forms
99 and bulletins and the issuing of certificates, upon vouchers
100 approved by the department.

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

102 And the title is amended as follows:

103 Between lines 24 and 25

104 insert:

105 amending ss. 1012.56 and 1012.59, F.S.; eliminating
106 the application fee and the fees for certain
107 examinations for an initial Florida Professional
108 Educator's Certificate beginning in a specified fiscal
109 year; waiving the fee for one subject area examination
110 for an initial Florida Professional Educator's
111 Certificate beginning in a specified fiscal year;
112 eliminating the fee for renewing a Florida
113 Professional Educator's Certificate for a certified
114 teacher employed at a Florida public school beginning
115 in a specified fiscal year; providing specified
116 provisions are subject to certain funding;

By Senator Broxson

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1 A bill to be entitled
 2 An act relating to fee and surcharge reductions;
 3 amending s. 113.01, F.S.; deleting the fee for a
 4 commission of an elected officer by the Governor;
 5 amending s. 206.41, F.S.; deleting the fee for a claim
 6 for refund of the tax on motor fuel; amending s.
 7 212.18, F.S.; deleting a registration fee for certain
 8 dealers or businesses; amending s. 319.32, F.S.;
 9 exempting a surviving spouse from the fee to transfer
 10 a motor vehicle title; amending ss. 322.051 and
 11 322.14, F.S.; deleting fees for adding the word
 12 "Veteran" to an identification card or driver license;
 13 amending s. 322.21, F.S.; exempting veterans from the
 14 fee for an original commercial driver license;
 15 exempting certain persons from the fee for an
 16 identification card; amending s. 455.271, F.S.;
 17 revising provisions relating to imposition and amount
 18 of a delinquency fee for licensees regulated by the
 19 Department of Business and Professional Regulation;
 20 amending s. 488.03, F.S.; reducing fees for
 21 application, licensure, and renewal of licensure to
 22 operate a driver school; amending s. 553.721, F.S.;
 23 reducing the amount of the surcharge assessed by the
 24 department on Florida Building Code permit fees;
 25 amending ss. 15.09, 212.0596, and 319.28, F.S.;
 26 conforming provisions to changes made by the act;
 27 providing effective dates.
 28
 29 Be It Enacted by the Legislature of the State of Florida:

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30
 31 Section 1. Subsection (3) of section 15.09, Florida
 32 Statutes, is amended to read:
 33 15.09 Fees.—
 34 (3) All fees arising from certificates of election or
 35 appointment to office ~~and from commissions to officers~~ shall be
 36 paid to the Chief Financial Officer for deposit in the General
 37 Revenue Fund.
 38 Section 2. Section 113.01, Florida Statutes, is amended to
 39 read:
 40 113.01 Fee for commissions issued by Governor.—A fee of \$10
 41 is prescribed for the issuance of each commission issued by the
 42 Governor of the state and attested by the Secretary of State for
 43 ~~an elected officer or~~ a notary public.
 44 Section 3. Effective January 1, 2018, paragraph (c) of
 45 subsection (5) of section 206.41, Florida Statutes, is amended
 46 to read:
 47 206.41 State taxes imposed on motor fuel.—
 48 (5)
 49 (c)1. No refund may be authorized unless a sworn
 50 application therefor containing such information as the
 51 department may determine is filed with the department not later
 52 than the last day of the month following the quarter for which
 53 the refund is claimed. However, when a justified excuse for late
 54 filing is presented to the department and the last preceding
 55 claim was filed on time, the deadline for filing may be extended
 56 an additional month. No refund will be authorized unless the
 57 amount due is for \$5 or more for any refund period and unless
 58 application is made upon forms prescribed by the department.

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59 2. Claims made for refunds provided pursuant to subsection
60 (4) shall be paid quarterly. ~~The department shall deduct a fee~~
61 ~~of \$2 for each claim, which fee shall be deposited in the~~
62 ~~General Revenue Fund.~~

63 Section 4. Effective January 1, 2018, subsection (7) of
64 section 212.0596, Florida Statutes, is amended to read:

65 212.0596 Taxation of mail order sales.—

66 (7) The department may establish by rule procedures for
67 collecting the use tax from unregistered persons who but for
68 their mail order purchases would not be required to remit sales
69 or use tax directly to the department. The procedures may
70 provide for waiver of registration ~~and registration fees~~,
71 provisions for irregular remittance of tax, elimination of the
72 collection allowance, and nonapplication of local option
73 surtaxes.

74 Section 5. Effective January 1, 2018, paragraphs (a) and
75 (c) of subsection (3) of section 212.18, Florida Statutes, are
76 amended to read:

77 212.18 Administration of law; registration of dealers;
78 rules.—

79 (3) (a) A person desiring to engage in or conduct business
80 in this state as a dealer, or to lease, rent, or let or grant
81 licenses in living quarters or sleeping or housekeeping
82 accommodations in hotels, apartment houses, roominghouses, or
83 tourist or trailer camps that are subject to tax under s.
84 212.03, or to lease, rent, or let or grant licenses in real
85 property, and a person who sells or receives anything of value
86 by way of admissions, must file with the department an
87 application for a certificate of registration for each place of

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88 business. The application must include the names of the persons
89 who have interests in such business and their residences, the
90 address of the business, and other data reasonably required by
91 the department. However, owners and operators of vending
92 machines or newspaper rack machines are required to obtain only
93 one certificate of registration for each county in which such
94 machines are located. The department, by rule, may authorize a
95 dealer that uses independent sellers to sell its merchandise to
96 remit tax on the retail sales price charged to the ultimate
97 consumer in lieu of having the independent seller register as a
98 dealer and remit the tax. The department may appoint the county
99 tax collector as the department's agent to accept applications
100 for registrations. The application must be submitted to the
101 department before the person, firm, copartnership, or
102 corporation may engage in such business, ~~and it must be~~
103 ~~accompanied by a registration fee of \$5. However, a registration~~
104 ~~fee is not required to accompany an application to engage in or~~
105 ~~conduct business to make mail order sales. The department may~~
106 ~~waive the registration fee for applications submitted through~~
107 ~~the department's Internet registration process.~~

108 (c)1. A person who engages in acts requiring a certificate
109 of registration under this subsection and who fails or refuses
110 to register commits a misdemeanor of the first degree,
111 punishable as provided in s. 775.082 or s. 775.083. Such acts
112 are subject to injunctive proceedings as provided by law. A
113 person who engages in acts requiring a certificate of
114 registration and who fails or refuses to register is also
115 subject to a \$100 initial registration fee ~~in lieu of the \$5~~
116 ~~registration fee required by paragraph (a).~~ However, the

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117 department may waive the ~~increase in the~~ registration fee if it
 118 finds that the failure to register was due to reasonable cause
 119 and not to willful negligence, willful neglect, or fraud.

120 2.a. A person who willfully fails to register after the
 121 department provides notice of the duty to register as a dealer
 122 commits a felony of the third degree, punishable as provided in
 123 s. 775.082, s. 775.083, or s. 775.084.

124 b. The department shall provide written notice of the duty
 125 to register to the person by personal service or by sending
 126 notice by registered mail to the person's last known address.
 127 The department may provide written notice by both methods
 128 described in this sub-subparagraph.

129 Section 6. Paragraph (a) of subsection (1) of section
 130 319.28, Florida Statutes, is amended to read:

131 319.28 Transfer of ownership by operation of law.—

132 (1) (a) In the event of the transfer of ownership of a motor
 133 vehicle or mobile home by operation of law as upon inheritance,
 134 devise or bequest, order in bankruptcy, insolvency, replevin,
 135 attachment, execution, or other judicial sale or whenever the
 136 engine of a motor vehicle is replaced by another engine or
 137 whenever a motor vehicle is sold to satisfy storage or repair
 138 charges or repossession is had upon default in performance of
 139 the terms of a security agreement, chattel mortgage, conditional
 140 sales contract, trust receipt, or other like agreement, and upon
 141 the surrender of the prior certificate of title or, when that is
 142 not possible, presentation of satisfactory proof to the
 143 department of ownership and right of possession to such motor
 144 vehicle or mobile home, and upon payment of the fee prescribed
 145 by law, except as provided in s. 319.32(1)(d), and presentation

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146 of an application for certificate of title, the department may
 147 issue to the applicant a certificate of title thereto.

148 Section 7. Subsection (1) of section 319.32, Florida
 149 Statutes, is amended to read:

150 319.32 Fees; service charges; disposition.—

151 (1) (a) The department shall charge a fee of \$70 for each
 152 original certificate of title, except for a certificate of title
 153 for a motor vehicle for hire registered under s. 320.08(6) for
 154 which the title fee shall be \$49; \$70 for each duplicate copy of
 155 a certificate of title, except for a certificate of title for a
 156 motor vehicle for hire registered under s. 320.08(6) for which
 157 the title fee shall be \$49; \$2 for each salvage certificate of
 158 title; and \$3 for each assignment by a lienholder. The
 159 department shall also charge a fee of \$2 for noting a lien on a
 160 title certificate, which fee includes the services for the
 161 subsequent issuance of a corrected certificate or cancellation
 162 of lien when that lien is satisfied.

163 (b) If an application for a certificate of title is for a
 164 vehicle that is required by s. 319.14(1)(b) to have a physical
 165 examination, the department shall charge an additional fee of
 166 \$40 for the initial examination and \$20 for each subsequent
 167 examination. The initial examination fee shall be deposited into
 168 the General Revenue Fund, and each subsequent examination fee
 169 shall be deposited into the Highway Safety Operating Trust Fund.
 170 The physical examination of the vehicle includes, but is not
 171 limited to, verification of the vehicle identification number
 172 and verification of the bill of sale or title for major
 173 components.

174 (c) In addition to all other fees charged, a sum of \$1

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175 shall be paid for the issuance of an original or duplicate
 176 certificate of title to cover the cost of materials used for
 177 security purposes. A service fee of \$2.50, to be deposited into
 178 the Highway Safety Operating Trust Fund, shall be charged for
 179 shipping and handling for each paper title mailed by the
 180 department.

181 (d) The surviving spouse of a deceased motor vehicle owner
 182 who applies for a transfer of title in his or her own name is
 183 exempt from the fees imposed under this subsection.

184 Section 8. Paragraph (b) of subsection (8) of section
 185 322.051, Florida Statutes, is amended to read:

186 322.051 Identification cards.—

187 (8)

188 (b) The word "Veteran" shall be exhibited on the
 189 identification card of a veteran upon ~~the payment of an~~
 190 ~~additional \$1 fee for the identification card and the~~
 191 presentation of a copy of the person's DD Form 214, issued by
 192 the United States Department of Defense, or another acceptable
 193 form specified by the Department of Veterans' Affairs. Until a
 194 veteran's identification card is next renewed, the veteran may
 195 have the word "Veteran" added to his or her identification card
 196 upon surrender of his or her current identification card,
 197 ~~payment of a \$2 fee to be deposited into the Highway Safety~~
 198 ~~Operating Trust Fund,~~ and presentation of a copy of his or her
 199 DD Form 214 or another acceptable form specified by the
 200 Department of Veterans' Affairs. If the applicant is not
 201 conducting any other transaction affecting the identification
 202 card, a replacement identification card shall be issued with the
 203 word "Veteran" without payment of the fee required in s.

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204 322.21(1)(f)3.

205 Section 9. Paragraph (d) of subsection (1) of section
 206 322.14, Florida Statutes, is amended to read:

207 322.14 Licenses issued to drivers.—

208 (1)

209 (d) The word "Veteran" shall be exhibited on the driver
 210 license of a veteran upon ~~the payment of an additional \$1 fee~~
 211 ~~for the license and~~ the presentation of a copy of the person's
 212 DD Form 214, issued by the United States Department of Defense,
 213 or another acceptable form specified by the Department of
 214 Veterans' Affairs. Until a veteran's license is next renewed,
 215 the veteran may have the word "Veteran" added to his or her
 216 license upon surrender of his or her current license, ~~payment of~~
 217 ~~a \$2 fee to be deposited into the Highway Safety Operating Trust~~
 218 ~~Fund,~~ and presentation of a copy of his or her DD Form 214 or
 219 another acceptable form specified by the Department of Veterans'
 220 Affairs. If the applicant is not conducting any other
 221 transaction affecting the driver license, a replacement license
 222 shall be issued with the word "Veteran" without payment of the
 223 fee required in s. 322.21(1)(e).

224 Section 10. Paragraphs (a) and (f) of subsection (1) of
 225 section 322.21, Florida Statutes, are amended to read:

226 322.21 License fees; procedure for handling and collecting
 227 fees.—

228 (1) Except as otherwise provided herein, the fee for:

229 (a) An original or renewal commercial driver license is
 230 \$75, which shall include the fee for driver education provided
 231 by s. 1003.48. However, if an applicant has completed training
 232 and is applying for employment or is currently employed in a

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233 public or nonpublic school system that requires the commercial
 234 license, the fee is the same as for a Class E driver license. A
 235 delinquent fee of \$15 shall be added for a renewal within 12
 236 months after the license expiration date. A veteran is exempt
 237 from the fee for an original commercial driver license upon
 238 presentation of his or her DD Form 214, issued by the United
 239 States Department of Defense, or another acceptable form
 240 specified by the Department of Veterans' Affairs.

