HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 1451 Transportation
SPONSOR(S): Economic Development & Community Affairs Policy Council
TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Economic Development & Community Affairs Policy Council	14 Y, 0 N, As CS	Cater	Tinker
1)				
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

The bill address several issues related to Transportation. Specifically, the bill:

- Amends the concurrency statute to address planned transit as committed capacity; provides public transit facilities exemption from concurrency requirements include hangers that manufacture and assemble aircraft; exempts certain affordable housing projects from the concurrency requirement; provides for funding of facilities outside the approving Development of Regional Impact (DRI), defines backlog.
- Amends the DRI statute to link level of service standards related to the comprehensive plan to the standards for the DRI's impact on transportation.
- Permits the withholding of vehicle registrations and revalidation stickers for nonpayment of tolls.
- Exempts private investigators from window tinting requirements.
- Increases the limitation on length for trailers delivering manufactured buildings, with a permit from the Department of Transportation (DOT).
- Increases the commercial motor vehicle weight limit on non-interstate highways, and allows for the reduction of the weight of vehicle idling devices in determining the penalties for overweight commercial vehicles.
- Deletes unnecessary definitions and amends other definitions that are incorrect or conflict with other statutory provisions.
- Removes obsolete provisions related to the classification of roads.
- Permits counties to enter into public-private partnerships for toll facilities on the county road system.
- Provides legislative findings related to the mining of construction aggregate materials.
- Clarifies that compensation to DOT for the use of the right-of-way only applies the longitudinal placement of electric utility transmission lines on limited access facilities.
- Reenacts the Small County Road Assistance Program (SCRAP) and removes certain eligibility requirements related to millage rates.
- Revises the Small County Outreach Program (SCOP) to allow for additional project types.
- Repeals the Statewide Intermodal Transportation Advisory Council.
- Allows the Tampa-Hillsborough Expressway Authority to work with other entities and revises its bonding authority to allow it to issue bonds outside of the requirements of the State Bond Act.
- Provides that for the Wekiva Parkway the use of lands identified in that statute satisfies the cumulative impact requirements of s.373.414(8), F.S.
- Provides a mechanism for public-use airports to dispose of or remove personal property, derelict or abandoned aircraft and derelict or abandoned motor vehicles from the airport's premises.
- Clarifies that low speed vehicles may be operated on certain roads under the DOT's jurisdiction,
- Designates "Drowsy Driving Prevention Week."
- Authorizing the Northwest Florida Regional Transportation Planning Organization to study the feasibility of advance funding the cost of capacity projects in its member counties.

Beginning in fiscal year 2012-2013, up to $25 million from the State Transportation Trust Fund will be directed to the SCRAP program, resulting in a $25 million positive fiscal impact on local governments. This is due to the reenactment of the SCRAP program.

Local governments that operate airports may see a positive fiscal impact due to making it easier to sell abandoned property. However, this revenue will be used to offset the airport's cost of disposal of the property.

The bill has an effective date of July 1, 2009.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The bill addresses several transportation related issues. For ease of understanding, the analysis is structured by issue.

Transportation Concurrency

Current Situation

The Local Government Comprehensive Planning and Land Development Regulation Act[1] - also known as Florida's Growth Management Act - requires all of Florida's 67 counties and 410 municipalities to adopt Local Government Comprehensive Plans that guide future growth and development. Comprehensive plans address issues such as future land use, housing, transportation, infrastructure, coastal management, conservation, recreation and open space, intergovernmental coordination, and capital improvements. One component of the Act is its "concurrency" provision, which requires certain facilities and services to be available concurrent with the impacts of development.[2]

Section 163.3180(2)(c), F.S., requires that in order for a project to meet transportation concurrency, transportation facilities have to be in place or under construction within three years of issuance of a building permit This is generally proven by having a commitment for funding within the first three years of the local government's capital improvement schedule.

Section 163.3180(4)(b), F.S., provides that the concurrency requirement does not apply to a public transit facility. The section provides that public transit facilities include transit stations and terminals; transit station parking; park-and-ride lots; intermodal public transit connection or transfer facilities; fixed buses, guideway, and rail stations; and airport passenger terminals and concourses, air cargo facilities, and hangers for the maintenance and storage of aircraft. However, the definition does not include seaports or commercial or residential development constructed in conjunction with a public transit facility.

Section 163.3180(4)(c), F.S., provides that concurrency requirements, except for those relating to transportation facilities and schools, may be waived by a local government for urban infill and

---

[1] Part II of Chapter 163, F.S.

[2] Department of Community Affairs website on Growth Management and Comprehensive Planning. http://www.dca.state.fl.us/fdcp/DCP/compplanning/index.cfm

redevelopment areas, if the waiver does not endanger public health or safety. This waiver must be adopted as an amendment to the comprehensive plan.

Section 163.3180, F.S., provides a method for mitigating the impacts of development on transportation facilities through the cooperative efforts of the public and private sectors. The law provides for developments of regional impact (DRI) with the ability to pay for impacts on the transportation facilities and to pipeline[3] those improvements to regionally significant facilities. It also requires that the developer enter into binding agreements with the governmental entities responsible for the facility to be improved.

Current law specifies that a developer is not responsible for the additional cost of eliminating backlogs. However, since backlog is not defined, calculating and separating these costs has proven difficult.

Proposed Changes

The bill amend s. 163.3180(2)(c), F.S., to incorporate criteria necessary to be considered a committed facility in evaluating whether transportation facilities will be in place or under actual construction. These considerations include:

- A project that is included in the first three years of a local government's adopted capital improvement plan;
- A project that is included in the first three years of DOT's adopted work program; or
- A high-performance transit system that serves multiple municipalities, connects to an existing rail system, and is included in a county's or DOT's long-range transportation plan.

The bill amends s. 163.3180(4)(b), F.S., to provide that hangers used for the assembly or manufacture of aircraft are included in this definition of public transit facilities, exempting these facilities from the concurrency requirements.

The bill amends s. 163.3180(4)(c), F.S., to provide that affordable housing developments serving residents with incomes at or below 60 percent of the area's median income and proposed to be located on arterial roadways having available public transit are exempt from transportation concurrency requirements.

The bill clarifies that the benefit for pipelining is to the network of facilities (as opposed to each individual facility).

The bill amends s. 163.3180(12), F.S. to allow the owner or developer to pay its contribution to the local government having jurisdiction over the development or regional impact (DRI). Then the local government must enter into the binding agreement with the entity having jurisdiction over the transportation facility. The developer's satisfaction of concurrency occurs at the payment to the single local government approving the development.

The bill also provides that the cost of any improvements made to a regionally significant transportation facility within a development of regional impact (DRI) which is in a county's or DOT's long-range transportation plan, shall be credited against the DRI's proportionate share contribution.

The bill defines "backlog" as facility or facilities on which the adopted level-of-service standard is exceeded by the existing trips, plus additional projected background trips from any source other than the development project under review. Projected trips include those that are forecast by established traffic standards, including traffic modeling, consistent with the University of Florida Bureau of Economic Research medium population projections. Additional projected background trips are to be coincident with the particular stage or phase of the development under review.

---

[3] Pipelining is directing proportionate fair share mitigation toward one or more specific transportation improvements reasonably related to the mobility demands created by the development and such improvements may address one or more modes of travel.

The bill also amends s. 380.06, F.S., relating to DRIs to provide that the level-of-service standards required in the transportation methodology for a DRI must be the same level-of-service standards used to evaluate concurrency.

Toll Payment

Current Situation

Current law requires the payment of tolls for the use of toll facilities. Failure to pay toll may result in a civil penalty of $100 or more, an assessment of three points against a driver's license, the assessment of court costs, the suspension of a vehicle registration, and/or the suspension of a driver's license.[4]

Proposed Changes

The bill amends ss. 316.1001, 320.03, and 338.155, F.S. to provide that a license plate or revalidation sticker may be withheld for the failure to pay a toll. The person may receive the license plate or revalidation sticker once the person no longer appears on the Department of Highway Safety and Motor Vehicles' list of toll violators or presents a receipt showing that the outstanding toll violations have been paid. Additionally, no points on a driver's license will be assessed for a toll violation.

The bill also amends s. 322.27, F.S., to provide that no points will be issued against a driver's license for not paying the required toll.

Window Tinting

Current Situation

Generally, the provisions of ss. 316.2951 through 316.2957, F.S., prohibit a motor vehicle window from being tinted so darkly that it blocks the transmittance of more than a specified amount of visible light.[5] However, certain medical exclusions and vehicle exceptions apply. Under s. 316.29545, F.S., law enforcement vehicles used in undercover or canine operations are declared exempt from the prohibition.

Proposed Changes

The bill amends s. 316.29545, F.S., to create an additional class of vehicles exempted from the motor vehicle window tinting restrictions. The bill makes any vehicle owned or leased by an investigative agency licensed under ch. 493, F.S.,[6] exempt from window tinting regulations, if the vehicle is used in any of the following ways:

- Homeland security functions on behalf of federal, state, or local authorities;
- Executive protection activities;
- Undercover, covert, or surveillance operations in cases involving;
  - Child abductions;
  - Convicted sex offenders;
  - Insurance fraud;
  - Missing persons or property; or
  - Other activities in which evidence is being obtained for civil or criminal proceedings.

Commercial Vehicles

1. Transporting Manufactured Buildings

[4] Florida Department of Transportation, Sunpass Website, http://www.sunpass.com/violations.cfm.

[5] See ss. 316.2951 – 316.2957, F.S. for detailed percentages applying to side windows, rear windows, and additional details regarding louvers, privacy drapes, and installation tolerances.

[6] Chapter 493, F.S., relates to Private investigative, private security, and repossession services.

Current Situation
Section 316.515(14),F.S., allows DOT, to issue a special permit to allow for the transportation of manufactured buildings[7] using truck tractor-semitrailer combinations which would otherwise violate the maximum trailer overwidth dimensions allow by law.[8] Provided it is not contrary to the public interest, DOT may use its discretion to issue such a permit when doing so would reduce the total number of deliveries made using overwidth trailers, and a trailer no longer than 54 feet is used.

Proposed Change
The bill amends s. 316.515, F.S., to clarify multiple units of manufactured buildings, such as multiple sections of the building, may be transported on a single trailer with a special permit. The maximum trailer length for such purposes is increased from 54 to 80 feet.

2. **Commercial Vehicle Weight**

Current Situation
Section 316.535, F.S., provides for the maximum weights allowed for commercial motor vehicles on the state's highways. However, some roads and bridges have lower weight limits due to their age, condition, or design.[9] A vehicle's weight limit is based on factors such as the number of axles and the distance between two or more consecutive axles, thus, depending on the number of axles and their distribution on the vehicle, a vehicle's maximum allowable gross weight may be less than 80,000 pounds. The weight limits also include a 10 percent enforcement tolerance to allow for a difference in scale weights.[10] For both the interstate and non-interstate highway system, the maximum gross weight limit is 80,000 pounds, including all enforcement tolerances. Except as provided in s. 316.535, F.S., no vehicle or combination of vehicles exceeding the gross weights specified shall be permitted to travel on the public highways within the state. All vehicles exceeding the maximum weight limits are presumed to have damaged the highways of the state and are subject to economic sanctions. Section 315.545, F.S., provides penalties for vehicles exceeding the maximum allowable weight limit.

Proposed Change
The bill amends s. 316.535, F.S., to provide that the 10 percent scale tolerances provided under current law[11] are applicable to all weight limits provided on non-interstate highways. However, when a vehicle exceeds the posted weight limit on a bridge, the fines for violations of the gross weight limitations are to be based on the amount by which the actual weight of the vehicle and load exceeds the allowable maximum weight plus the 10 percent scale tolerance. Generally, this increases the weight limit for commercial motor vehicles on non-Interstate highways by 10 percent.

3. **Idling Devices**

Current Situation

---

[7] Section 553.36(13), F.S., defines "manufactured building" as a closed structure, building assembly, or system of subassemblies, which may include structural, electrical, plumbing, heating, ventilating, or other service systems manufactured in manufacturing facilities for installation or erection as a finished building or as part of a finished building, which shall include, but not be limited to, residential, commercial, institutional, storage, and industrial structures. The term includes buildings not intended for human habitation such as lawn storage buildings and storage sheds manufactured and assembled offsite by a manufacturer certified in conformance with this part. This part does not apply to mobile homes.

[8] Section 316.515(1), F.S.

[9] Florida Department of Transportation, *Commercial Motor Vehicle Manual*, p. 14
http://www.dot.state.fl.us/mcco/downloads/TruckingManual%20-%206th%20Edition%202006%20english.pdf

[10] Florida Department of Transportation, *Commercial Motor Vehicle Manual*, p. 14
http://www.dot.state.fl.us/mcco/downloads/TruckingManual%20-%206th%20Edition%202006%20english.pdf

[11] Section 316.545(2), F.S.

Auxiliary Power Units

Section 316.302, F.S., provides a person who operates a commercial motor vehicle may not drive more than 12 hours following 10 consecutive hours off duty or for any period after the end of the 16th hour after coming on duty following 10 consecutive hours off duty. Due to these statutory requirements, truck drivers have long off-hour rest periods, which they often spend inside the cab of their trucks. Cab power is essential in order to control the temperature inside the cab and keep the drivers comfortable during the long rest periods.

The most common way drivers power their cabs is to idle, which means to continuously operate the vehicle's main drive engine while the vehicle is stopped. While idling helps keep the driver comfortable, it has a negative economic and environmental impact. Idling requires a great deal of fuel, increases emissions of greenhouse gases and other pollutants (which contribute to smog formation), and it generates a great deal of noise.

As an alternative power source for trucks, idling reduction technology has been explored and Auxiliary Power Units (APUs) were developed. An APU is a portable, truck-mounted system that can provide climate control and power for trucks without idling. Most APUs are small diesel engines with their own cooling and heating systems, generator or alternator system and air conditioning compressor, mounted to a frame rail. The benefits of APUs are numerous and include:

- Providing heating and cooling;
- Generating enough electricity to power laptop computers, televisions, and microwaves;
- Reducing fuel consumption, by using about half of the fuel as regular diesel-engine idling;
- Improving air quality;
- Reducing emissions of carbon dioxide and other pollutants;
- Reducing maintenance, parts wear on the engine and oil change intervals;
- Reducing operating expenses for fleet and truck owners by decreasing both fuel and maintenance, allowing operators to conserve fuel when fuel is at a high price; and
- Low cost of installation and maintenance for the APU units, themselves.

However, while APUs provide great advantages, they add weight to the vehicle. Thus, vehicles must carry less revenue-producing cargo weight in order to compensate for the weight the APU adds to the vehicle, or risk violating state and federal maximum weight limits.

Florida Law

Section 315.535, F.S., provides the overall gross weight of any vehicle or combination of vehicles may not exceed 80,000 pounds, including all enforcement tolerances. Except as provided within the section, no vehicle or combination of vehicles exceeding the gross weights specified shall be permitted to travel on the public highways within the state.

Section 315.545, F.S., provides penalties for vehicles that exceed the maximum allowable weight limit. All vehicles that exceed the maximum weight limits are presumed to have damaged the highways of the state and are subject to economic sanctions.

Both s. 315.535, F.S., and s. 315.545, F.S., are silent on the issue of idle-reduction technology. These sections do not provide a maximum weight exemption for any vehicles that have installed an anti-idling device, such as an APU.

Federal Law

On August 8, 2005, President Bush signed into law the Energy Policy Act of 2005 (Energy Policy Act). Section 756 of the Energy Policy Act, "Idle Reduction and Energy Conservation Deployment Program," amended Title 23 USC 127(a) to allow for a national 400-pound exemption on the maximum weight limit on the interstate system for the additional weight of idling reduction technology on heavy-duty vehicles. The maximum weight for commercial vehicles on the federal highway system is 80,000 pounds. Thus, the exemption allows for 400 pounds in addition to the 80,000-pound maximum weight limit.

In order to be eligible for the exemption, the operator of the vehicle must be able to prove by demonstration or certification that: (1) the idle reduction technology is fully functional at all times and (2) the 400-pound gross weight increase is not used for any purpose other than the use of idle reduction technology. This certification must be available to law enforcement officers if the vehicle is found in violation of applicable weight laws.