241 (f) An original, renewal, or replacement identification
 242 card issued pursuant to s. 322.051 is \$25, except that an
 243 applicant who presents evidence satisfactory to the department
 244 that he or she is homeless as defined in s. 414.0252(7); his or
 245 her annual income is at or below 100 percent of the federal
 246 poverty level; ~~or~~ he or she is a juvenile offender who is in the
 247 custody or under the supervision of the Department of Juvenile
 248 Justice, is receiving services pursuant to s. 985.461, and whose
 249 identification card is issued by the department's mobile issuing
 250 units; or he or she is 80 years of age or older is exempt from
 251 such fee. Funds collected from fees for original, renewal, or
 252 replacement identification cards shall be distributed as
 253 follows:

- 254 1. For an original identification card issued pursuant to
 255 s. 322.051, the fee shall be deposited into the General Revenue
 256 Fund.
- 257 2. For a renewal identification card issued pursuant to s.
 258 322.051, \$6 shall be deposited into the Highway Safety Operating
 259 Trust Fund, and \$19 shall be deposited into the General Revenue
 260 Fund.
- 261 3. For a replacement identification card issued pursuant to

1-01037A-17

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262 s. 322.051, \$9 shall be deposited into the Highway Safety
 263 Operating Trust Fund, and \$16 shall be deposited into the
 264 General Revenue Fund. Beginning July 1, 2015, or upon completion
 265 of the transition of the driver license issuance services, if
 266 the replacement identification card is issued by the tax
 267 collector, the tax collector shall retain the \$9 that would
 268 otherwise be deposited into the Highway Safety Operating Trust
 269 Fund and the remaining revenues shall be deposited into the
 270 General Revenue Fund.

271 Section 11. Subsection (7) of section 455.271, Florida
 272 Statutes, is amended to read:

273 455.271 Inactive and delinquent status.-

274 (7) Notwithstanding the provisions of the professional
 275 practice acts administered by the department, each board, or the
 276 department when there is no board, shall, ~~by rule,~~ impose an
 277 additional delinquency fee of \$25, ~~not to exceed the biennial~~
 278 ~~renewal fee for an active status license,~~ on a delinquent status
 279 licensee when such licensee applies for active or inactive
 280 status.

281 Section 12. Section 488.03, Florida Statutes, is amended to
 282 read:

283 488.03 License; application; expiration; renewal; fees.-An
 284 application for a license shall be made in the form prescribed
 285 by the Department of Highway Safety and Motor Vehicles. Every
 286 application for an original license must be accompanied by an
 287 application fee of \$25 ~~\$50~~, which fee may not be refunded. If
 288 the application is approved, a further fee of \$100 ~~\$200~~ must be
 289 paid before the license may be issued. The license shall be
 290 valid for a period of 1 year from the date of issuance and is

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291 not transferable. In the event of any change in ownership or
 292 interest in the business, an application for a new license,
 293 together with all instructors' certificates issued thereunder,
 294 must be surrendered to the department before a license will be
 295 issued to a new owner of the business. The fee for the annual
 296 renewal of a license is \$50 ~~\$100~~.

297 Section 13. Section 553.721, Florida Statutes, is amended
 298 to read:

299 553.721 Surcharge.—In order for the Department of Business
 300 and Professional Regulation to administer and carry out the
 301 purposes of this part and related activities, there is created a
 302 surcharge, to be assessed at the rate of 1 ~~1.5~~ percent of the
 303 permit fees associated with enforcement of the Florida Building
 304 Code as defined by the uniform account criteria and specifically
 305 the uniform account code for building permits adopted for local
 306 government financial reporting pursuant to s. 218.32. The
 307 minimum amount collected on any permit issued shall be \$2. The
 308 unit of government responsible for collecting a permit fee
 309 pursuant to s. 125.56(4) or s. 166.201 shall collect the
 310 surcharge and electronically remit the funds collected to the
 311 department on a quarterly calendar basis for the preceding
 312 quarter and continuing each third month thereafter. The unit of
 313 government shall retain 10 percent of the surcharge collected to
 314 fund the participation of building departments in the national
 315 and state building code adoption processes and to provide
 316 education related to enforcement of the Florida Building Code.
 317 All funds remitted to the department pursuant to this section
 318 shall be deposited in the Professional Regulation Trust Fund.
 319 Funds collected from the surcharge shall be allocated to fund

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320 the Florida Building Commission and the Florida Building Code
 321 Compliance and Mitigation Program under s. 553.841. Funds
 322 allocated to the Florida Building Code Compliance and Mitigation
 323 Program shall be \$925,000 each fiscal year. The Florida Building
 324 Code Compliance and Mitigation Program shall fund the
 325 recommendations made by the Building Code System Uniform
 326 Implementation Evaluation Workgroup, dated April 8, 2013, from
 327 existing resources, not to exceed \$30,000 in the 2016-2017
 328 fiscal year. Funds collected from the surcharge shall also be
 329 used to fund Florida Fire Prevention Code informal
 330 interpretations managed by the State Fire Marshal and shall be
 331 limited to \$15,000 each fiscal year. The State Fire Marshal
 332 shall adopt rules to address the implementation and expenditure
 333 of the funds allocated to fund the Florida Fire Prevention Code
 334 informal interpretations under this section. The funds collected
 335 from the surcharge may not be used to fund research on
 336 techniques for mitigation of radon in existing buildings. Funds
 337 used by the department as well as funds to be transferred to the
 338 Department of Health and the State Fire Marshal shall be as
 339 prescribed in the annual General Appropriations Act. The
 340 department shall adopt rules governing the collection and
 341 remittance of surcharges pursuant to chapter 120.

342 Section 14. Except as otherwise expressly provided in this
 343 act, this act shall take effect July 1, 2017.

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/28/17

Meeting Date

SB 1442

Bill Number (if applicable)

501846

Amendment Barcode (if applicable)

Topic SB 1442- Fee and Surcharge Reductions

Name Pam Stewart

Job Title Commissioner

Address 325 W. Gaines Street

Street

Tallahassee

City

FL

State

323399

Zip

Phone 850-245-9663

Email Pam.Stewart@fldoe.org

Speaking: For Against Information

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

Representing Department of Education

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/28/17

Meeting Date

SB 1442

Bill Number (if applicable)

Topic SB 1442

Amendment Barcode (if applicable)

Name Matilde Miller

Job Title Interim Secretary of DBPR

Address 2601 Blair Stone Road

Phone (850) 487-4827

Street

Tallahassee

City

FL

State

32399

Zip

Email matilde.miller@myfloridalicense.com

Speaking: [X] For [] Against [] Information

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

Representing Department of Business & Professional Regulation

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] 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
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 Committee on Transportation

BILL: CS/SB 1452

INTRODUCER: Transportation Committee and Senator Book

SUBJECT: Taximeters

DATE: March 29, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Miller	TR	Fav/CS
2.			ATD	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1452 excludes taximeters and transportation measurement systems from the definition of “weights and measures” for purposes of state regulation by the Florida Department of Agriculture and Consumer Services (FDACS). As conforming changes, the bill removes a provision that such devices are exempt from state permit requirements if regulated by a local government, and removes reference to a \$50 maximum state permit fee for taximeters from law.

In effect, the bill will no longer require taximeters or other devices that measure time and distance to charge a fare for the transportation of persons in a motor vehicle be inspected or permitted by the FDACS.

The bill will have a negative recurring impact to the FDACS of \$129,500.

The bill takes effect July 1, 2017.

II. Present Situation:

Currently, the Bureau of Standards within the FDACS is generally responsible for the inspection of weights and measures devices or instruments in Florida.¹ Section 531.37(1), F.S., defines “weights and measures” as all weights and measures of every kind, instruments, and devices for

¹ See ch. 531, F.S., “Weights and Measures Act of 1971.”

weighing and measuring, and any appliance and accessories associated with any or all such instruments and devices. The definition excludes those weights and measures used to inspect the accuracy of devices used in conjunction with aviation fuel.²

The FDACS responsibilities concerning weights and measures includes, but is not limited to:

- Establishing standards of weight, measure, or count and reasonable standards of fill for packaged commodities, as necessary;
- Providing exemptions to ch. 531, F.S., when appropriate to maintain good commercial practices within the state;
- Conducting investigations necessary to ensure compliance with ch. 531, F.S.;
- Testing annually the standards of weight and measure used by any city or county; and
- Inspecting and testing weights and measures commercially used to determine weight, measure, or count of goods being sold, or in computing the charge or payment for services rendered on the basis of weight, measure, or count.³

For the purpose of consumer protection, the Bureau of Standards is also empowered under s 531.42, F.S., to enforce the proper use of weights and measuring instruments or devices and the advertisement of the correct weight or measurement on a good for sale.

Taximeters

A taximeter is a device that automatically calculates at a predetermined rate or rates and indicate the charge for hire of a vehicle.⁴

A weights and measures instrument or device, which includes taximeters, may not be used for commercial purposes within the state without first being permitted by the FDACS.⁵

Section 531.63, F.S., provides that the commercial use permit fee, which is issued annually, for a taximeter may not exceed \$50. Currently, the annual permit fee for such taximeters is \$35.⁶ According to the FDACS, it currently permits approximately 3,700 taximeters annually.⁷

However, taximeters are exempt from such state permitting requirements if the taximeter is tested for accuracy and compliance with state standards by a local government and licensed, permitted, or registered by such local government.⁸ The extent of local government regulation and permitting of taximeters is unknown.

² Section 531.37(1), F.S.

³ Section 531.41, F.S.

⁴ U.S. Department of Commerce, National Institute of Standards and Technology, *Handbook 44, Section 5.54 Taximeters* (2012), <https://www.nist.gov/sites/default/files/documents/pml/wmd/pubs/2011/10/26/5-54-12-hb44-final.pdf> (last visited Mar. 24, 2017).

⁵ Section 531.60, F.S.

⁶ FDACS, *Laws and Rules – Bureau of Standards* (January 2015), available at http://www.freshfromflorida.com/content/download/42262/890253/2015_STANDARDS_LAWS_&_RULES.pdf at p. 33 (last visited Mar. 24, 2017).

⁷ FDACS, *SB 1452 Agency Analysis* (Mar. 13, 2017) (on file with the Senate Committee on Transportation).

⁸ Section 531.61(1), F.S.

III. Effect of Proposed Changes:

The bill excludes taximeters and transportation measurement systems from the definition of “weights and measures” provided in s. 531.37(1), F.S. Because taximeters would no longer be subject to state regulation, the bill removes language that exempts taximeters from state weights and measures permit requirements if the device is locally regulated. In addition, the bill removes a reference to the \$50 maximum state permit fee for taximeters.

In effect, the bill will no longer require taximeters or other transportation measurement systems be inspected or permitted by the FDACS.

The bill takes effect July 1, 2017.

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 bill may have a positive impact on taxi drivers and other individuals who are currently required to have their weights and measures device permitted by FDACS to transport persons in a motor vehicle for a fare. It is unknown how much of this positive impact will be offset by a potential increase in local regulation of these devices.

C. Government Sector Impact:

The bill will have a negative recurring impact to the FDACS of \$129,500 due to the loss of permit fees.⁹ FDACS will no longer incur administrative costs or expenses related to the regulation and permitting of taximeters.

⁹ FDACS, *SB 1452 Agency Analysis* (Mar. 13, 2017) (on file with the Senate Committee on Transportation).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 531.37, 531.61, 531.63.

IX. Additional Information:

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

CS by Transportation on March 28, 2017:

The CS removes that “any device that measures time and distance for the purpose of charging a fare for the transportation of persons in a motor vehicle” is excluded from the definition of “weights and measures,” and instead provides that “taximeters and transportation measurement systems” are excluded.

- B. **Amendments:**

None.



336818

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/28/2017	.	
	.	
	.	
	.	

The Committee on Transportation (Book) recommended the following:

Senate Amendment

Delete lines 19 - 21
and insert:
or all such instruments and devices, excluding taximeters,
transportation measurement systems, and those

By Senator Book

32-00992-17

20171452__

1 A bill to be entitled

2 An act relating to taximeters; amending s. 531.37,

3 F.S.; revising the definition of the term "weights and

4 measures"; amending s. 531.61, F.S.; deleting a

5 provision exempting certain taximeters from specified

6 permit requirements; amending s. 531.63, F.S.;

7 deleting a provision prohibiting the annual permit

8 fees for taximeters from exceeding \$50; providing an

9 effective date.

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

11

12 Section 1. Subsection (1) of section 531.37, Florida

13 Statutes, is amended to read:

14 531.37 Definitions.—As used in this chapter:

15 (1) "Weights and measures" means all weights and measures

16 of every kind, instruments, and devices for weighing and

17 measuring, and any appliance and accessories associated with any

18 or all such instruments and devices, excluding any device that

19 measures time and distance for the purpose of charging a fare

20 for the transportation of persons in a motor vehicle and those

21 weights and measures used for the purpose of inspecting the

22 accuracy of devices used in conjunction with aviation fuel.

23

24 Section 2. Subsection (1) of section 531.61, Florida

25 Statutes, is amended, and present subsections (2) and (3) of

26 that section are redesignated as subsections (1) and (2),

27 respectively, to read:

28 531.61 Exemptions from permit requirement.—Commercial

29 weights or measures instruments or devices are exempt from the

32-00992-17

20171452__

30 requirements of ss. 531.60-531.66 if:

31 ~~(1) The device is a taximeter that is licensed, permitted,~~

32 ~~or registered by a municipality, county, or other local~~

33 ~~government and is tested for accuracy and compliance with state~~

34 ~~standards by the local government in cooperation with the state~~

35 ~~as authorized in s. 531.421.~~

36 Section 3. Paragraph (g) of subsection (2) of section

37 531.63, Florida Statutes, is amended, and present paragraphs (h)

38 and (i) of that subsection are redesignated as paragraphs (g)

39 and (h), respectively, to read:

40 531.63 Maximum permit fees.—The commercial use permit fees

41 established for weights or measures instruments or devices shall

42 be in an amount necessary to administer this chapter but may not

43 exceed the amounts provided in this section.