A memo from the Federal Highway Administration's Size and Weight Division indicates the exemption in s. 756 of the Energy Policy Act is not a mandate and does not preempt state regulations or compel states to grant the increased weight tolerance. Thus, federal law allows for the waiver of 400 pounds, but does not require it. Each state may determine whether they will honor the exemption. Thus far, approximately 22 states allow the 400-pound APU exemption.[12]

Proposed Change

The bill amends s. 316.545, F.S., to provide for an increase in the vehicle's maximum gross vehicle weight of up to 400 pounds to compensate for the additional weight of APUs installed, thus implementing s. 756 of the federal Energy Policy Act in Florida. This will create greater uniformity between federal and state law, which is especially important for truck drivers doing interstate business and would assist regulatory officials by preventing enforcement ambiguities that could cause problems for drivers during inspections.

If a vehicle is found to be overweight, but is equipped with idle-reduction technology, then the penalty will be calculated by reducing the actual gross vehicle weight or the internal bridge weight by the certified weight of the idle-reduction technology, or 400 pounds, whichever is less. The 400 pound exemption will not be assessed on axle weight. DOT cannot increase the axle weight because Florida was grandfathered in at 22,000 pounds. Florida is already over the federally allowed 20,000 pounds. Furthermore, each qualifying vehicle will not get an automatic exemption of 400 pounds by virtue of having an installed anti-idling device, unless the actual weight of the anti-idling device is 400 pounds or more. The weight limit exemption will depend on the certified weight of the anti-idling device.

The bill has two proof requirements identical to those found in the federal law. If a law enforcement or regulatory officer questions drivers, the driver must: (1) prove the unit is fully functional at all times and (2) present written certification of the weight of the idle-reduction technology.

The bill excludes vehicles described in s. 316.535(6), F.S., from qualifying for the 400 pound exemption. These vehicles, typically called straight trucks, include: dump trucks; concrete mixing trucks; trucks engaged in waste collection and disposal; and fuel oil and gasoline trucks designed and constructed for special type work. These vehicles typically do not carry idle-reduction equipment and the addition of 400 pounds would exceed the weight limit on state and local bridges.

Road Classifications

Current Situation

In 1995, the state revised the system where the Department of Transportation (DOT) assigned road jurisdiction based on road functional classification to a system where road jurisdiction changes depend on mutual agreement between governmental entities. This was accomplished by revising ch. 335, F.S., relating to the State Highway System, where s. 335.04, F.S., was deleted and s. 335.0415, F.S., was created.

[12] A federal survey dated July 2008, revealed the following results: 22 states allow the 400-pound APU exemption: Arkansas, Idaho, Indiana, Iowa, Kansas, Maryland, Minnesota, Missouri, Mississippi, Montana, Nevada, New Mexico, New York, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Texas, Utah, Washington, and Wisconsin. 11 states do NOT allow the 400-pound APU exemption: Alabama, California, Colorado, Florida, Georgia, Kentucky, Maine, North Carolina, Ohio, Rhode Island, and Wyoming. The remaining 17 states are not yet accounted for in the survey.

There are some provisions in ch. 334, F.S., relating to Transportation Administration related to the functional classification and road jurisdiction process formerly in ch. 335, F.S. The bill addresses changes to ch. 334, F.S., to make it consistent with ch. 335, F.S.

Proposed Changes
The bill amends s. 334.03, F.S., to amend and delete several definitions relating to the Florida Transportation Code.

The bill amends the definitions of "city street system", "county road system", and "state highway system" that are in conflict with the public road jurisdiction and transfer process.[13] The bill revises these definitions to be:

- Roads under the appropriate jurisdiction on June 10, 1995;
- Roads constructed by the city, county, or state for the appropriate jurisdiction;
- Roads subsequently transferred to that jurisdiction, but not roads transferred from the appropriate jurisdiction.

The bill amends the definition of "functional classification" to link the usage of "functional classification" in state statute to the functional classification that is done according to federal procedures, rather than what DOT previously used for jurisdictional requirements. The only reference to this term in state statute relates to the access control classification system.[14]

The bill deletes the terms "arterial road", "collector road", "local road", "urban minor arterial road" and "urban principal arterial road." These are obsolete definitions related to the use of functional classification to road jurisdiction. The bill either deletes or amends the current statutory provisions that use these terms.

The bill amends the functions and duties of DOT in s. 334.044, F.S., to remove its authority to assign jurisdictional responsibility for public roads.

The bill amends s. 334.047, F.S., to remove an obsolete provision prohibiting DOT from setting a maximum number of urban principal arterial roads within a district or county.

The bill amends s. 316.2122, relating to the operation of low-speed vehicles on certain roadways to remove cross-references and to clarify that low speed vehicles may be operated on certain roads under the jurisdiction of a county, municipality, or an urban minor arterial road under DOT's jurisdiction.

The bill also conforms various cross-references in statutes.

<u>County Public-Private Partnerships</u>

Current Situation
Current law authorizes DOT to receive and solicit proposals and, with legislative approval as evidenced by the approval of DOT's work program, enter into agreements with private entities, or consortia thereof, for the building, operation, ownership, or financing of transportation facilities.[15] However, there is currently not the same type of provision for local governments.

Proposed Changes
The bill creates s. 336.445, F.S., relating to public-private partnerships with counties. The bill provides that notwithstanding any other provision of law or ordinance, a county may enter into agreements with

---

[13] Section 335.0415, F.S.

[14] Section 335.188(3)(c)1, F.S.

[15] Section 334.30, F.S.

private entities, or consortia thereof, for the building, operation, ownership, or financing of toll facilities as part of the county road system under the following circumstances:

- The county publicly declares, at a properly noticed commission meeting, the need for the toll facility and a desire to contract with a private entity for the building, operation, ownership, or financing of toll facilities; and
- After a public hearing, the county establishes that the proposal includes unique benefits and that the project is not contrary to the interest of the public.

Prior to awarding the project to a private entity, the county must determine that the proposed project:

- Is not contrary to the public's interest;
- Would not require state funds to be used;
- Would have adequate safeguards in place to ensure that no additional cost or service disruptions would be realized by the travelling public in the event of default or cancellation of the agreement by the county; and
- Would have adequate safeguards in place to ensure that the county or the private entity has the opportunity to add capacity to the proposed project and other transportation facilities serving similar origins and destinations.

The bill requires that any agreement between a county and private entity, or consortia thereof, must address:

- Regulations governing the future increase of toll or fare revenue; and
- That the private entity is required to provide an investment grade traffic and revenue study prepared by an internationally recognized traffic and revenue expert that is accepted by the national bond rating agencies.
- The private entity is also required to provide a finance plan that identifies the project cost, revenue by source, financing, major assumptions, internal rate of return on private investment, and whether any government funds are assumed to deliver a cost feasible project, and a total cash flow analysis beginning with the implementation of the project and extending for the term of the agreement.

Construction Aggregate Materials

Current Situation

Current law defines "construction aggregate materials" as crushed stone, limestone, dolomite, limerock, shell rock, cemented coquina, sand for use as a component of mortars, concrete, bituminous mixtures, or underdrain filters, and other mined resources providing the basic material for concrete, asphalt, and road base.[16]

Section 337.0261(2), F.S., provides legislative intent regarding construction aggregate material where it finds there is a strategic and critical need for an available supply of construction aggregate materials within the state and that the disruption of the supply would cause a significant detriment to the state's construction industry, transportation system, and overall health, safety and welfare.

Proposed Changes

The bill amends s. 337.0261(2), F.S., to provide legislative recognition that construction aggregate materials mining is an industry of critical importance to the state and that the mining of construction aggregate materials is in the public interest.

Utilities on Right-of-Way

Current Situation

[16] Section 337.0261(1), F.S.

Section 337.401, F.S., addresses the use of the right-of-way by utilities. Specifically, s. 337.401(1), F.S., provides that DOT and local government entities which have jurisdiction and control of public roads and publically-owned rail corridors are authorized to prescribe and enforce reasonable rules or regulations with reference to the placing and maintaining along, across, or on any road or publicly-owned rail corridors under their respective jurisdictions any electric transmission lines.