44 (2) For other measuring devices, the annual permit fees per

45 device may not exceed the following:

46 ~~(g) Taximeters.....\$50.~~

47 Section 4. This act shall take effect July 1, 2017.

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/28/17

Meeting Date

SB 1452

Bill Number (if applicable)

336818

Amendment Barcode (if applicable)

Topic TAXI METERS

Name FLOYD WEBB

Job Title G.M. Yellow Cab Tallahassee / BAY county

Address 3941 W. Pensacola St

Street

Phone 850-350-2001

Tallahassee FL 32304

City

State

Zip

Email FWEBB@Tallahassee YellowCab.com

Speaking: For Against Information

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

Representing Yellow Cab Tallahassee / Yellow Cab of Florida Panhandle

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)

3/28/17

Meeting Date

SB 1452

Bill Number (if applicable)

Topic TAXI METERS

Amendment Barcode (if applicable)

Name FLOYD WEBB

Job Title Gen Mng YellowCab Tallahassee / Bay County

Address 3941 W. Pensacola St.

Phone 850-350-2001

Tallahassee FL 32304

Email FWEBB@TallahasseeYellowCab.com

Speaking: For Against Information

Waive Speaking: In Support Against

Representing YellowCab Tallahassee / YellowCab of Florida's Panhandle

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)

3/28

Meeting Date

1452

Bill Number (if applicable)

Topic Taxi Meter

Amendment Barcode (if applicable)

Name Ellyn Bogdanoff

Job Title _____

Address 1 E Brd Blvd

Phone _____

Street

FL Laud

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing FLORIDA TAXI ASSN

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
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 Committee on Transportation

BILL: SB 1646

INTRODUCER: Senator Torres

SUBJECT: Hit-and-Run Alerts

DATE: March 28, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Miller	TR	Favorable
2.			ATD	
3.			AP	

I. Summary:

SB 1646 authorizes the use of dynamic message signs located along the state’s highways to post alerts containing certain information about a hit-and-run incident resulting in serious bodily injury to a pedestrian to assist law enforcement in apprehending a suspect.

The bill appears to have no significant fiscal impact on state or local government.

The bill takes effect July 1, 2017.

II. Present Situation:

The Florida Department of Transportation (FDOT) defines the term, “dynamic message signs,” also known as changeable or variable message signs, as “programmable traffic control devices that display messages composed of letters, symbols or graphics, or both.”¹ The primary purpose of these signs is to provide information to travelers about changing highway conditions. The signs may inform drivers of a need to change travel speed, change lanes, take a different route, or to otherwise be aware of changing traffic conditions.² However, Florida law currently authorizes AMBER Alerts, Silver Alerts, and Blue Alerts to be displayed on dynamic message signs.

Section 937.021, F.S., directs law enforcement agencies in this state to adopt written policies that specify the procedures to be used to investigate reports of missing children and missing adults.

¹ See the FDOT’s *Guidelines for the Use of Dynamic Message Signs on the Florida State Highway System*, at 3., available at: http://www.fdot.gov/traffic/ITS/Projects_Deploy/Special_Projects/080925%20DMS%20Guidelines_V1_4_final.pdf. (Last visited March 23, 2017.)

² *Id.*

A Missing Child Alert is intended to enable law enforcement to quickly communicate information when a child is missing and believed to be in life-threatening danger, but there is no indication that the child has been abducted. Local law enforcement contacts the FDLE, and the FDLE, working with the local agency, prepares information for distribution primarily to the public via text message and email.³

A Missing Child Alert may result in an AMBER Alert if investigation produces an indication that the child has been abducted.⁴ Ultimately, the appropriate FDOT Regional Transportation Management Center is responsible for displaying the AMBER Alert messages on the dynamic message signs. According to the Amber Plan Policy, the FDOT will display the message until the child is recovered or for a maximum of six hours, or unless a traffic emergency occurs that requires an individual or group of dynamic message signs to display a motorist safety message.⁵

A Silver Alert is intended to aid law enforcement in the rescue or recovery of a missing elderly person who suffers from irreversible deterioration of intellectual faculties. According to the FDLE, Silver Alerts are issued at both the local and state levels. A local Silver Alert is issued when the person is missing on foot. A state Silver Alert is issued when the missing person is in a vehicle. The FDLE ensures that the information is broadcast through highway dynamic message signs.⁶ Again, the appropriate FDOT Regional Transportation Management Center is ultimately responsible for displaying the Silver Alert messages on the dynamic message signs.⁷ According to the Silver Alert Plan Policy, the FDOT will display the message until the missing elderly person is recovered or rescued, or for a maximum of six hours, unless a traffic emergency occurs that requires an individual or group of dynamic message signs to display a motorist safety message.⁸

Dynamic message signs are also used to display Blue Alerts. These alerts use the technologies employed for Amber Alerts.⁹ At the request of a law enforcement agency, the FDLE must issue a Blue Alert if a law enforcement officer has been killed, has suffered serious bodily injury, or has been assaulted with a deadly weapon; or is missing while in the line of duty; and the suspect has fled the scene and poses an imminent threat to the public or to other law enforcement officers.¹⁰ The FDLE works with the FDOT's Regional Transportation Management Center, which is ultimately responsible for displaying the Blue Alert messages on the dynamic message signs. According to the FDLE, the FDOT will display the message until the offender is captured or for a maximum of six hours, unless a traffic emergency occurs that requires a motorist safety message to be displayed.¹¹

³ See the FDLE's website available at: <http://www.fdle.state.fl.us/cms/Amber-Plan/Missing-Child-Alert.aspx>. (Last visited March 23, 2017.)

⁴ See the Florida Department of Law Enforcement website available at: <https://www.fdle.state.fl.us/mcicsearch/MCApage.asp>. (Last visited March 23, 2017.)

⁵ Amber Policy, *supra* note 3.

⁶ See the FDLE website available at: <http://www.fdle.state.fl.us/cms/Silver-Alert-Plan/Activation-Steps.aspx>. (Last visited March 23, 2017.)

⁷ Silver Policy, *supra* note 3.

⁸ *Id.*

⁹ See the FDLE website available at: <http://floridabluealert.com/>. (Last visited March 23, 2017.)

¹⁰ Section 784.071, F.S.

¹¹ See the FDLE website available at: <https://www.fdle.state.fl.us/cms/Publications/Documents/Brochures/Florida-Blue-Alert-2012.aspx>. (Last visited March 23, 2017.)

III. Effect of Proposed Changes:

The bill creates s. 316.02703, F.S., relating to alerts for hit-and-run incidents involving serious bodily injury to a pedestrian. The bill defines the following terms for purposes of the newly created section:

- “Hit and run” means an incident in which the driver of a motor vehicle involved in an accident fails to stop at the scene of the accident.
- “Serious bodily injury” means injury to a person which involves, either at the time of the actual injury or at a later time, a substantial risk of:
 - Death;
 - Serious permanent disfigurement;
 - Protracted loss or impairment of the function of any part or organ of the body; or
 - Breaks, fractures, or burns of the second or third degree.

The bill authorizes use of dynamic message signs located along the state’s highways to post alerts containing information about a hit-and-run incident resulting in serious bodily injury to a pedestrian, to assist law enforcement in apprehending a suspect involved in the incident.

The information authorized by the bill for posting in such alerts includes, but is not limited to:

- A complete or partial license plate number of a suspect’s vehicle;
- The make, style, and color of the suspect’s vehicle; and
- The identity of the suspect.

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:

None.

C. Government Sector Impact:

The bill may result in administrative expenses to state and local government. However, because policies and processes for display of various types of alerts on highway dynamic message signs are already in place, the bill appears to pose no significant fiscal impact on government.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 316.02703.

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

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

None.

B. Amendments:

None.

By Senator Torres

15-01399A-17

20171646__

1 A bill to be entitled
 2 An act relating to hit-and-run alerts; creating s.
 3 316.02703, F.S.; authorizing the use of dynamic
 4 message signs that are located along the state's
 5 highways to post alerts containing information about
 6 certain hit-and-run incidents to assist law
 7 enforcement in apprehending a suspect in the incident;
 8 specifying certain information that may be included in
 9 the posting of such alerts; defining the terms "hit
 10 and run" and "serious bodily injury"; providing an
 11 effective date.

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

14
 15 Section 1. Section 316.02703, Florida Statutes, is created
 16 to read:

17 316.02703 Hit-and-run incidents; alerts.-

18 (1) Dynamic message signs that are located along the
 19 state's highways may be used to post alerts containing
 20 information about a hit-and-run incident that results in serious
 21 bodily injury to a pedestrian, in order to assist law
 22 enforcement in apprehending a suspect involved in the incident.

23 (2) Information to be posted in such alerts may include,
 24 but is not limited to:

25 (a) A complete or partial license plate number of a
 26 suspect's vehicle.

27 (b) The make, style, and color of the suspect's vehicle.

28 (c) The identity of the suspect.

29 (3) As used in this section, the term:

Page 1 of 2

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

15-01399A-17

20171646__

30 (a) "Hit and run" means an incident in which the driver of
 31 a motor vehicle involved in an accident fails to stop at the
 32 scene of the accident.

33 (b) "Serious bodily injury" means injury to a person which
 34 involves, either at the time of the actual injury or at a later
 35 time, a substantial risk of death, a substantial risk of serious
 36 permanent disfigurement, a substantial risk of protracted loss
 37 or impairment of the function of any part or organ of the body,
 38 or breaks, fractures, or burns of the second or third degree.

39 Section 2. This act shall take effect July 1, 2017.

Page 2 of 2

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

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 Committee on Transportation

BILL: SB 1678

INTRODUCER: Senator Garcia

SUBJECT: Motor Vehicle Dealers

DATE: March 21, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Miller	TR	Pre-meeting
2.			CM	
3.			RC	

I. Summary:

SB 1678 addresses issues related to contractual agreements between motor vehicle licensees (manufacturers, distributors, and importers) and motor vehicle dealers. The bill provides additional prohibitions for licensees, including prohibiting discriminatory practices between same line-make motor vehicle dealers in the state.

The bill also allows dealers to file complaints against licensees in any court of competent jurisdiction to seek injunctive relief and civil damages, and provides the court may issue injunctive relief without regard to the existence of an adequate remedy at law or irreparable harm and without requiring any bond. The court may award costs and reasonable attorney fees to the complainant if relief is granted.

The bill does not appear to have a significant fiscal impact to state and local government.

The bill takes effect upon becoming law.

II. Present Situation:

Florida has substantially regulated motor vehicle manufacturers and motor vehicle dealers since before 1950.¹ Initially, the Florida Legislature approached the issue by implementing only consumer protections aimed at preventing consumer abuse by dealers.² In 1970, the Legislature passed more comprehensive legislation, embodied in ch. 320, F.S.,³ which regulates, in part, the

¹ Chapter 9157, L.O.F. (1923); Chapter 20236, L.O.F. (1941).

² Walter E. Forehand and John W. Forehand, *Motor Vehicle Dealer and Motor Vehicle Manufacturers: Florida Reacts to Pressures in the Marketplace*, 29 Fla. St. Univ. Law Rev. 1058, 1064 (2002), <http://ir.law.fsu.edu/cgi/viewcontent.cgi?article=1632&context=lr> (last visited Mar. 9, 2017).

³ See ch. 70-424, L.O.F.

contractual relationship between manufacturers and dealers,⁴ requires the licensing of manufacturers, and regulates numerous aspects of the contracts between the manufacturers and dealers.

Florida Automobile Dealers Act

A manufacturer, factory branch, distributor, or importer (licensee) must be licensed under s. 320.61(1), F.S., to engage in business in Florida. Sections 320.60-320.70, F.S., the “Florida Automobile Dealers Act”⁵ (act), primarily regulate the contractual business relationship between dealers and licensees, and provide for the licensure of manufacturers, factory branches, distributors, or importers. The act specifies, in part:

- The conditions and situations under which the Department of Highway Safety and Motor Vehicles (DHSMV) may deny, suspend, or revoke a regulated license;
- The process, timing, and notice requirements for licensees who wish to discontinue, cancel, modify, or otherwise replace a franchise agreement with a dealer, and the conditions under which the DHSMV may deny such a request;
- The procedures a licensee must follow to add a dealership in an area already served by a franchised dealer, the protest process, and the DHSMV’s role in these circumstances;
- The damages that can be assessed against a licensee who is in violation of Florida Statutes; and
- The DHSMV’s authority to adopt rules to implement these sections of law.

Applicability

Section 320.6992, F.S., provides that the act shall apply to all presently existing or future systems of distribution of motor vehicles in Florida, except to the extent that such application would impair valid contractual agreements in violation of the State Constitution or Federal Constitution. Generally, all agreements that are renewed, amended, or entered into subsequent to October 1, 1988, are governed by the act, including amendments to the act, unless the amendment specifically provides otherwise.

In 2009, the DHSMV held in an administrative proceeding that amendments to the act do not apply to dealers whose franchise agreements were signed prior to the effective date of various amendments to the act.⁶ The DHSMV has indicated that it will apply the *Motorsports* holding to every amendment to the act. This may result in different protections accruing to dealers, depending on when they signed their franchise agreements.

⁴ See s. 320.60(11), F.S.

⁵ Walter E. Forehand, *supra* note 2 at 1065.

⁶ See *Motorsports of Delray, LLC v. Yamaha Motor Corp., U.S.A.*, Case No. 09-0935 (Fla. DOAH Dec. 9, 2009). The DHSMV ruled that a 2006 amendment to the Florida Automobile Dealers Act does not apply to a dealer terminated in 2008 because the dealer’s franchise agreement was entered into prior to the effective date of the amendment. This Final Order was initially appealed but was later voluntarily dismissed. See also, *In re Am. Suzuki Motor Corp.*, 494 B.R. 466, 480 (Bankr. C.D. Cal. 2013).

Grounds for Denial, Suspension, or Revocation of a License

Section 320.64, F.S., currently includes 40 different subsections listing criteria that may cause the DHSMV to deny, suspend, or revoke the licensee's license. A licensee is prohibited from committing the following acts toward dealers:

- Being unable to carry out contractual obligations with motor vehicle dealers;
- Coercing or attempting to coerce dealers into accepting motor vehicles, parts, or accessories the dealer did not order;
- Coercing the dealer into any agreement with the licensee;
- Threatening to discontinue, cancel, or not renew a franchise agreement with a dealer in violation of s. 320.641, regarding the process for discontinuing, canceling, nonrenewing, modifying, or replacing franchise agreements;
- Threatening to, or replacing or modifying a franchise agreement in a way that would adversely alter the rights or obligations of the dealer, or which substantially impairs sales, service obligations, or investment of the dealer;
- Attempting to enter or entering into a franchise agreement with a dealer who does not have the proper facilities to provide services necessary to provide for new vehicle warranties;
- Requiring a dealer to make substantial changes to the dealer's sales or services facilities that are not considered reasonable or justified, except when offering, to its same line-make⁷ dealers a similar incentive for similar improvements, a written commitment to supply additional vehicles, a loan, or grant money;
- Coercing a dealer to provide installment financing for the dealer's purchasers using a specified financial institution;
- Preventing or refusing to accept the succession to any interest in a franchise agreement by any legal heir or devisee, as long as they meet the licensee's written, reasonable, and uniformly applied minimal standard qualifications for dealer applicants;
- Establishing or implementing a system of vehicle allocation or distribution which alters or reduces allocations or supplies of new motor vehicles to dealers in a way that is unfair, inequitable, unreasonably discriminatory, or not supported by reason and good cause;
- Without good and fair cause, delaying, refusing, or failing to provide a supply of vehicles by series in reasonable quantities;
- Threatening to require a dealer to prospectively assent to a release, assignment, novation, waiver, or estoppel intended to relieve any person from liability or obligation under this act;
- Threatening or coercing a dealer toward action whereby the dealer foregoes its right to protest the establishment or relocation of a dealer in the community;
- Refusing to deliver, in reasonable quantities and within a reasonable time motor vehicles or parts, to any dealer who has an agreement for the retail sale of such new vehicles or parts.⁸
- Performing audits on dealers outside of the required time-frames authorized in statute;

⁷ Section 320.60(14), F.S., defines "Line-make vehicles" as motor vehicles offered for sale, lease, or distribution under a common name, trademark, service mark, or brand name of the manufacturer of same. However, motor vehicles sold or leased under multiple brand names or marks constitute a single line-make when they are included in a single franchise agreement and every dealer in this state authorized to sell or lease such vehicles has been offered the right to sell or lease the multiple brand names covered by a single franchise agreement.

⁸ Exceptions are provided for acts of God, work stoppage, delays due to a strike or labor difficulty, a freight embargo, product shortage, or other cause, which the licensee cannot control. Additionally, the licensee can reasonably require the dealer to purchase special tools to service such vehicles or service person training related to the vehicle.

- Taking action against a dealer who sold or leased a vehicle that the customer then exported or resold, providing the dealer did not know the customer's intention;
- Making available dealer's confidential financial information without the dealer's consent;
- Failing to reimburse a dealer for the reasonable cost of providing a loaner vehicle, if the dealer is required by the licensee to provide a loaner;
- Offering a dealer a franchise agreement that:
 - Requires the dealer to bring administrative actions, legal actions, arbitration, or mediation in a venue outside of the state; or
 - Requires that a law of another state be applied to legal proceedings between the licensee and dealer;
- Including in any franchise agreement with a dealer, a mandatory obligation of the dealer to purchase, sell, lease, or offer any quantity of used motor vehicles;
- Refusing to sell vehicles to a dealer because the dealer has not purchased, sold, leased, or certified a certain quantity of used vehicles prescribed by the licensee;
- Failing to pay a dealer as required;
- Refusing to allow, limiting, or restricting dealers from acquiring or adding service or sale operations for another line-make of vehicles, without demonstrating justification for such refusal, limit, or restriction;
- Failing or refusing to offer an incentive or benefit, in whole or in part, to all its same line-make dealers, unless the program in this state is reasonably supported by substantially different economic or marketing considerations; and
- Requiring or coercing a dealer to purchase goods or services from a vendor selected by the licensee without making available to the dealer the option to obtain substantially similar goods or services from a vendor chosen by the dealer. This does not include:
 - Materials subject to the licensee's intellectual property rights;
 - Special tools or training required by the licensee;
 - Parts used in repairs under warranty obligations of the licensee;
 - Any good or services paid for entirely by the licensee; or
 - Any licensee's design or architectural review service.

Procedure for Administrative Hearings and Adjudications

A dealer who is directly and adversely affected by the action or conduct of a licensee which is alleged to be in violation of the act, may seek a declaration and adjudication of its rights by either filing a request with the DHSMV for a proceeding and administrative hearing, or filing a written objection or notice of protest with the DHSMV.⁹

Hearings are held no sooner than 180 days nor later than 240 days from the date a written objection or notice of protest is filed, unless extended with good cause by the administrative law judge.¹⁰

Civil Damages

A motor vehicle dealer who can demonstrate that a violation of, or failure to comply with any of these provisions by an applicant or licensee will or can adversely and pecuniarily affect the

⁹ Section 320.0699(1), F.S.

¹⁰ Section 320.0699(2), F.S.

dealer, is entitled to pursue an injunction against the licensee, treble damages, and attorney's fees.¹¹ The licensee has the burden to prove that such violation did not occur upon a prima facie showing by the person bringing the action.¹²

III. Effect of Proposed Changes:

The bill addresses several issues related to the contractual agreements between motor vehicle licensees and dealers.

Section 1 of the bill adds additional criteria in s. 320.64, F.S., that a licensee is prohibited from committing. A violation is grounds for the DHSMV to deny, suspend, or revoke the licensee's license. The bill:

Adds a new paragraph to subsection (10) to provide:

- A dealer who completes any licensee-approved program related to facility construction, improvements, renovations, expansion, remodeling, or alterations or installation of signs or other image elements is deemed to be in full compliance with all of the licensee's requirements related to the facility, sign, and image for a ten-year period following such completion; and
- A dealer who has completed a prior approved facility incentive program, standard, or policy during the ten-year period but does not comply with the provisions related to facility, sign, or image under a new incentive program is not eligible for the new benefits, but is entitled to all prior benefits plus any increase in benefits between the old and new programs for the remainder of the ten-year period.

Adds a new subsection (41) prohibiting a licensee from failing to act in good faith toward or to deal fairly with one of its franchised motor vehicle dealers regarding the terms or provisions of an agreement. To determine if a licensee has failed to act in good faith or deal fairly with a dealer, the DHSMV or court of competent jurisdiction shall consider:

- Whether the licensee has fairly taken into account the dealer's investment in its facilities, its sales or parts promotions; its staffing, its general operations, and equities and interests;
- Whether the licensee has altered the rights of the dealer or the dealer's independence in operating the dealership; or
- Whether the licensee has altered the sales or service obligations of the dealer or adversely impaired the dealer's investments or financial returns.

Adds a new subsection (42) prohibiting a licensee from establishing, implementing, or enforcing criteria for measuring sales or service performance of franchised dealers which may have a negative material or adverse effect on any dealer; which is unfair, unreasonable, arbitrary, or inequitable; or which does not include all applicable local and regional criteria, data, and facts. A licensee or affiliate thereof that seeks to establish, implement, or enforce against any dealer any performance measurement must promptly describe in writing to the dealer, in detail, how the measurement criteria for the dealer's sales and service performance was designed, calculated, established, and applied.

¹¹ See ss. 320.64, 320.694, and 320.697, F.S.

¹² Section 320.697, F.S.

For a violation of this subsection, the dealer may file a complaint in any court of competent jurisdiction. If the dealer's complaint is successful, the dealer is entitled to treble damages plus attorney fees, and injunctive relief without regard to the existence of an adequate remedy at law or irreparable harm and without requiring a bond of any complaint.

Section 2 creates s. 320.648, F.S., prohibiting discriminatory practices by licensees. The section prohibits a licensee from:

- Selling or offering to sell a new vehicle to a dealer at a lower actual, effective cost, including cost of vehicle transport, than is offered to another same line-make dealer in this state during a similar period; or
- Discriminating between same-line make dealers by use of promotions, incentives, bonus plans, program devices, benefits, or otherwise, which results in a lower cost for a vehicle than is offered or made available to another same line-make dealer in this state during a similar period.

Section 3 adds in s. 320.699, F.S., that a dealer may file a complaint in a court of competent jurisdiction to seek injunctive relief and civil damages. A court may issue injunctive relief without regard to the existence of an adequate remedy at law or irreparable harm and without requiring any bond. The court may award costs and reasonable attorney fees to the complainant if relief is granted.

Section 4 provides that the bill takes effect upon becoming law.

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:

To the extent the agreements between licensees and dealers change, the parties could experience a positive or negative impact.

C. Government Sector Impact:

The bill does not appear to have a significant fiscal impact on the government sector.

VI. Technical Deficiencies:

Lines 831-833 of the bill may need to be amended to provide consistent terminology when referring to same line-make motor vehicle dealers.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 320.64 and 320.699.

This bill creates section 320.648 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.)

None.

B. Amendments:

None.

By Senator Garcia

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1 A bill to be entitled
 2 An act relating to motor vehicle dealers; amending s.
 3 320.64, F.S.; providing an exception to the
 4 requirement that a specified provision does not affect
 5 certain contracts between a licensee and any of its
 6 dealers; providing that a motor vehicle dealer who
 7 completes certain approved construction or changes to
 8 or installation on the dealer's facility in reliance
 9 upon a certain program, standard, or policy, or bonus,
 10 incentive, rebate, or other benefit is deemed to be in
 11 full compliance with all of an applicant's or
 12 licensee's requirements related to the facility, sign,
 13 and image for a specified period; providing that a
 14 motor vehicle dealer that completed a facility in
 15 reliance upon a prior program, standard, or policy,
 16 bonus, incentive, rebate or other benefit, but elects
 17 not to comply with the provisions related to facility,
 18 sign, or image under a changed or new program,
 19 standard, policy, or other offer is not eligible for
 20 the new benefits but shall remain entitled to all
 21 prior benefits plus any increase in the benefits
 22 between the prior and the new or amended program,
 23 standard, policy, or offers for the remainder of the
 24 specified period; providing for construction;
 25 prohibiting the applicant or licensee from failing to
 26 act in good faith toward or deal fairly with one of
 27 its franchised motor vehicle dealers in an agreement;
 28 specifying when an applicant or licensee may have
 29 failed to act in good faith or deal fairly with a

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30 motor vehicle dealer; requiring the Department of
 31 Highway Safety and Motor Vehicles or a court to
 32 consider, in certain actions, specified factors in
 33 determining whether an applicant or licensee has
 34 failed to act in good faith toward, or deal fairly
 35 with, a motor vehicle dealer under certain
 36 circumstances; providing that an affirmative
 37 determination to one or more of such factors is
 38 sufficient to sustain a finding of failure to act in
 39 good faith or deal fairly with a motor vehicle dealer;
 40 prohibiting an applicant or licensee from
 41 establishing, implementing, or enforcing criteria for
 42 measuring the sales or service performance of any of
 43 its franchised motor vehicle dealers in this state
 44 under certain circumstances; providing that relevant
 45 and material national or state criteria or data may be
 46 considered; prohibiting comparison to such data to
 47 outweigh applicable local and regional factors and
 48 data; defining the term "relevant and material";
 49 requiring a survey to be based upon a statistically
 50 significant and valid random sample if certain
 51 measurement is based, in whole or in part, upon such
 52 survey; requiring an applicant, licensee, common
 53 entity, or affiliate thereof that seeks to establish,
 54 implement, or enforce against any dealer a performance
 55 measurement to describe in writing to the motor
 56 vehicle dealer, upon the dealer's request, how the
 57 measurement criteria about the dealer's sales and
 58 service performance was designed, calculated,

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59 established, and applied; providing that any dealer
 60 against whom any such performance measurement criteria
 61 is sought to be used for any purpose adverse to the
 62 dealer has the right to file a complaint in court
 63 alleging that such performance criteria does not
 64 comply with specified provisions; providing for
 65 damages, attorney fees, and injunctive relief under
 66 certain circumstances; requiring the applicant or
 67 licensee to bear the ultimate burden of proof that the
 68 dealer performance measurement criteria complies with
 69 specified provisions and has been implemented and
 70 enforced uniformly by the applicant or licensee among
 71 its dealers in this state; adding certain remedies,
 72 procedures, and rights of recovery a motor vehicle
 73 dealer is entitled to pursue under certain
 74 circumstances; creating s. 320.648, F.S.; prohibiting
 75 an applicant or licensee from taking specified actions
 76 for the purpose of avoiding competitive disadvantages
 77 of a motor vehicle dealer and eliminating
 78 discrimination against a motor vehicle dealer under
 79 certain circumstances; providing applicability;
 80 providing for construction; amending s. 320.699, F.S.;
 81 authorizing a motor vehicle dealer or certain persons
 82 to seek a declaration and adjudication of rights under
 83 certain circumstances with respect to certain actions
 84 of an applicant or licensee by filing a complaint in
 85 court for injunctive relief and damages; requiring,
 86 after a certain prima facie showing, the burden of
 87 proof of all issues to be upon the applicant or

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88 licensee to prove that a certain violation did not or
 89 will not occur; authorizing a court to issue
 90 injunctive relief and award costs and reasonable
 91 attorney fees to the complainant if relief is granted;
 92 providing an effective date.
 93

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

95
 96 Section 1. Section 320.64, Florida Statutes, is amended to
 97 read:

98 320.64 Denial, suspension, or revocation of license;
 99 grounds.—A license of a licensee under s. 320.61 may be denied,
 100 suspended, or revoked within the entire state or at any specific
 101 location or locations within the state at which the applicant or
 102 licensee engages or proposes to engage in business, upon proof
 103 that the section was violated with sufficient frequency to
 104 establish a pattern of wrongdoing, and a licensee or applicant
 105 shall be liable for claims and remedies provided in ss. 320.695
 106 and 320.697 for any violation of any of the following
 107 provisions. A licensee is prohibited from committing the
 108 following acts:

109 (1) The applicant or licensee is determined to be unable to
 110 carry out contractual obligations with its motor vehicle
 111 dealers.