In 2008, section 337.401(1), F.S., was amended to provide that for transmission lines that operate more than 69 kilovolts, and where there is no practical alternative available, DOT rules must provide for placement of, and access to, transmission lines within the right-of-way of any DOT-controlled public roads, including longitudinally within limited access facilities to the greatest extent allowed by federal law, providing that compliance with minimum clear zone and other safety standards established by rules or regulations is achieved.[17]

Proposed Changes

The bill amends s. 337.401(1), F.S., to clarify that compensation to DOT for the use of the right-of-way only applies the longitudinal placement of electric utility transmission lines on limited access facilities.

Small County Road Assistance Program

Current Situation

Section 339.3816, F.S., creates the Small County Road Assistance Program (SCRAP) within DOT. The purpose of this program is to assist small county governments with a population of 75,000 or less according to the 1990 federal census, in resurfacing or reconstruction of county roads. Capacity improvements on county roads are not eligible for funding under this program.

Beginning with Fiscal Year 1999-2000 until fiscal year 2009-2010, DOT is authorized to fund the SCRAP program in an amount of up to $25 million annually from the State Transportation Trust Fund.

County roads in small counties that were part of the county road system on June 10, 1995, are eligible to compete for funds that have been designated for the SCRAP program. At a minimum, for a county to be eligible for these funds, it must:

- Have enacted the maximum rate of the local option fuel tax and must have an ad valorem millage rate of at least 8 mills; or
- Has imposed an ad valorem millage rate of 10 mills.[18]

However, for fiscal years 2007-2008 and 2008-2009, the millage rate levied in 2006 may, at the county's option be used for purposes of determining eligibility.[19]

The following criteria are used to prioritize road projects for funding under the program:

- The primary criterion is the physical condition of the road as measured by DOT.
- As secondary criteria, DOT may consider:
    - Whether a road is used as an evacuation route;
    - Whether a road has high levels of agricultural travel;
    - Whether a road is considered a major arterial route; and
    - Whether a road is considered a feeder road.

---

[17] Section 29, Ch 2008-227, L.O.F.

[18] Currently 23 counties are eligible for the SCRAP program. Those counties are Baker, Bradford, Calhoun, Columbia, Dixie, Gadsden, Gilchrist, Glades, Hamilton, Hardee, Highlands, Holmes, Jackson, Jefferson, Lafayette, Liberty, Madison, Putnam, Suwannee, Taylor, Union, Wakulla, and Washington.

[19] Section 11, Ch. 2007-321, L.O.F.

Other criteria related to the impact on the public road system or on the state or local economy may also be considered in the prioritization process by DOT. All projects funded by the SCRAP program must be included in DOT's work program.

The SCRAP program currently sunsets at the end of fiscal year 2009-2010, when its statutory funding is set to expire.

Proposed Changes
The bill amends s. 339.2816, F.S., to reenact the SCRAP program beginning again in fiscal-year 2012-2013 and continues it thereafter. The bill revises the criteria for counties that are eligible to participate by removing references to millage rates. The bill also adds a secondary criteria to be used to prioritize projects based on whether the road is located in a fiscally-constrained county.

Small County Outreach Program

Current Situation
Current law creates a Small County Outreach Program (SCOP) within the Department of Transportation.[20] The purpose of this program to assist small county governments in resurfacing or reconstructing county roads, or in capacity or safety improvements to county roads. Counties with a population of 150,000 or less are eligible to compete for funds designated for this program.[21] For projects on county roads funded by the SCOP program, DOT funds 75 percent of the cost and the county funds the remaining 25 percent. In order to receive funds, the project must be on a county road, and the county must attempt to keep county roads in satisfactory condition.

While the primary criteria of for determining the eligibility of a project is the physical condition of the road, DOT may consider as secondary criteria:

- Whether the road is used as an evacuation route;
- Whether the road has a high level or agricultural travel.
- Whether the road is considered a major arterial route.
- Whether the road is considered a feeder road.
- Other criteria related to the impact of a project on the public road system or on the state or local economy as determined by DOT.

DOT is authorized to administer contracts on behalf of a county selected to receive funding for a project under the SCOP program. Projects funded under this program are in DOT's work program.

SCOP is funded through a portion of the proceeds from the documentary stamp tax[22] and a portion of a seven percent service charge on the local option fuel tax.[23] For Fiscal Year 2008-2009, the Legislature appropriated approximately $43 million for SCOP.[24]

Proposed Changes

---

[20] Section 339.2818, F.S.

[21] Currently 38 counties are eligible for the Small County Outreach Program. These Counties are Baker, Bradford, Calhoun, Citrus, Columbia, Desoto, Dixie, Flagler, Franklin, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Highlands, Holmes, Indian River, Jackson, Jefferson, Lafayette, Levy, Liberty, Madison, Martin, Monroe, Nassau, Okeechobee, Putnam, Santa Rosa, Sumter, Suwannee, Taylor, Union, Wakulla, Walton, and Washington.

[22] Section 201.15(1)(c), F.S.

[23] Section 215.211(4), F.S.

[24] Line 2101 of the 2008 General Appropriations Act.

The bill amends s. 339.2818, F.S., related to the SCOP program. The bill expands the purpose of the SCOP program to provide that SCOP funds may be used in repairing or rehabilitating county bridges, paving unpaved roads, and addressing road-related drainage improvements.

Strategic Intermodal Transportation Advisory Council

Current Situation

In 2003, the Strategic Intermodal System was established to serve the state's mobility needs, help the state become a worldwide economic leader, enhance economic prosperity and competitiveness, enrich quality of life and reflect responsible environmental stewardship.[25] The 2003 law also created a Statewide Intermodal Transportation Advisory Council to advise and make recommendations to the Legislature and DOT on the policies, planning, and funding of intermodal transportation projects. These responsibilities include:

- Advising DOT on the policies, planning, and implementation strategies related to intermodal transportation.
- Providing advice and recommendations to the Legislature on funding for projects to move goods and people in the most efficient manner for the state.

The members of the council are appointed by the Governor, the President of the Senate, and the Speaker of the House of Representatives, and represent various interests involved in the Strategic Intermodal System. The council is no longer active, and held its last meeting in December 2004.[26]

Proposed Changes

The bill repeals s. 339.63(5), F.S., to eliminate the Statewide Intermodal Transportation Advisory Council.

Tampa Hillsborough County Expressway Authority (THEA)

Current Situation

The THEA was established in 1963 under Part IV ch. 348, F.S., to build, operate, and maintain toll-financed expressways in Hillsborough County. Currently, The Lee Roy Selmon Crosstown Expressway, is the only expressway operated by the THEA. The THEA originally planned the neighboring Veterans Expressway, which was transferred to, and is operated by the Florida Department of Transportation (FDOT). The governing body of the THEA consists of seven board members comprising:

- Four members appointed by the Governor and subject to confirmation by the Senate, each serving one four-year term;
- The mayor, or mayor's designee, of Hillsborough County's most populous city (Tampa) and serving as a member ex officio;
- A member of the Hillsborough Board of County Commissioners appointed by that board and serving as a member ex officio; and
- The DOT District Seven Secretary.

Pursuant to the State Bond Act,[27] the Division of Bond Finance (DBF) issues revenue bonds for THEA's projects on behalf of the authority. Pursuant to its statutory authority, the DBF independently reviews the recommendations of a paid financial adviser retained by the THEA. The DBF's review does not focus solely upon the current transaction; it also reviews the issuance in light of the entire bonded

---

[25] Department of Transportation Strategic Intermodal System Brochure, July 2008. http://www.dot.state.fl.us/planning/sis/strategicplan/brochure.pdf

[26] April 16, 2009, e-mail from Department of Transportation to Roads, Bridges & Ports Policy Committee staff.

[27] Sections 215.57-215.83, F.S

indebtedness of the State of Florida. The DBF also maintains its own independent in-house legal staff to assist with issues which may arise during the financing. All financings issued through the DBF must receive the approval of the Governor and Cabinet.

Additional state oversight is currently provided by DOT, which may participate through financial contributions to the construction, operation and maintenance of THEA's expressways. The revenue bonds issued by the DBF on behalf of THEA pledge the toll revenues generated by the authority's expressway system as repayment. These revenue bonds are not backed by the full faith and credit of the State of Florida. In addition to existing facilities, the authority is authorized to issue bonds to finance:

- Brandon area feeder roads,
- Capital improvements to the expressway system including the toll collection equipment,
- The widening of the Lee Roy Selmon Crosstown Expressway System, and
- The Crosstown Connector linking I-4 and the Selmon Crosstown Expressway.