112 (2) The applicant or licensee has knowingly made a material
 113 misstatement in its application for a license.

114 (3) The applicant or licensee willfully has failed to
 115 comply with significant provisions of ss. 320.60-320.70 or with
 116 any lawful rule or regulation adopted or promulgated by the

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117 department.

118 (4) The applicant or licensee has indulged in any illegal
119 act relating to his or her business.

120 (5) The applicant or licensee has coerced or attempted to
121 coerce any motor vehicle dealer into accepting delivery of any
122 motor vehicle or vehicles or parts or accessories therefor or
123 any other commodities which have not been ordered by the dealer.

124 (6) The applicant or licensee has coerced or attempted to
125 coerce any motor vehicle dealer to enter into any agreement with
126 the licensee.

127 (7) The applicant or licensee has threatened to
128 discontinue, cancel, or not to renew a franchise agreement of a
129 licensed motor vehicle dealer, where the threatened
130 discontinuation, cancellation, or nonrenewal, if implemented,
131 would be in violation of any of the provisions of s. 320.641.

132 (8) The applicant or licensee discontinued, canceled, or
133 failed to renew, a franchise agreement of a licensed motor
134 vehicle dealer in violation of any of the provisions of s.
135 320.641.

136 (9) The applicant or licensee has threatened to modify or
137 replace, or has modified or replaced, a franchise agreement with
138 a succeeding franchise agreement which would adversely alter the
139 rights or obligations of a motor vehicle dealer under an
140 existing franchise agreement or which substantially impairs the
141 sales, service obligations, or investment of the motor vehicle
142 dealer.

143 (10) (a) The applicant or licensee has attempted to enter,
144 or has entered, into a franchise agreement with a motor vehicle
145 dealer who does not, at the time of the franchise agreement,

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146 have proper facilities to provide the services to his or her
147 purchasers of new motor vehicles which are covered by the new
148 motor vehicle warranty issued by the applicant or licensee.

149 (b) Notwithstanding any provision of a franchise, a
150 licensee may not require a motor vehicle dealer, by agreement,
151 program, policy, standard, or otherwise, to make substantial
152 changes, alterations, or remodeling to, or to replace a motor
153 vehicle dealer's sales or service facilities unless the
154 licensee's requirements are reasonable and justifiable in light
155 of the current and reasonably foreseeable projections of
156 economic conditions, financial expectations, and the motor
157 vehicle dealer's market for the licensee's motor vehicles.

158 (c) A licensee may, however, consistent with the licensee's
159 allocation obligations at law and to its other same line-make
160 motor vehicle dealers, provide to a motor vehicle dealer a
161 commitment to supply additional vehicles or provide a loan or
162 grant of money as an inducement for the motor vehicle dealer to
163 expand, improve, remodel, alter, or renovate its facilities if
164 the provisions of the commitment are contained in a writing
165 voluntarily agreed to by the dealer and are made available, on
166 substantially similar terms, to any of the licensee's other same
167 line-make dealers in this state who voluntarily agree to make a
168 substantially similar facility expansion, improvement,
169 remodeling, alteration, or renovation.

170 (d) Except as provided in paragraph (c), subsection (36),
171 or as otherwise provided by law, this subsection does not
172 require a licensee to provide financial support for, or
173 contribution to, the purchase or sale of the assets of or equity
174 in a motor vehicle dealer or a relocation of a motor vehicle

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175 dealer because such support has been provided to other
176 purchases, sales, or relocations.

177 (e) A licensee or its common entity may not take or
178 threaten to take any action that is unfair or adverse to a
179 dealer who does not enter into an agreement with the licensee
180 pursuant to paragraph (c).

181 (f) Except as provided in s. 320.6992, this subsection does
182 not affect any contract between a licensee and any of its
183 dealers regarding relocation, expansion, improvement,
184 remodeling, renovation, or alteration which exists on the
185 effective date of this act.

186 (g) A licensee may set and uniformly apply reasonable
187 standards for a motor vehicle dealer's sales and service
188 facilities which are related to upkeep, repair, and cleanliness.

189 (h) A violation of paragraphs (b) through (g) is not a
190 violation of s. 320.70 and does not subject any licensee to any
191 criminal penalty under s. 320.70.

192 (i) If an applicant or licensee establishes a program,
193 standard, or policy or in any manner offers a bonus, incentive,
194 rebate, or other benefit to a motor vehicle dealer in this state
195 which is premised, wholly or in part, on dealer facility
196 construction, improvements, renovations, expansions, remodeling,
197 or alterations or installation of signs or other image elements,
198 a motor vehicle dealer who completes any such approved
199 construction or change to or installation on the dealer's
200 facility in reliance upon such program, standard, or policy, or
201 bonus, incentive, rebate, or other benefit is deemed to be in
202 full compliance with all of the applicant's or licensee's
203 requirements related to the facility, sign, and image for a

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204 period of 10 years following such completion. If, during the 10-
205 year period, the applicant or licensee changes or offers a new
206 program, standard, or policy, or bonus, incentive, rebate, or
207 other benefit related to relocation or remodeling, improvements,
208 alterations, renovations, or replacement of the existing
209 completed sales or service facilities, a motor vehicle dealer
210 that completed a facility in reliance upon a prior program,
211 standard, or policy, bonus, incentive, rebate, or other benefit,
212 but elects not to comply with the provisions related to
213 facility, sign, or image under the changed or new program,
214 standard, policy, or other offer is not eligible for the new
215 benefits but shall remain entitled to all prior benefits plus
216 any increase in the benefits between the prior and the new or
217 amended program, standard, policy, or offers for the remainder
218 of the 10-year period. This paragraph does not obviate, affect,
219 or alter any provision of subsection (38).

220 (11) The applicant or licensee has coerced a motor vehicle
221 dealer to provide installment financing for the motor vehicle
222 dealer's purchasers with a specified financial institution.

223 (12) The applicant or licensee has advertised, printed,
224 displayed, published, distributed, broadcast, or televised, or
225 caused or permitted to be advertised, printed, displayed,
226 published, distributed, broadcast, or televised, in any manner
227 whatsoever, any statement or representation with regard to the
228 sale or financing of motor vehicles which is false, deceptive,
229 or misleading.

230 (13) The applicant or licensee has sold, exchanged, or
231 rented a motorcycle that ~~which~~ produces in excess of 5 brake
232 horsepower, knowing the use thereof to be by, or intended for,

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233 the holder of a restricted Florida driver license.

234 (14) The applicant or licensee has engaged in previous
235 conduct ~~that which~~ would have been a ground for revocation or
236 suspension of a license if the applicant or licensee had been
237 licensed.

238 (15) The applicant or licensee, directly or indirectly,
239 through the actions of any parent of the licensee, subsidiary of
240 the licensee, or common entity causes a termination,
241 cancellation, or nonrenewal of a franchise agreement by a
242 present or previous distributor or importer unless, by the
243 effective date of such action, the applicant or licensee offers
244 the motor vehicle dealer whose franchise agreement is
245 terminated, canceled, or not renewed a franchise agreement
246 containing substantially the same provisions contained in the
247 previous franchise agreement or files an affidavit with the
248 department acknowledging its undertaking to assume and fulfill
249 the rights, duties, and obligations of its predecessor
250 distributor or importer under the terminated, canceled, or
251 nonrenewed franchise agreement and the same is reinstated.

252 (16) Notwithstanding the terms of any franchise agreement,
253 the applicant or licensee prevents or refuses to accept the
254 succession to any interest in a franchise agreement by any legal
255 heir or devisee under the will of a motor vehicle dealer or
256 under the laws of descent and distribution of this state;
257 provided, the applicant or licensee is not required to accept a
258 succession where such heir or devisee does not meet licensee's
259 written, reasonable, and uniformly applied minimal standard
260 qualifications for dealer applicants or which, after notice and
261 administrative hearing pursuant to chapter 120, is demonstrated

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262 to be detrimental to the public interest or to the
263 representation of the applicant or licensee. Nothing contained
264 herein, however, shall prevent a motor vehicle dealer, during
265 his or her lifetime, from designating any person as his or her
266 successor in interest by written instrument filed with and
267 accepted by the applicant or licensee. A licensee who rejects
268 the successor transferee under this subsection shall have the
269 burden of establishing in any proceeding where such rejection is
270 in issue that the rejection of the successor transferee complies
271 with this subsection.

272 (17) The applicant or licensee has included in any
273 franchise agreement with a motor vehicle dealer terms or
274 provisions that are contrary to, prohibited by, or otherwise
275 inconsistent with the provisions contained in ss. 320.60-320.70,
276 or has failed to include in such franchise agreement a provision
277 conforming to the requirements of s. 320.63(3).

278 (18) The applicant or licensee has established a system of
279 motor vehicle allocation or distribution or has implemented a
280 system of allocation or distribution of motor vehicles to one or
281 more of its franchised motor vehicle dealers which reduces or
282 alters allocations or supplies of new motor vehicles to the
283 dealer to achieve, directly or indirectly, a purpose that is
284 prohibited by ss. 320.60-320.70, or which otherwise is unfair,
285 inequitable, unreasonably discriminatory, or not supportable by
286 reason and good cause after considering the equities of the
287 affected motor vehicles dealer or dealers. An applicant or
288 licensee shall maintain for 3 years records that describe its
289 methods or formula of allocation and distribution of its motor
290 vehicles and records of its actual allocation and distribution

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 291 of motor vehicles to its motor vehicle dealers in this state. As
 292 used in this subsection, "unfair" includes, without limitation,
 293 the refusal or failure to offer to any dealer an equitable
 294 supply of new vehicles under its franchise, by model, mix, or
 295 colors as the licensee offers or allocates to its other same
 296 line-make dealers in the state.

297 (19) The applicant or licensee, without good and fair
 298 cause, has delayed, refused, or failed to provide a supply of
 299 motor vehicles by series in reasonable quantities, including the
 300 models publicly advertised by the applicant or licensee as being
 301 available, or has delayed, refused, or failed to deliver motor
 302 vehicle parts and accessories within a reasonable time after
 303 receipt of an order by a franchised dealer. However, this
 304 subsection is not violated if such failure is caused by acts or
 305 causes beyond the control of the applicant or licensee.

306 (20) The applicant or licensee has required, or threatened
 307 to require, a motor vehicle dealer to prospectively assent to a
 308 release, assignment, novation, waiver, or estoppel, which
 309 instrument or document operates, or is intended by the applicant
 310 or licensee to operate, to relieve any person from any liability
 311 or obligation under the provisions of ss. 320.60-320.70.

312 (21) The applicant or licensee has threatened or coerced a
 313 motor vehicle dealer toward conduct or action whereby the dealer
 314 would waive or forego its right to protest the establishment or
 315 relocation of a motor vehicle dealer in the community or
 316 territory serviced by the threatened or coerced dealer.

317 (22) The applicant or licensee has refused to deliver, in
 318 reasonable quantities and within a reasonable time, to any duly
 319 licensed motor vehicle dealer who has an agreement with such

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 320 applicant or licensee for the retail sale of new motor vehicles
 321 and parts for motor vehicles sold or distributed by the
 322 applicant or licensee, any such motor vehicles or parts as are
 323 covered by such agreement. Such refusal includes the failure to
 324 offer to its same line-make franchised motor vehicle dealers all
 325 models manufactured for that line-make, or requiring a dealer to
 326 pay any extra fee, require a dealer to execute a separate
 327 franchise agreement, purchase unreasonable advertising displays
 328 or other materials, or relocate, expand, improve, remodel,
 329 renovate, recondition, or alter the dealer's existing
 330 facilities, or provide exclusive facilities as a prerequisite to
 331 receiving a model or series of vehicles. However, the failure to
 332 deliver any motor vehicle or part will not be considered a
 333 violation of this section if the failure is due to an act of
 334 God, work stoppage, or delay due to a strike or labor
 335 difficulty, a freight embargo, product shortage, or other cause
 336 over which the applicant or licensee has no control. An
 337 applicant or licensee may impose reasonable requirements on the
 338 motor vehicle dealer, other than the items listed above,
 339 including, but not limited to, the purchase of special tools
 340 required to properly service a motor vehicle and the undertaking
 341 of sales person or service person training related to the motor
 342 vehicle.