Specific projects by the THEA must be approved by the Legislature, by amending s. 348.565, F.S.

Some local-government transportation entities, such as the Miami-Dade County Expressway Authority, the Orlando-Orange County Expressway Authority and the Mid-Bay Bridge Authority, have specific authority to issue their own revenue bonds, independently of the DBF.

Proposed Changes
The bill amend ss. 348.51, 348.54, 348.545, 348.56, 348.565, 348.57, 348.70, F.S., to give the THEA authority to issue its own bonds, without having to seek the state's review and approval as is currently required by s. 215.73, F.S. The State Bond Act, includes a number of requirements to ensure the integrity and fiscal sufficiency of bonds issued on behalf of the state. The bill would authorize the Board of the THEA to approve the issuance of bonds. The cumulative effect of these changes would be to shift the final decision on how to issue bonds from the state-wide perspective of the Governor and Cabinet to a local perspective. THEA would retain the option of going though the DBF. The bill amends s. 348.54, F.S., to provide the THEA shall not have the power to pledge the credit or taxing power of the state, the City of Tampa, or Hillsborough County, meaning none of these entities would be legally liable for repaying the bonds. While a default upon the bonds of THEA would not result in a legal obligation to pay off the bonds, the State or another party may determine it has a moral obligation to do so. In addition, it is possible the bond rating of the State of Florida or of other Florida bond issuers may suffer adversely from a default upon the THEA's obligations.

Additionally, the bill amends ss. 348.51, 348.53, and 348.545, F.S. to allow the THEA to operate transit support facilities, and to work within the entire Tampa Bay Region.[28] This expanded authority includes allowing THEA to issue revenue bonds for managed lanes and other transit support facilities.

<u>Wekiva Parkway</u>

Current Situation
The Wekiva Basin, consisting of the Wekiva River, the St. Johns River and their tributaries along with associated lands in central Florida, is part of a wildlife corridor that connects northwest Orange County with the Ocala National Forest. The Wekiva River and its tributaries have been designated an Outstanding Florida Water, a National and Scenic River, a Florida Wild and Scenic River, and a Florida Aquatic Preserve. The central Florida region has experienced tremendous growth in the last 20 years resulting in increased transportation demands and development pressure on lands within the Wekiva Basin.

---

[28] The counties in the Tampa Bay Region pursuant to s. 343.91(a), relating to the Tampa Bay Regional Transportation Authority, are Citrus, Hernando, Hillsborough, Pasco, Pinellas, Manatee and Sarasota.

The desire to balance the transportation needs associated with the projected growth and protection of the Wekiva Basin prompted Governor Bush to create the Wekiva Basin Area Task Force in 2002 to make recommendations on the most appropriate location for a highway route connecting State Road 429 to Interstate 4 while providing the greatest protection to the Wekiva Basin. Legislation to implement the Task Force's recommendations was considered during the 2003 legislative session, but did not pass.

In July, 2003, Governor Bush created the Wekiva River Basin Coordinating Committee to be a forum to identify enhanced land use planning strategies and development standards for the Wekiva River Basin. In 2004, the Legislature enacted the Wekiva Parkway and Protection Act, Part III, ch 369, F.S.[29] The act implemented the recommendations of the Wekiva River Basin Coordinating Committee's Final Report of March 16, 2004. The legislation provides legislative intent and a legal description of the Wekiva Study Area.

Section 369.317, F.S., defines the Wekiva Parkway as any limited access highway or expressway constructed between SR 429 and Interstate 4 specifically incorporating the corridor alignment recommended by the Wekiva River Basin Area Task Force and the SR 429 Working Group. The Wekiva Parkway and related transportation facilities must follow the design criteria contained in the recommendations of the Wekiva River Area Task Force adopted by reference by the Wekiva River Basin Coordinating Committee, subject to reasonable environmental, economic and engineering considerations.

Proposed Change

The bill amends s. 369.317(6), F.S., to provide that if the lands known as Neighborhood Lakes, Seminole/Woods Swamp, New Gardens Coal, or Pine Plantation[30] are used as environmental mitigation for road construction related impacts incurred by DOT or Orlando-Orange County Expressway Authority, or for other impacts incurred by other entities, within the Wekiva Study Area or within the Wekiva Parkway alignment corridor, and if the mitigation offsets these impacts, the St. Johns River Water Management District and the Department of Environmental Protection is required to consider the activity regulated under Part IV of ch. 373, F.S.,[31] to meet the cumulative impact requirements of s. 373.414(8), F.S.[32] This was the original intent of the Wekiva Area Task Force's recommendations codified in the Wekiva Parkway and Protection Act.

Abandoned Airport Property

Current Situation

Currently, s. 705.18, F.S., addresses the disposal of personal property lost or abandoned at public use airports.[33] However, the statute primarily addresses personal property, and provides that all moneys realized from the sale, following associated expenses, are deposited into the state school fund.

The Florida Airports Council estimates that annually over 100 aircraft and 1,000 motor vehicles are abandoned on airport property. The airports currently use a variety of statutes and local ordinances to remove derelict or abandoned aircraft and motor vehicles; however, there is no clear law giving them ability to remove this property and to recover the costs associated with its removal.

---

[29] Ch. 2004-384, L.O.F.

[30] Specific descriptions of these parcels is contained in s. 369.317(6), F.S.

[31] Management and Storage of Surface Water

[32] Cumulative Impacts on Surface Waters and Wetlands.

[33] Section 332.004(14), F.S., defines "public use airport" as any publically owned airport which is used or to be used for public purposes.

Proposed Changes
The bill amends ch. 705.18, F.S., relating to the disposal of personal property lost or abandoned on university and community college campuses or certain public-use airports to remove references to abandoned property at public use airports.

1. **Abandoned Personal Property**

The bill creates s. 705.182, F.S., relating to the disposal of personal property found on the premises of public-use airports to address property, except for motor vehicles and aircraft, found at these airports. The bill requires the airport's director or designee to take charge of the property and make a record of the date it was found.

If, within 30 calendar days from when the property is found, or a longer period as deemed appropriate under the circumstances, the owner does not claim the property, the director or designee may:

- Retain the property for use by the airport or for use by the state or unit of local government owning or operating the airport;
- Trade the property to another unit of local government or state agency;
- Donate the property to a charitable organization;
- Sell the property; or
- Dispose of the property through an appropriate refuse removal or salvage company that provides salvage service for the type of personal property found.

Prior to disposing of the property, the bill requires the airport to notify the owner, if known, that the property was found at the airport and that the airport intends to dispose of it.

If the airport decides to sell the property, it must be sold at a public auction either on the Internet or at a specified physical location. At least 10 days prior to the sale, the airport must provide notice of the time and place of the sale in a publication of general circulation within the county where the airport is located. This is done after written notice, via certified mail, return receipt requested, is provided to the property owner, if known. This notice is considered sufficient if it refers to the airport's intention to sell all of its then-accumulated found property, and it is not required to identify each individual item that will be sold. At any time prior to the sale, the owner may reclaim the property by presenting acceptable evidence of ownership to the airport's director or designee. The proceeds from the sale of property are retained by the airport to be used by the airport in any lawfully authorized manner.

The bill does not preclude the airport from allowing a domestic or international air carrier or other airport tenant from establishing its own lost and found procedures for personal property and from disposing of such personal property.

The bill provides that the purchaser or recipient in good faith of the personal property sold or obtained takes the property free of the rights of persons then holding any legal or equitable interest in the property, whether or not the interest is recorded.

2. **Abandoned Aircraft**

The bill creates s. 705.183, F.S., relating to the disposal of derelict or abandoned aircraft on the premises of public use airports, whether or not the premises is under lease or license to a third party. When one of these aircraft is found, the airport director or designee must make a record of the date the aircraft was found or determined to be present on airport property.

The bill defines "abandoned aircraft" as an aircraft that has been disposed of in a public-use airport in a wrecked, inoperative, or partially dismantled condition or an aircraft that has remained in an idle state on the premises owned or controlled by the operator of a public-use airport for 45 consecutive calendar days.

The bill defines “derelict aircraft” as any aircraft that is not in flyable condition, does not have a current certificate of air worthiness issued by the Federal Aviation Administration (FAA) and/or is not in the process of actively being repaired.

The bill requires the airport director or designee to contact the FAA Aircraft Registration Branch in order to determine the name and address of the last registered aircraft owner. The bill also requires a diligent search of the appropriate records, or contact with an aircraft title search company to determine the name and address of any person having an equitable or legal interest in the aircraft.

Within 10 business days of receiving information related to persons with interest in the aircraft, the director or designee must notify all persons having an equitable or legal interest in the aircraft by certified mail, return receipt requested. This notice must advise them of the location of the derelict or abandoned aircraft, that fees and charges for the use of the airport by the aircraft have accrued and the amount of these fees, that the aircraft is subject to a lien for the accrued fees and charges for use of the airport and for the transportation, storage, and removal of the aircraft, that the lien is subject to enforcement pursuant to law, and that the airport may cause the use, trade, sale, or removal of the aircraft. The notice may require the removal of the aircraft in less than 30 calendar days if the director or designee determines that the aircraft poses a danger to the health and safety of airport users.

If the owner of the aircraft is unknown, or cannot be found, the director or designee is required to place a laminated notice, in a specific form, on the aircraft. This notice provides the same information that was provided in the notice mailed to those with an equitable or legal interest in the aircraft. The notice must be at least 8 inches by 10 inches and weatherproofed.

If, after 30 calendar days from the date of receipt of the notice or the posting of the notice on the aircraft, the owner or any person with an interest in the aircraft has not removed the aircraft from the airport upon payment in full of all accrued fees and charges for the use of the airport and for the transportation, storage, and removal of the aircraft, or shown reasonable cause for failure to do so, the director or designee may cause the use, trade, sale, or removal of the aircraft.

If the airport elects to sell the aircraft, it must do so at a public auction after giving notice of the time and place of the sale at least 10 calendar days prior to the date of the sale. This notice must be in a publication of general circulation within the county where the airport is located and after providing written notice to all parties known to have an interest in the aircraft.

If the airport elects to dispose of the aircraft, the airport is entitled to negotiate with the refuse or removal company[34] for the price to be received from the company as payment for the aircraft, or if circumstances warrant, a price to be paid to the company for the costs of disposing of the aircraft. All information pertaining to the establishment of the price and the justification for the prices shall be prepared and maintained by the airport, and the negotiated price shall be deemed a reasonable price.

If the sale or negotiated price is less than the airport’s then current charges and costs against the aircraft, or the airport is required to pay a salvage company for its services, the owner of the aircraft remains liable for the airport’s costs that are not offset by the sale or negotiated price, in addition to the owner’s liability for payment to the airport of the price the airport was required to pay any salvage company. All costs incurred by the airport in the removal, storage, and sale of any aircraft shall be recoverable against the aircraft’s owner.

The bill provides that the airport shall have a lien on derelict or abandoned aircraft for all fees and charges for the use of the airport by the aircraft and for all fees and charges incurred by the airport for the transportation, storage, and removal of the aircraft. Prior to perfecting the lien, the director or designee must serve notice of the lien on the last registered owner and all persons having an equitable

[34] The bill references s. 705.182(2)(e), which relates to the disposal of personal property found at in the premises of public use airports and references refuse removal and salvage companies

or legal interest in the aircraft. The serving of the notice does not dispense with recording the claim of lien. This claim of lien must contain the following information:

- The name and address of the airport.
- The name of the last registered aircraft owner and all persons having a legal or equitable interest in the aircraft.
- The fees and charges incurred by the aircraft for the use of the airport, and the fees and charges for the transportation, storage, and removal of the aircraft.
- A description of the aircraft sufficient for identification.

The bill requires the claim of lien to be signed and sworn to by the airport director or director's designee. The claim of lien is sufficient if it is substantially the form provided in the bill. However, the bill provides that the negligent inclusion or omission of any information in the claim of lien, which does not prejudice the last registered owner, does not constitute a default that operates to defeat an otherwise valid lien.

The bill requires the claim of lien to be served on the aircraft's last registered owner and all persons having an equitable or legal interest in the aircraft. The claim of lien shall be served before it is recorded.

The bill requires the claim of lien to be recorded with the clerk of court in the county where the airport is located. This recording is constructive notice to all persons of the contents and effect of such claim. The lien attaches when it is recorded and takes priority at that time.

The bill provides that a purchaser or recipient in good faith of an aircraft sold or obtained under this section takes the aircraft free of the rights of persons then holding any legal or equitable interest in the aircraft, whether or not the interest is recorded. The purchaser is required to notify the FAA of the change in the registered owner of the aircraft.

If the aircraft is sold at a public sale, the bill requires the airport to deduct from the proceeds of the sale the costs of transportation, storage, publication of notice, and all other costs reasonably incurred by the airport. The balance of the proceeds are deposited into an interest-bearing account no later than 30 calendar days after the airport receives the proceeds and the funds must be held for one year. The aircraft's rightful owner may claim the balance of the proceeds within one year from the date of the deposit by making application to the airport and presentation to the airport's director or designee of acceptable written evidence of ownership. If no rightful owner comes forward to claim the proceeds within one year, the balance of the proceeds are retained by the airport to be used in any legally authorized manner.

The bill provides that any person acquiring legal interest in an aircraft that is caused to be sold by an airport is the lawful owner of the aircraft and all other legal or equitable interest in the aircraft is divested with no further force and effect, provided that the holder of such interest was notified of the intended disposal of the aircraft. The bill authorizes the airport to issue documents of disposition to the purchaser or recipient of an aircraft disposed of under this section.

3. Abandoned Motor Vehicles

The bill creates s. 705.184, F.S., relating to the disposal of derelict or abandoned motor vehicles on the premises of public-use airports. When one of these vehicles is found, the airport's director or designee must make a record of the date the vehicle was found or determined to be present on airport property.

The bill defines "abandoned motor vehicle" as a motor vehicle that has been disposed of in a public-use airport in a wrecked, inoperative, or partially dismantled condition or a motor vehicle that has remained in an idle state on the premises owned or controlled by the operator of a public-use airport for 45 consecutive calendar days.

The bill defines "derelict motor vehicle" as any motor vehicle that is not in drivable condition.

After information relating to the derelict or abandoned motor vehicle is recorded in the airport's records, the bill permits the airport's director or designee to have the motor vehicle removed from the airport's premises by the airport's own wrecker or by a licensed independent wrecking company to be stored at a suitable location on or off the airport premises. If the vehicle is removed by the airport's own wrecker, the provisions below apply. However, if the vehicle is removed by a licensed independent wrecker company current laws for the disposal of vehicles by wrecker companies apply and the procedures below do not apply.

The bill requires the airport director or designee to contact the Department of Highway Safety and Motor Vehicles (DHSMV) to notify DHSMV it has possession of the motor vehicles to determine the name and address of the last registered vehicle owner, the insurance company insuring the vehicle,[35] and any person who has filed a lien on the motor vehicle.

Within seven business days of receiving this information, the airport's director or designee must notify the owner of the vehicle, the insurance company insuring the vehicle, and all persons claiming a lien against the vehicle certified mail, return receipt requested. This notice shall state the fact of possession of the vehicle, that charges for a reasonable towing, storage, and parking, have accrued and the amount of those fees, that a lien will be claimed, that the lien is subject to enforcement pursuant to law, and that the owner or lienholder, if any, has the right to a hearing to contest the airport's possession.

If, after 30 calendar days from the date of receipt of the notice the vehicle has not been removed from the airport upon payment in full of all accrued charges for reasonable tow, storage, and parking fees, the vehicle may be disposed of, including, but not limited to, the vehicle being sold free of all prior liens that are more than five years of age, or after 50 calendar days from the time the motor vehicle is stored if any prior liens are five years or less.

If attempts to notify the owner and/or lienholder prove unsuccessful, the requirement of notice will be considered met and the vehicle may be disposed of in the manner provided for all abandoned vehicles.

The bill gives the owner of, or any person claiming a lien on the motor vehicle 10 calendar days after receiving knowledge of the location of the motor vehicle to file a complaint in the county court of the county in which the motor vehicle is stored, to determine if the property was wrongfully taken or withheld.