343 (23) The applicant or licensee has competed or is competing
 344 with respect to any activity covered by the franchise agreement
 345 with a motor vehicle dealer of the same line-make located in
 346 this state with whom the applicant or licensee has entered into
 347 a franchise agreement, except as permitted in s. 320.645.

348 (24) The applicant or licensee has sold a motor vehicle to

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349 any retail consumer in the state except through a motor vehicle
 350 dealer holding a franchise agreement for the line-make that
 351 includes the motor vehicle. This section does not apply to sales
 352 by the applicant or licensee of motor vehicles to its current
 353 employees, employees of companies affiliated by common
 354 ownership, charitable not-for-profit-organizations, and the
 355 federal government.

356 (25) The applicant or licensee has undertaken or engaged in
 357 an audit of warranty, maintenance, and other service-related
 358 payments or incentive payments, including payments to a motor
 359 vehicle dealer under any licensee-issued program, policy, or
 360 other benefit, which were previously paid to a motor vehicle
 361 dealer in violation of this section or has failed to comply with
 362 any of its obligations under s. 320.696. An applicant or
 363 licensee may reasonably and periodically audit a motor vehicle
 364 dealer to determine the validity of paid claims as provided in
 365 s. 320.696. Audits of warranty, maintenance, and other service-
 366 related payments shall be performed by an applicant or licensee
 367 only during the 12-month period immediately following the date
 368 the claim was paid. Audits of incentive payments shall be
 369 performed only during the 12-month period immediately following
 370 the date the incentive was paid. As used in this section, the
 371 term "incentive" includes any bonus, incentive, or other
 372 monetary or nonmonetary consideration. After such time periods
 373 have elapsed, all warranty, maintenance, and other service-
 374 related payments and incentive payments shall be deemed final
 375 and incontrovertible for any reason notwithstanding any
 376 otherwise applicable law, and the motor vehicle dealer shall not
 377 be subject to any chargeback or repayment. An applicant or

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378 licensee may deny a claim or, as a result of a timely conducted
 379 audit, impose a chargeback against a motor vehicle dealer for
 380 warranty, maintenance, or other service-related payments or
 381 incentive payments only if the applicant or licensee can show
 382 that the warranty, maintenance, or other service-related claim
 383 or incentive claim was false or fraudulent or that the motor
 384 vehicle dealer failed to substantially comply with the
 385 reasonable written and uniformly applied procedures of the
 386 applicant or licensee for such repairs or incentives, but only
 387 for that portion of the claim so shown. Notwithstanding the
 388 terms of any franchise agreement, guideline, program, policy, or
 389 procedure, an applicant or licensee may deny or charge back only
 390 that portion of a warranty, maintenance, or other service-
 391 related claim or incentive claim which the applicant or licensee
 392 has proven to be false or fraudulent or for which the dealer
 393 failed to substantially comply with the reasonable written and
 394 uniformly applied procedures of the applicant or licensee for
 395 such repairs or incentives, as set forth in this subsection. An
 396 applicant or licensee may not charge back a motor vehicle dealer
 397 subsequent to the payment of a warranty, maintenance, or
 398 service-related claim or incentive claim unless, within 30 days
 399 after a timely conducted audit, a representative of the
 400 applicant or licensee first meets in person, by telephone, or by
 401 video teleconference with an officer or employee of the dealer
 402 designated by the motor vehicle dealer. At such meeting the
 403 applicant or licensee must provide a detailed explanation, with
 404 supporting documentation, as to the basis for each of the claims
 405 for which the applicant or licensee proposed a chargeback to the
 406 dealer and a written statement containing the basis upon which

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407 the motor vehicle dealer was selected for audit or review.
 408 Thereafter, the applicant or licensee must provide the motor
 409 vehicle dealer's representative a reasonable period after the
 410 meeting within which to respond to the proposed chargebacks,
 411 with such period to be commensurate with the volume of claims
 412 under consideration, but in no case less than 45 days after the
 413 meeting. The applicant or licensee is prohibited from changing
 414 or altering the basis for each of the proposed chargebacks as
 415 presented to the motor vehicle dealer's representative following
 416 the conclusion of the audit unless the applicant or licensee
 417 receives new information affecting the basis for one or more
 418 chargebacks and that new information is received within 30 days
 419 after the conclusion of the timely conducted audit. If the
 420 applicant or licensee claims the existence of new information,
 421 the dealer must be given the same right to a meeting and right
 422 to respond as when the chargeback was originally presented.
 423 After all internal dispute resolution processes provided through
 424 the applicant or licensee have been completed, the applicant or
 425 licensee shall give written notice to the motor vehicle dealer
 426 of the final amount of its proposed chargeback. If the dealer
 427 disputes that amount, the dealer may file a protest with the
 428 department within 30 days after receipt of the notice. If a
 429 protest is timely filed, the department shall notify the
 430 applicant or licensee of the filing of the protest, and the
 431 applicant or licensee may not take any action to recover the
 432 amount of the proposed chargeback until the department renders a
 433 final determination, which is not subject to further appeal,
 434 that the chargeback is in compliance with the provisions of this
 435 section. In any hearing pursuant to this subsection, the

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436 applicant or licensee has the burden of proof that its audit and
 437 resulting chargeback are in compliance with this subsection.
 438 (26) Notwithstanding the terms of any franchise agreement,
 439 including any licensee's program, policy, or procedure, the
 440 applicant or licensee has refused to allocate, sell, or deliver
 441 motor vehicles; charged back or withheld payments or other
 442 things of value for which the dealer is otherwise eligible under
 443 a sales promotion, program, or contest; prevented a motor
 444 vehicle dealer from participating in any promotion, program, or
 445 contest; or has taken or threatened to take any adverse action
 446 against a dealer, including chargebacks, reducing vehicle
 447 allocations, or terminating or threatening to terminate a
 448 franchise because the dealer sold or leased a motor vehicle to a
 449 customer who exported the vehicle to a foreign country or who
 450 resold the vehicle, unless the licensee proves that the dealer
 451 knew or reasonably should have known that the customer intended
 452 to export or resell the motor vehicle. There is a rebuttable
 453 presumption that the dealer neither knew nor reasonably should
 454 have known of its customer's intent to export or resell the
 455 vehicle if the vehicle is titled or registered in any state in
 456 this country. A licensee may not take any action against a motor
 457 vehicle dealer, including reducing its allocations or supply of
 458 motor vehicles to the dealer or charging back to a dealer any
 459 incentive payment previously paid, unless the licensee first
 460 meets in person, by telephone, or video conference with an
 461 officer or other designated employee of the dealer. At such
 462 meeting, the licensee must provide a detailed explanation, with
 463 supporting documentation, as to the basis for its claim that the
 464 dealer knew or reasonably should have known of the customer's

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465 intent to export or resell the motor vehicle. Thereafter, the
 466 motor vehicle dealer shall have a reasonable period,
 467 commensurate with the number of motor vehicles at issue, but not
 468 less than 15 days, to respond to the licensee's claims. If,
 469 following the dealer's response and completion of all internal
 470 dispute resolution processes provided through the applicant or
 471 licensee, the dispute remains unresolved, the dealer may file a
 472 protest with the department within 30 days after receipt of a
 473 written notice from the licensee that it still intends to take
 474 adverse action against the dealer with respect to the motor
 475 vehicles still at issue. If a protest is timely filed, the
 476 department shall notify the applicant or licensee of the filing
 477 of the protest, and the applicant or licensee may not take any
 478 action adverse to the dealer until the department renders a
 479 final determination, which is not subject to further appeal,
 480 that the licensee's proposed action is in compliance with the
 481 provisions of this subsection. In any hearing pursuant to this
 482 subsection, the applicant or licensee has the burden of proof on
 483 all issues raised by this subsection. An applicant or licensee
 484 may not take any adverse action against a motor vehicle dealer
 485 because the dealer sold or leased a motor vehicle to a customer
 486 who exported the vehicle to a foreign country or who resold the
 487 vehicle unless the applicant or licensee provides written
 488 notification to the motor vehicle dealer of such resale or
 489 export within 12 months after the date the dealer sold or leased
 490 the vehicle to the customer.

491 (27) Notwithstanding the terms of any franchise agreement,
 492 the applicant or licensee has failed or refused to indemnify and
 493 hold harmless any motor vehicle dealer against any judgment for

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494 damages, or settlements agreed to by the applicant or licensee,
 495 including, without limitation, court costs and reasonable
 496 attorney ~~attorneys~~ fees, arising out of complaints, claims, or
 497 lawsuits, including, without limitation, strict liability,
 498 negligence, misrepresentation, express or implied warranty, or
 499 revocation or rescission of acceptance of the sale of a motor
 500 vehicle, to the extent the judgment or settlement relates to the
 501 alleged negligent manufacture, design, or assembly of motor
 502 vehicles, parts, or accessories. Nothing herein shall obviate
 503 the licensee's obligations pursuant to chapter 681.

504 (28) The applicant or licensee has published, disclosed, or
 505 otherwise made available in any form information provided by a
 506 motor vehicle dealer with respect to sales prices of motor
 507 vehicles or profit per motor vehicle sold. Other confidential
 508 financial information provided by motor vehicle dealers shall
 509 not be published, disclosed, or otherwise made publicly
 510 available except in composite form. However, this information
 511 may be disclosed with the written consent of the dealer or in
 512 response to a subpoena or order of the department, a court or a
 513 lawful tribunal, or introduced into evidence in such a
 514 proceeding, after timely notice to an affected dealer.

515 (29) The applicant or licensee has failed to reimburse a
 516 motor vehicle dealer in full for the reasonable cost of
 517 providing a loaner vehicle to any customer who is having a
 518 vehicle serviced at the motor vehicle dealer, if a loaner is
 519 required by the applicant or licensee, or a loaner is expressly
 520 part of an applicant or licensee's customer satisfaction index
 521 or computation.

522 (30) The applicant or licensee has conducted or threatened

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523 to conduct any audit of a motor vehicle dealer in order to
 524 coerce or attempt to coerce the dealer to forego any rights
 525 granted to the dealer under ss. 320.60-320.70 or under the
 526 agreement between the licensee and the motor vehicle dealer.
 527 Nothing in this section shall prohibit an applicant or licensee
 528 from reasonably and periodically auditing a dealer to determine
 529 the validity of paid claims, as permitted under this chapter, if
 530 the licensee complies with the provisions of ss. 320.60-320.70
 531 applicable to such audits.

532 (31) From and after the effective date of enactment of this
 533 provision, the applicant or licensee has offered to any motor
 534 vehicle dealer a franchise agreement that:

535 (a) Requires that a motor vehicle dealer bring an
 536 administrative or legal action in a venue outside of this state;

537 (b) Requires that any arbitration, mediation, or other
 538 legal proceeding be conducted outside of this state; or

539 (c) Requires that a law of a state other than Florida be
 540 applied to any legal proceeding between a motor vehicle dealer
 541 and a licensee.

542 (32) Notwithstanding the terms of any franchise agreement,
 543 the applicant or licensee has rejected or withheld approval of
 544 any proposed transfer in violation of s. 320.643 or a proposed
 545 change of executive management in violation of s. 320.644.

546 (33) The applicant or licensee has attempted to sell or
 547 lease, or has sold or leased, used motor vehicles at retail of a
 548 line-make that is the subject of any franchise agreement with a
 549 motor vehicle dealer in this state, other than trucks with a net
 550 weight of more than 8,000 pounds.

551 (34) The applicant or licensee, after the effective date of

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552 this subsection, has included in any franchise agreement with a
 553 motor vehicle dealer a mandatory obligation or requirement of
 554 the motor vehicle dealer to purchase, sell, or lease, or offer
 555 for purchase, sale, or lease, any quantity of used motor
 556 vehicles.

557 (35) The applicant or licensee has refused to assign
 558 allocation earned by a motor vehicle dealer, or has refused to
 559 sell motor vehicles to a motor vehicle dealer, because the motor
 560 vehicle dealer has failed or refused to purchase, sell, lease,
 561 or certify a certain quantity of used motor vehicles prescribed
 562 by the licensee.

563 (36) (a) Notwithstanding the terms of any franchise
 564 agreement, in addition to any other statutory or contractual
 565 rights of recovery after the voluntary or involuntary
 566 termination, cancellation, or nonrenewal of a franchise, failing
 567 to pay the motor vehicle dealer, as provided in paragraph (d),
 568 the following amounts:

569 1. The net cost paid by the dealer for each new car or
 570 truck in the dealer's inventory with mileage of 2,000 miles or
 571 less, or a motorcycle with mileage of 100 miles or less,
 572 exclusive of mileage placed on the vehicle before it was
 573 delivered to the dealer.

574 2. The current price charged for each new, unused,
 575 undamaged, or unsold part or accessory that:

576 a. Is in the current parts catalogue and is still in the
 577 original, resalable merchandising package and in an unbroken
 578 lot, except that sheet metal may be in a comparable substitute
 579 for the original package; and

580 b. Was purchased by the dealer directly from the

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581 manufacturer or distributor or from an outgoing authorized
582 dealer as a part of the dealer's initial inventory.