Upon the filing of the complaint, the owner or leinholder may have the vehicle released upon posting with the court a cash or surety bond or other adequate security equal to the amount of fees for towing, storage, and accrued parking to ensure the payment of the fees if the vehicle owner does not prevail. Once the security is posted and any applicable fees are paid, the clerk of the court is required to issue a certificate notifying the airport that the security was posted and directing the airport to release the vehicle. When the vehicle is released, after reasonable inspection, the owner or leinholder must give receipt to the airport reciting any claims for loss or damage to the vehicle or its contents.

If after 30 calendar days from receiving the notice the owner or any person claiming a lien has not removed the vehicle and paid the fees or shown reasonable cause for failure to do so, the director or designee may dispose of the vehicle in any manner provided.

If the airport elects to sell the vehicle, it may be sold free in clear of all prior liens after 35 calendar days from the time the motor vehicle is stored if any of the prior liens are more than five years old, or after 50 calendar days from the time the motor vehicle is stored if any prior lines are five years old or less. The vehicle must be sold at public auction, either on the Internet or at a specified location. If the date of the sale was not included in the previously required notice, notice of the of the sale, sent by certified mail, return receipt requested, must be given to the owner and to all persons claiming a lien on the vehicle.

---

[35] This is notwithstanding the provisions of s. 627.736, F.S., relating to required personal injury protection benefits; exclusions; priority, and claims.

The notice must be mailed not less than 10 days before to the date of the sale. Additionally, a public notice must be in a publication of general circulation within the county where the sale is to be held at least 10 calendar days prior to the date of the sale. The proceeds of the sale must to be used to recover the airport's costs incurred for towing, storage, and the sale of the vehicle, as well as any accrued parking fees. Any proceeds exceeding these costs are retained by the airport for use in any authorized manner.

The airport or, if used, a licensed independent wrecking company, pursuant to s. 713.78, F.S.,[36] has a lien on the derelict or abandoned vehicle for a reasonable tow fee, a reasonable storage fee, and or accrued parking fees, except that no storage fee shall be charged if the vehicle is stored for less than six hours. Prior to perfecting a lien, the director or designee must serve notice of the lien on the owner, the insurance company, and all persons of record claiming a lien against the vehicle. If attempts to notify the owner, insurance company, and lienholders are unsuccessful, the notice requirement will be considered met. The serving of the notice does not dispense with recording the claim of lien. This claim of lien must contain the following information:

- The name and address of the airport.
- The name of the owner of the vehicle, the insurance company insuring the motor vehicle, and all persons of record claiming a lien against the vehicle.
- The fees incurred for a reasonable tow, reasonable storage, and parking, if any.
- A description of the motor vehicle sufficient for identification.

The bill requires the claim of lien to be signed and sworn to by the airport director or director's designee. The claim of lien is considered sufficient if it is substantially the form provided in the bill. However, the bill provides that the negligent inclusion or omission of any information in the claim of lien, which does not prejudice the owner, does not constitute a default that operates to defeat an otherwise valid lien.

The bill requires the claim of lien to be served on owner, the insurance company, and all recorded leinholders. If attempts at notification prove unsuccessful, the requirement of notification will be considered met. The claim of lien shall be served before it is recorded with the clerk of court in the county where the airport is located.

The bill provides a purchaser or recipient in good faith of a vehicle sold or obtained under this section takes the vehicle fee of the rights of persons then holding any legal or equitable interest in the vehicle, whether or not this interest is recorded.

Drowsy Driving

Current Situation

A 2005 National Sleep Foundation poll found that 60 percent of adult drivers had driven, in the past year, a vehicle while feeling drowsy, with more than one-third actually falling asleep behind the wheel. Forty percent of the drivers admitted to having an accident or near accident because they dozed off or were too tired to drive.

The National Highway Traffic Safety Administration estimates that each year, driver fatigue results in 100,000 police reported crashes, with an estimated 1,550 deaths, 71,000 injuries, and $12.5 billion in monetary loses. However, it is difficult to attribute an accident to drowsiness because there is no test available to determine drowsiness, and there are inconsistent reporting practices related to drowsy driving. In addition, drowsiness may be a factor in crashes which are attributed to other causes.

Some of the dangers that sleepiness or fatigue may cause are:

- Impaired reaction time, judgment, or vision;

[36] Section 713.78, F.S., relates to liens for recovering, towing, or storing vehicles and vessels.

- Problems with information processing and short-term memory;
- Decreased performance, vigilance, and motivation; and
- Increased moodiness and aggressive behavior.

The National Sleep Foundation currently promotes a "Drowsy Driving Prevention Week." In 2008, that week was from November 10 through 16.[37]

Proposed Changes

The bill designates the first week in September as "Drowsy Driving Prevention Week" in Florida. During this week, the Department of Highway Safety and Motor Vehicles (DHSMV) and the Department of Transportation (DOT) are encouraged to educate law enforcement and the public about the relationship between fatigue and performance and the research showing that fatigue is as much of an impairment as alcohol and is as dangerous behind the wheel.

According to DOT, its impaired driving initiatives incorporate educational information related to drowsy driving.

Regional Transportation Finance Study

Current Situation

Currently, highway funds are initially used to pay for required resurfacing and maintenance projects on state roads and for Strategic Intermodal System roadways. The remainder of these funds are used for capacity projects.

DOT has the authority to issue bonds for right-of way acquisition and bridge construction. However, annual debt service payments are limited to seven percent of the revenues deposited into the State Transportation Trust Fund, but the amount cannot exceed $275 million. DOT is also authorized to pledge future federal-aid reimbursements to pay Grant Anticipation Revenue Vehicles Bonds. The debt service on these bonds is capped at 10 percent of annual federal highway apportionments.[38] Under current law the state is otherwise limited from issuing bonds for construction of capacity projects so most projects are done on a pay-as you go basis. Since limited funds are available, major capacity projects may not be done, due to a lack of funds.

Proposed Change

The bill authorizes the Northwest Florida Regional Transportation Planning Organization (NFRTPO)[39] to study the feasibility of advance funding the cost of capacity projects in its member counties[40] and to make recommendations to the Legislature by February 1, 2010. DOT is permitted to assist the organization with the study.

The bill provides that the results of the study be provided to the Governor, the President of the Senate, the Speaker of the House of Representatives, DOT, any metropolitan planning organization in any county served by the organization, and the counties served by the organization. The study must discuss the financial feasibility of advance funding the cost of capacity projects in the NFRTPO's member counties. The study is required to be based on the following assumptions:

- Any advanced projects must be consistent with NFRTPO's five-year plan and DOT's work program.
- Any bonds shall have a maturity not to exceed 30 years.

---

[37] Information concerning drowsy driving was obtained from www.drowsydriving.org, which is sponsored by the National Sleep Foundation.

[38] Florida Department of Transportation, Office of Financial Development, *Bond Financing Update Report 2008,* p. 5, 9-10.

[39] The NFRTPO is an interlocal agency under Part I of Chapter 163, F.S.

[40] The member counties are Escambia, Okaloosa, Santa Rosa, and Walton.

A maximum of 25 percent of DOT's capacity funds allocated to the counties served by the NFRTPO may be used to pay the debt service on the bonds.

- Bond proceeds may only be used for the following components of a construction project on a state road: planning, engineering, design, right-of-way acquisition, and construction.
- Project costs must be balanced with the proceeds available from the bonds.
- DOT has the final approval of the projects financed from the sale of bonds.