583 3. The fair market value of each undamaged sign owned by
584 the dealer which bears a trademark or trade name used or claimed
585 by the applicant or licensee or its representative which was
586 purchased from or at the request of the applicant or licensee or
587 its representative.

588 4. The fair market value of all special tools, data
589 processing equipment, and automotive service equipment owned by
590 the dealer which:

591 a. Were recommended in writing by the applicant or licensee
592 or its representative and designated as special tools and
593 equipment;

594 b. Were purchased from or at the request of the applicant
595 or licensee or its representative; and

596 c. Are in usable and good condition except for reasonable
597 wear and tear.

598 5. The cost of transporting, handling, packing, storing,
599 and loading any property subject to repurchase under this
600 section.

601 (b) If the termination, cancellation, or nonrenewal of the
602 dealer's franchise is the result of the bankruptcy or
603 reorganization of a licensee or its common entity, or the result
604 of a licensee's plan, scheme, or policy, whether or not publicly
605 declared, which is intended to or has the effect of decreasing
606 the number of, or eliminating, the licensee's franchised motor
607 vehicle dealers of a line-make in this state, or the result of a
608 termination, elimination, or cessation of manufacture or
609 reorganization of a licensee or its common entity, or the result

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610 of a termination, elimination, or cessation of manufacture or
611 distribution of a line-make, in addition to the above payments
612 to the dealer, the licensee or its common entity, shall be
613 liable to and shall pay the motor vehicle dealer for an amount
614 at least equal to the fair market value of the franchise for the
615 line-make, which shall be the greater of the value determined as
616 of the day the licensee announces the action that results in the
617 termination, cancellation, or nonrenewal, or the value
618 determined on the day that is 12 months before that date. Fair
619 market value of the franchise for the line-make includes only
620 the goodwill value of the dealer's franchise for that line-make
621 in the dealer's community or territory.

622 (c) This subsection does not apply to a termination,
623 cancellation, or nonrenewal that is implemented as a result of
624 the sale of the assets or corporate stock or other ownership
625 interests of the dealer.

626 (d) The dealer shall return the property listed in this
627 subsection to the licensee within 90 days after the effective
628 date of the termination, cancellation, or nonrenewal. The
629 licensee shall supply the dealer with reasonable instructions
630 regarding the method by which the dealer must return the
631 property. Absent shipping instructions and prepayment of
632 shipping costs from the licensee or its common entity, the
633 dealer shall tender the inventory and other items to be returned
634 at the dealer's facility. The compensation for the property
635 shall be paid by the licensee or its common entity
636 simultaneously with the tender of inventory and other items,
637 provided that, if the dealer does not have clear title to the
638 inventory and other items and is not in a position to convey

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639 that title to the licensee, payment for the property being
 640 returned may be made jointly to the dealer and the holder of any
 641 security interest.

642 (37) Notwithstanding the terms of any franchise agreement,
 643 the applicant or licensee has refused to allow or has limited or
 644 restricted a motor vehicle dealer from acquiring or adding a
 645 sales or service operation for another line-make of motor
 646 vehicles at the same or expanded facility at which the motor
 647 vehicle dealer currently operates a dealership unless the
 648 applicant or licensee can demonstrate that such refusal,
 649 limitation, or restriction is justified by consideration of
 650 reasonable facility and financial requirements and the dealer's
 651 performance for the existing line-make.

652 (38) The applicant or licensee has failed or refused to
 653 offer a bonus, incentive, or other benefit program, in whole or
 654 in part, to a dealer or dealers in this state which it offers to
 655 all of its other same line-make dealers nationally or to all of
 656 its other same line-make dealers in the licensee's designated
 657 zone, region, or other licensee-designated area of which this
 658 state is a part, unless the failure or refusal to offer the
 659 program in this state is reasonably supported by substantially
 660 different economic or marketing considerations than are
 661 applicable to the licensee's same line-make dealers in this
 662 state. For purposes of this chapter, a licensee may not
 663 establish this state alone as a designated zone, region, or area
 664 or any other designation for a specified territory. A licensee
 665 may offer a bonus, rebate, incentive, or other benefit program
 666 to its dealers in this state which is calculated or paid on a
 667 per vehicle basis and is related in part to a dealer's facility

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668 or the expansion, improvement, remodeling, alteration, or
 669 renovation of a dealer's facility. Any dealer who does not
 670 comply with the facility criteria or eligibility requirements of
 671 such program is entitled to receive a reasonable percentage of
 672 the bonus, incentive, rebate, or other benefit offered by the
 673 licensee under that program by complying with the criteria or
 674 eligibility requirements unrelated to the dealer's facility
 675 under that program. For purposes of the previous sentence, the
 676 percentage unrelated to the facility criteria or requirements is
 677 presumed to be "reasonable" if it is not less than 80 percent of
 678 the total of the per vehicle bonus, incentive, rebate, or other
 679 benefits offered under the program.

680 (39) Notwithstanding any agreement, program, incentive,
 681 bonus, policy, or rule, an applicant or licensee may not fail to
 682 make any payment pursuant to any agreement, program, incentive,
 683 bonus, policy, or rule for any temporary replacement motor
 684 vehicle loaned, rented, or provided by a motor vehicle dealer to
 685 or for its service or repair customers, even if the temporary
 686 replacement motor vehicle has been leased, rented, titled, or
 687 registered to the motor vehicle dealer's rental or leasing
 688 division or an entity that is owned or controlled by the motor
 689 vehicle dealer, provided that the motor vehicle dealer or its
 690 rental or leasing division or entity complies with the written
 691 and uniformly enforced vehicle eligibility, use, and reporting
 692 requirements specified by the applicant or licensee in its
 693 agreement, program, policy, bonus, incentive, or rule relating
 694 to loaner vehicles.

695 (40) Notwithstanding the terms of any franchise agreement,
 696 the applicant or licensee may not require or coerce, or attempt

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697 to require or coerce, a motor vehicle dealer to purchase goods
 698 or services from a vendor selected, identified, or designated by
 699 the applicant or licensee, or one of its parents, subsidiaries,
 700 divisions, or affiliates, by agreement, standard, policy,
 701 program, incentive provision, or otherwise, without making
 702 available to the motor vehicle dealer the option to obtain the
 703 goods or services of substantially similar design and quality
 704 from a vendor chosen by the motor vehicle dealer. If the motor
 705 vehicle dealer exercises such option, the dealer must provide
 706 written notice of its desire to use the alternative goods or
 707 services to the applicant or licensee, along with samples or
 708 clear descriptions of the alternative goods or services that the
 709 dealer desires to use. The licensee or applicant shall have the
 710 opportunity to evaluate the alternative goods or services for up
 711 to 30 days to determine whether it will provide a written
 712 approval to the motor vehicle dealer to use said alternative
 713 goods or services. Approval may not be unreasonably withheld by
 714 the applicant or licensee. If the motor vehicle dealer does not
 715 receive a response from the applicant or licensee within 30
 716 days, approval to use the alternative goods or services is
 717 deemed granted. If a dealer using alternative goods or services
 718 complies with this subsection and has received approval from the
 719 licensee or applicant, the dealer is not ineligible for all
 720 benefits described in the agreement, standard, policy, program,
 721 incentive provision, or otherwise solely for having used such
 722 alternative goods or services. As used in this subsection, the
 723 term "goods or services" is limited to such goods and services
 724 used to construct or renovate dealership facilities or furniture
 725 and fixtures at the dealership facilities. The term does not

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726 include:
 727 (a) Any materials subject to the applicant's or licensee's
 728 intellectual property rights, including copyright, trademark, or
 729 trade dress rights;
 730 (b) Any special tool and training as required by the
 731 applicant or licensee;
 732 (c) Any part to be used in repairs under warranty
 733 obligations of an applicant or licensee;
 734 (d) Any good or service paid for entirely by the applicant
 735 or licensee; or
 736 (e) Any applicant's or licensee's design or architectural
 737 review service.
 738 (41) (a) The applicant or licensee has failed to act in good
 739 faith toward or to deal fairly with one of its franchised motor
 740 vehicle dealers regarding the terms or provisions of an
 741 agreement. For purposes of this subsection, an applicant or
 742 licensee may have failed to act in good faith toward or deal
 743 fairly with a motor vehicle dealer even in the absence of any
 744 act or threat of coercion or intimidation made by the applicant
 745 or licensee toward the motor vehicle dealer or even in the
 746 absence of an allegation by the motor vehicle dealer that an
 747 express term or provision of a franchise agreement has been
 748 breached or violated by the applicant or licensee. In any action
 749 brought under this subsection, the department or a court of
 750 competent jurisdiction shall consider all of the following
 751 factors, among others, in determining whether an applicant or
 752 licensee has failed to act in good faith toward or deal fairly
 753 with a motor vehicle dealer regarding the terms or provisions of
 754 any agreement or in any of its dealings with a motor vehicle

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755 dealer or in compliance with this subsection:
 756 1. Whether the applicant or licensee has fairly taken into
 757 account the motor vehicle dealer's investment in its facilities,
 758 its sales or service or parts promotions, its staffing, and its
 759 general operations.
 760 2. Whether the applicant or licensee has altered the rights
 761 of the motor vehicle dealer or the dealer's independence in
 762 operating the dealership.
 763 3. Whether the applicant or licensee has altered the sales
 764 or service obligations of the motor vehicle dealer or adversely
 765 impaired the investment or the financial return of the motor
 766 vehicle dealer in any part of the motor vehicle dealer's sales,
 767 service, or parts operations.
 768 4. Whether the applicant or licensee has fairly taken into
 769 account the equities and interests of the motor vehicle dealer.
 770 (b) An affirmative determination regarding one or more of
 771 the factors under paragraph (a) is sufficient to sustain a
 772 finding of failure to act in good faith toward or deal fairly
 773 with a motor vehicle dealer.
 774 (42) (a) An applicant or licensee may not establish,
 775 implement, or enforce criteria for measuring the sales or
 776 service performance of any of its franchised motor vehicle
 777 dealers in this state which may have a negative material or
 778 adverse effect on any dealer; which is unfair, unreasonable,
 779 arbitrary, or inequitable; or which does not include all
 780 applicable local and regional criteria, data, and facts.
 781 Relevant and material national or state criteria or data may be
 782 considered, but comparison to such data may not outweigh the
 783 local and regional factors and data. The term "relevant and

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784 material" includes, but is not limited to, comparable size
 785 dealerships in comparable markets with comparable buyer
 786 profiles. If such measurement is based, in whole or in part,
 787 upon a survey, the survey must be based upon a statistically
 788 significant and valid random sample. Upon the request of any
 789 dealer, applicant, licensee, common entity, or affiliate thereof
 790 that seeks to establish, implement, or enforce against any
 791 dealer any such performance measurement must promptly describe
 792 in writing to the motor vehicle dealer, in detail, how the
 793 measurement criteria for the dealer's sales and service
 794 performance was designed, calculated, established, and applied.
 795 (b) Any dealer, against whom any such performance
 796 measurement criteria are sought to be used for any purpose
 797 adverse to the dealer, has the right to file a complaint in any
 798 court of competent jurisdiction alleging that such performance
 799 criteria does not comply with this subsection and, if
 800 successful, shall be entitled to damages pursuant to s. 320.697,
 801 plus attorney fees and injunctive relief. The court is
 802 authorized to issue temporary, preliminary, and permanent
 803 injunctive relief without regard to the existence of an adequate
 804 remedy at law or irreparable harm and without requiring a bond
 805 of any complainant.
 806 (c) In any proceeding under this subsection, the applicant
 807 or licensee shall bear the ultimate burden of proof that the
 808 dealer performance measurement criteria complies with this
 809 subsection and has been implemented and enforced uniformly by
 810 the applicant or licensee among its dealers in this state.
 811
 812 A motor vehicle dealer who can demonstrate that a violation of,

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813 or failure to comply with, this section ~~any of the preceding~~
 814 ~~provisions~~ by an applicant or licensee will or can adversely and
 815 pecuniarily affect the complaining dealer, shall be entitled to
 816 pursue all of the remedies, procedures, and rights of recovery
 817 available under ss. 320.695, ~~and~~ 320.697, and 320.699.

818 Section 2. Section 320.648, Florida Statutes, is created to
 819 read:

820 320.648 Discriminatory practices; prohibitions.-

821 (1) For the purpose of avoiding competitive disadvantages
 822 of a motor vehicle dealer in this state by reason of differences
 823 in dealer cost of any motor vehicle and for the purpose of
 824 eliminating discrimination by an applicant or licensee against
 825 any motor vehicle dealer in this state, an applicant or licensee
 826 is prohibited from:

827 (a) Selling or offering to sell a new motor vehicle to a
 828 motor vehicle dealer at a lower actual, effective cost,
 829 including the cost of the vehicle transportation, than the
 830 actual, effective cost that the same model similarly equipped is
 831 offered to or is available to another same line-make motor
 832 dealer in this state during a similar period.

833 (b) Discriminating between its same-line make dealers in
 834 this state by the use of a promotional, incentive, or bonus
 835 plan, program, device, benefit, or otherwise, whether received
 836 by the motor vehicle dealer at the time of sale of the new motor
 837 vehicle to the dealer or later, which results in a lower cost,
 838 including the cost of the vehicle transportation, than the
 839 actual, effective cost that the same model similarly equipped is
 840 offered or is available to another same line-make model motor
 841 vehicle dealer in this state during a similar period.

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842 (2) Subsection (1) does not prohibit a licensee's or
 843 applicant's offer of a promotion, bonus, or incentive which in
 844 effect does not discriminate against, and is functionally
 845 available to, all competing dealers of the same line-make in
 846 this state on substantially comparable terms, provided that it
 847 contains fair and reasonably achievable sales or service
 848 objectives.

849 (3) Subsection (1) does not obviate, affect, alter, or
 850 diminish s. 320.64(38).

851 Section 3. Section 320.699, Florida Statutes, is amended to
 852 read:

853 320.699 Administrative Hearings and adjudications;
 854 procedure.-

855 (1) A motor vehicle dealer, or person with entitlements to
 856 or in a motor vehicle dealer, who is directly and adversely
 857 affected by the action or conduct of an applicant or licensee
 858 which is alleged to be in violation of any provision of ss.
 859 320.60-320.70, may seek a declaration and adjudication of its
 860 rights with respect to the alleged action or conduct of the
 861 applicant or licensee by:

862 (a) Filing with the department a request for a proceeding
 863 and an administrative hearing which conforms substantially with
 864 the requirements of ss. 120.569 and 120.57; ~~or~~

865 (b) Filing with the department a written objection or
 866 notice of protest pursuant to s. 320.642; or

867 (c) As an alternative, filing a complaint in any court of
 868 competent jurisdiction to seek temporary, preliminary, or
 869 permanent injunctive relief and civil damages pursuant to s.
 870 320.697. Upon a prima facie showing by a complainant that such

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

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871 violation has occurred, or may occur, the burden of proof of all
872 issues must then be upon the applicant or licensee to prove that
873 such violation did not or will not occur. In any such
874 proceeding, a court may issue injunctive relief without regard
875 to the existence of an adequate remedy at law or irreparable
876 harm and without requiring any bond and may award costs and
877 reasonable attorney fees to the complainant if relief is
878 granted.

879 (2) If a written objection or notice of protest is filed
880 with the department under paragraph (1)(b), a hearing shall be
881 held not sooner than 180 days nor later than 240 days from the
882 date of filing of the first objection or notice of protest,
883 unless the time is extended by the administrative law judge for
884 good cause shown. This subsection shall govern the schedule of
885 hearings in lieu of any other provision of law with respect to
886 administrative hearings conducted by the Department of Highway
887 Safety and Motor Vehicles or the Division of Administrative
888 Hearings, including performance standards of state agencies,
889 which may be included in current and future appropriations acts.

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

CourtSmart Tag Report

Room: SB 401

Case No.:

Type:

Caption: Senate Committee on Transportation Judge:

Started: 3/28/2017 3:17:59 PM

Ends: 3/28/2017 4:26:49 PM

Length: 01:08:51

3:17:58 PM Meeting called to order by Chair Gainer
3:18:03 PM Roll call by Administrative Assistant, Marilyn Hudson
3:18:13 PM Quorum present
3:18:19 PM Pledge of Allegiance
3:18:46 PM Comments by Chair Gainer
3:19:15 PM Introduction of SB 1416 by Chair Gainer
3:19:22 PM Explanation of SB 1416 by Senator Young
3:19:49 PM Comments by Chair Gainer
3:20:01 PM Comments by Senator Rouson
3:20:34 PM Closure waived on SB 1416 by Senator Young
3:20:37 PM Roll call on SB 1416 by Administrative Assistant, Marilyn Hudson
3:20:51 PM SB 1416 reported favorably
3:21:07 PM Introduction of SB 1646 by Chair Gainer
3:21:18 PM Explanation of SB 1646 by Senator Torres
3:22:56 PM Comments by Chair Gainer
3:23:09 PM Closure waived on SB 1646 by Senator Torres
3:23:13 PM Roll call on SB 1646 by Administrative Assistant, Marilyn Hudson
3:23:27 PM SB 1646 reported favorably
3:23:50 PM Tab 2 -Appointment to the Tampa-Hillsborough County Expressway Authority of Mr. Bennett H. Barrow
3:24:30 PM Motion by Senator Rouson to confirm appointment
3:24:43 PM Comments by Senator Gainer
3:25:07 PM Roll call on appointment by Administrative Assistant, Marilyn Hudson
3:25:20 PM Confirmation of Mr. Barrow is favorable
3:25:58 PM Comments by Chair Gainer
3:26:17 PM Introduction of SB 1282 by Chair Gainer
3:26:31 PM Explanation of SB 1282 by Senator Flores
3:27:13 PM Comments by Chair Gainer
3:27:35 PM Comments by Senator Flores
3:27:56 PM Closure waived on SB 1282 by Senator Flores
3:28:01 PM Roll call on SB 1282 by Administrative Assistant, Marilyn Hudson
3:28:13 PM SB 1282 reported favorably
3:28:52 PM Introduction of SB 1086 by Chair Gainer
3:29:00 PM Explanation of SB 1086 by Senator Garcia
3:29:47 PM Comments by Chair Gainer
3:29:54 PM Introduction of Amendment Barcode No. 565562 by Chair Gainer
3:30:02 PM Explanation of Amendment Barcode No. 565562 by Senator Garcia
3:30:30 PM Comments by Chair Gainer
3:30:46 PM Closure waived on Amendment Barcode No. 565562 by Senator Garcia
3:30:53 PM Amendment Barcode No. 565562 adopted
3:31:15 PM Closure waived on SB 1086 by Senator Garcia
3:31:58 PM Roll call on SB 1086 by Administrative Assistant, Marilyn Hudson
3:32:11 PM CS/SB 1086 reported favorably
3:32:49 PM Comments by Chair Gainer
3:32:58 PM Introduction of SB 1118 by Senator Rouson
3:33:18 PM Explanation of SB 1118 by Chair Gainer
3:36:07 PM Introduction of Amendment Barcode No. 239440 by Senator Rouson
3:36:14 PM Explanation of Amendment Barcode No. 239440 by Chair Gainer
3:36:45 PM Comments by Senator Rouson
3:37:01 PM Closure waived on Amendment Barcode No. 239440 by Chair Gainer
3:37:22 PM Amendment Barcode No. 239440 adopted
3:37:27 PM Introduction of Amendment Barcode No. 404272 by Senator Rouson
3:37:46 PM Explanation of Amendment Barcode No. 404272 by Senator Rader

3:37:51 PM Comments by Senator Rouson
3:38:10 PM Closure waived on Amendment Barcode No. 404272 by Senator Rader
3:38:16 PM Rachel Cone, Intern Secretary, Florida Department of Transportation waives against
3:38:45 PM Question by Senator Rader
3:38:57 PM Response by Rachel Cone
3:39:49 PM Question by Senator Rader
3:40:06 PM Response by Rachel Cone
3:40:16 PM Question by Senator Rader
3:40:24 PM Response by Rachel Cone
3:40:28 PM Question by Senator Rader
3:40:32 PM Response by Rachel Cone
3:40:33 PM Question by Senator Rader
3:40:39 PM Response by Rachel Cone
3:40:43 PM Question by Senator Rader
3:40:54 PM Response by Rachel Cone
3:41:20 PM Question by Senator Rader
3:41:41 PM Response by Rachel Cone
3:41:43 PM Question by Senator Rader
3:41:47 PM Response by Rachel Cone
3:42:05 PM Question by Senator Rader
3:42:19 PM Response by Rachel Cone
3:42:43 PM Question by Senator Rader
3:43:11 PM Response by Rachel Cone
3:43:37 PM Question by Senator Rader
3:44:06 PM Response by Rachel Cone
3:44:22 PM Comments by Senator Rouson
3:44:28 PM Vicki Wooldridge, Government Affairs Manager, South Florida Regional Transportation Authority waives
in support
3:44:39 PM Jack Cory, Lobbyist, Amendment Stiles Corporation
3:46:58 PM Comments by Senator Rouson
3:47:03 PM Comments by Chair Gainer
3:47:14 PM Senator Rader closes on Amendment Barcode No. 404272
3:49:57 PM Senator Rouson calls for vote on amendment
3:50:17 PM Amendment Barcode No. 404272 fails
3:50:32 PM Senator Rouson relinquishes the chair to Senator Gainer
3:50:51 PM Dale Calhoun, Executive Director, Florida Natural Gas Association waives in support
3:51:06 PM Rachel Cone waives in support
3:51:31 PM Closure waived on SB 1118 by Chair Gainer
3:51:36 PM Roll call on SB 1118 by Administrative Assistant, Marilyn Hudson
3:52:11 PM CS/SB 1118 reported favorably
3:52:25 PM Comments by Chair Gainer
3:52:31 PM Comments by Senator Rouson
3:53:05 PM Introduction of SB 1452 by Chair Gainer
3:53:20 PM Explanation of SB 1452 by Senator Book
3:54:24 PM Comments by Chair Gainer
3:54:30 PM Introduction of Amendment Barcode No. 336818 by Chair Gainer
3:54:43 PM Explanation of Amendment Barcode No. 336818 by Senator Book
3:55:15 PM Comments by Chair Gainer
3:55:30 PM Floyd Webb, General Manager, Yellow Cab Tallahassee/Yellow Cab of Florida's Panhandle waives in
support
3:55:50 PM Closure waived on Amendment Barcode No. 336818 by Senator Broxson
3:56:03 PM Amendment Barcode No. 336818 adopted
3:56:07 PM Comments by Chair Gainer
3:56:17 PM Floyd Webb waives in support
3:56:28 PM Elynn Bogdanoff, Lobbyist, Florida Taxi Association waives in support
3:56:40 PM Comments by Chair Gainer
3:56:48 PM Closure waived on SB 1452 by Senator Book
3:56:56 PM Roll call on SB 1452 by Administrative Assistant, Marilyn Huddson
3:57:11 PM CS/SB 1452 reported favorably
3:57:24 PM Senator Rader makes motion to reconsider vote and reconsider the bill with pending amendment
3:59:20 PM Senator Baxley makes motion to reconsider instanter
3:59:32 PM Recording Paused

4:01:43 PM Recording Resumed
4:01:48 PM Comments by Chair Gainer
4:02:01 PM Motion to reconsider instanter - favorable
4:02:08 PM Motion to reconsider favorable
4:02:25 PM Roll call on motion to reconsider by Administrative Assistant, Marilyn Hudson
4:02:42 PM Motion to reconsider fails
4:03:04 PM Comments by Senator Rader
4:03:42 PM Comments by Senator Galvano
4:03:49 PM Comments by Chair Gainer
4:03:54 PM Introduction of CS/SB 804 by Chair Gainer
4:03:57 PM Explanation of CS/SB 804 by Senator Brandes
4:04:29 PM Comments by Chair Gainer
4:04:46 PM Jarrod Fowler, Director of Health Care Policy waives in support
4:04:52 PM Stephen Winn, Executive Director, Florida Osteopathic Medical Association waives in support
4:05:01 PM Closure waived on CS/SB 804 by Senator Brandes
4:05:06 PM Roll call on CS/SB 804 by Administrative Assistant, Marilyn Hudson
4:05:21 PM CS/SB 804 reported favorably
4:05:49 PM Recording Paused
4:19:28 PM Recording Resumed
4:19:38 PM Introduction of SB 1442 by Chair Gainer
4:19:46 PM Explanation of SB 1442 by Senator Broxson
4:20:54 PM Comments by Chair Gainer
4:20:59 PM Introduction of Amendment Barcode No. 296480 by Chair Gainer
4:21:08 PM Explanation of Amendment Barcode No. 296480 by Senator Broxson
4:21:26 PM Comments by Chair Gainer
4:21:39 PM Closure waived on Amendment Barcode No. 296480 by Senator Broxson
4:21:48 PM Amendment Barcode No. 296480 adopted
4:21:54 PM Comments by Chair Gainer
4:22:21 PM Pam Stewart, Commissioner, Department of Education waives in support
4:22:48 PM Amendment Barcode No. 501846 is adopted
4:22:53 PM Comments by Chair Gainer
4:23:01 PM Matilda Miller, Intern Secretary, Department of Business and Professional Regulation waives in support
4:23:17 PM Debate by Senator Baxley
4:24:06 PM Comments by Chair Gainer
4:24:14 PM Closure waived on SB 1442 by Senator Broxson
4:25:15 PM Roll call on SB 1442 by Administrative Assistant, Marilyn Hudson
4:25:31 PM CS/SB 1442 reported favorably
4:25:45 PM Motion by Senator Baxley
4:26:11 PM Comments by Chair Gainer
4:26:32 PM Motion by Senator Galvano to adjourn
4:26:40 PM Meeting adjourned



THE FLORIDA SENATE
SENATOR JOE NEGRON
President

MEMORANDUM

TO: All Senators
Ms. Debbie Brown, Secretary of the Senate
All Senate Committee and Subcommittee Staff Directors

FROM: Joe Negron, President

SUBJECT: Senator Hukill

DATE: March 20, 2017

I am delighted to share an update regarding Senator Hukill's treatment and recovery. This weekend, I was very pleased to hear the news that Senator Hukill's treatment was successful and her doctors have determined that she is cancer-free.

As a precautionary measure, Senator Hukill's physicians have advised that she undergo one final round of treatment over the next few weeks. They continue to recommend that she avoid travel during this course of treatment. As such, Senator Hukill is excused for the remainder of the 2017 Regular Session. She will continue to manage her district offices, staff, bills, and committee responsibilities remotely during this time.

Senator Hukill asked that I convey her sincere thanks for the ongoing support of the Senate family during her treatment. While we certainly miss Senator Hukill in Tallahassee, we are delighted that she is on the road to a full recovery and look forward to the day when she can return to Tallahassee.