The bill requires the study to contain:

- An analysis of the financial feasibility of advancing capacity projects in the NFRTPO's member counties.
- A long-range cost feasible finance plan that identifies the project cost, revenues by source, financing, major assumptions, and a total cash flow analysis beginning with the implementation of the project and extending through final completion of the project.
- A tentative list of capacity projects and the priority in which they would be advanced. These projects must be consistent with the criteria in s. 339.135(2)(b), F.S.[41]
- A five-year work program of the projects to be advanced. This program must be consistent with ch. 339, F.S.[42]
- A report of any statutory changes, including a draft bill, needed to give the NFRTPO the ability to advance construction projects. The draft bill shall, at a minimum, address:
    - Developing a list of road projects to be advanced, consistent with the organization's five-year plan.
    - Giving DOT to review projects to determine consistency with its current work program.
    - Giving the organization the authority to issue bonds with a maturity of not greater than 30 years.
    - Requiring proceeds of the bonds to be delivered to DOT to pay the costs of completing the projects.
    - Requiring the road projects to be consistent with the organization's five-year plan.
    - Permitting any participating county to elect to undertake responsibility for payment of a portion of the cost of any project in the county pursuant to agreement with the organization and DOT.
    - Provide that, in each year with outstanding bonds, no more than 25 percent of the state transportation funds for capacity projects within the organization's area of operation shall be paid to the organization in order to pay debt service on bonds the organization issued for such capacity projects. These payments are made in lieu of programming such capacity funds for the direct annual capital costs of such projects.
    - In the event that the capacity funds allocated to the member counties of the organization are less than the amount needed to satisfy payment requirements under the contract, DOT shall defer the funded capacity on any other projects in the member counties of the organization to the extent necessary to make up such deficiency. Under no circumstances shall DOT provide any funds for these capacity projects in excess of the amount that would be allocated to the member counties pursuant to the statutory formula and legislative appropriation.
    - Providing that the bonds shall state on their face that they do not constitute a pledge of the faith or taxing power of the state, and no holder of any bond shall have the right to compel payment of the bonds from any funds of the state, other than the amounts required to be paid to the organization under the contract. The bonds shall be limited and special obligations payable solely from the sources described herein.

---

[41] Section 339.135(2)(b), contains criteria for a list of transportation needs that DOT must submit upon written request from the President of the Senate or the Speaker of the House of Representatives.

[42] Chapter 339, F.S. relates to Transportation finance and planning.

- Establishing such other terms and provisions as may be deemed reasonable and necessary to enable the organization to market the bonds at the most advantageous rates possible.

The bill provides that the Legislature may authorize the implementation of the NFRTPO's study after a satisfactory showing that the above pre-requisites have been met and that any source of funding for any bonds to be issued has been approved by DOT.

The bill has an effective date of July 1, 2009.

B. SECTION DIRECTORY:

Section 1 Amends s. 163.3180, F.S., relating to concurrency; addressing planned transit as committed capacity; providing exceptions to the transportation concurrency requirements, providing for funding of facilities outside of the approving DRI; defining backlog; conforming a cross-reference.

Section 2 Amends s, 380.06, F.S., relating to developments of regional impact; linking the level of service standard related to the comprehensive plan to the standards for the DRI's impact on transportation.

Section 3 Amends s. 316.1001, F.S., relating to the payment of toll on toll facilities; permitting DHSMV to withhold a license plate or revalidation sticker for non-payment of tolls; providing procedures for enforcement.

Section 4 Amends s. 320.03, F.S.; F.S., relating to the duties of tax collector in regards to motor vehicle registration; permitting the withholding of a license plate or revalidation sticker for non-payment of tolls; providing procedures for enforcement.

Section 5 Amends s. 322.27, F.S, relating to the authority of DHSMV to suspend or revoke licenses; exempting non-payment of tolls from the DHSMV's point system for evaluating violations of motor vehicle laws and ordinances.

Section 6 Amends s. 338.155, F.S., relating to the required payment of toll on toll facilities; permitting the withholding of a license plate or revalidation sticker for non-payment of tolls; providing procedures for enforcement.

Section 7 Amends s. 316.29545, F.S., relating to windowing sunscreening exclusions; exempting private investigators from window tinting regulations.

Section 8 Amends s. 316.515, F.S. related to maximum width, height, and length; increasing the maximum length of overlength trailers hauling manufactured buildings.

Section 9 Amends s. 316.535, F.S., relating to maximum vehicle weights, increasing the weight limit on non-interstate highways.

Section 10 Amends s. 316.545, F.S., relating to unlawful weight and load; allowing for the reduction in overweight penalties to allow for the weight of a vehicle idling device.

Section 11 Amends s. 334.03, F.S., relating to definitions in the Florida Transportation Code; revising definitions.

Section 12 Amends s. 334.044, F.S., relating to the powers and duties of DOT, removing the duty to assign jurisdictional responsibility and to designate facilities as part of the State Highway System.

Section 13 Amends s. 334.047, F.S., relating to prohibitions removing a provision prohibiting DOT from establishing a maximum number of miles of urban principal arterial roads within a district or county.

Section 14 Creates s. 336.445, F.S., relating to public-private partnerships with counties; authorizing counties to enter into these partnerships; requiring public declaration; requiring a public hearing; requiring the county to make certain determinations prior to awarding a project; providing requirements for an agreement.

Section 15 Amends s. 337.0261, F.S., relating to legislative intent, recognizing that the mining of construction aggregate materials is an industry of critical importance and that the mining of construction aggregate materials is in the public interest.

Section 16 Amends s. 337.401, F.S., relating to the use of the right-of-way for utilities subject to permit fees; clarifying that compensation to DOT for the use of the right-of-way only applies the longitudinal placement of electric utility transmission lines on limited access facilities.

Section 17 Amends s. 339.2816, F.S., relating to the SCRAP program; providing for resumption of funding for the program; revising certain criteria for program eligibility; revising criteria for prioritization of projects.

Section 18 Amends s. 338.2818, F.S., relating to the SCOP program; revising the purpose of the program to include certain project types.

Section 19 Amends s. 339.64(5), FS, relating to the Strategic Intermodal System Plan; repealing the Statewide Intermodal Transportation Advisory Council.

Section 20 Amend s. 348.51, F.S. relating definitions for the THEA, amending the definitions of "bonds" and "expressway system."

Section 21 Amends s. 348.53, F.S., relating to the purpose of the THEA; permitting it to provide a regional benefit; allowing for the inclusion of transportation facilities.

Section 22 Amends s. 348.54, F.S., relating to the powers of the THEA; authorizing the THEA to make and issue notes, refunding bonds, and other evidences of indebtedness or obligations; prohibiting THEA from pledging the credit or taxing power of the state; providing that the authority's obligation is not the obligation of the state, a political subdivision or agency and the state; providing that a political subdivision or agency are not liable for the authority's obligations.

Section 23 Amends s. 348.545, F.S., relating to the facility improvement and bond financing authority of THEA; authorizing authority improvement to be financed by bonds issued on behalf of the authority pursuant to the State Bond Act or bonds issued by the authority.

Section 24 Amends s. 348.56, F.S., relating to bonds of THEA; authorizing bonds to be issued on behalf of the authority pursuant to the State Bond Act or issued by the authority; revising requirements for such bonds; requiring the bonds to be sold at a public sale; authorizing the authority to negotiate the sale of bonds with underwriters under certain circumstances.

Section 25 Amends s. 348.565, F.S., relating to revenue bonds for specific projects; providing that facilities of the expressway system are approved to be refinanced by the revenue bonds issued by the Division of Bond Finance and the State Bond Act, or by revenue bonds issued by the authority; providing that certain projects of the authority are approved for financing or refinancing by revenues bonds issued according to part IV of ch. 348, F.S.,

and the State Constitution; providing additional project type where the authority may use revenue bonds.

Section 26 Amends s. 348.57, F.S., relating to refunding bonds; authorizing the authority to provide for the issuance of certain bonds for the refunding of any bonds then outstanding regardless of whether the bonds being refunded were issued pursuant to part IV of ch. 348, F.S., or on behalf of the authority pursuant to the State Bond Act.

Section 27 Amends s. 348.70, F.S., providing that this part is complete as it related to THEA; providing that part IV of ch. 348, F.S., relating to the THEA does not repeal, rescind, or modify certain laws.

Section 28 Amends s. 369.317, F.S., relating to Wekiva Parkway; recognizing the use of lands identified in s. 367.317, F.S., for environmental mitigation satisfies the cumulative impact requirements of s. 369.317, F.S.

Section 29 Amends s. 705.18, F.S. relating to the disposal of personal property lost or abandoned on university or community college campus or public-use airports; removing provisions for the disposal of personal property lost or abandoned at public use airports.

Section 30 Creates s. 705.182, F.S., relating to the disposal of personal property found on the premises of public use airports; providing time frames, providing options for disposing of property; providing procedures for selling abandoned property; providing for notice of sale; permitting airport tenants to establish own procedures; providing that purchaser owns property free and clear.

Section 31 Creates s. 705.183, F.S., relating to the disposal of derelict or abandoned aircraft on the premises of public-use airports; providing procedures, providing definitions; providing for notification of aircraft owner and persons having an interest in the aircraft; providing notice requirements; providing requirements for sale of aircraft; providing for liability of charges related to aircraft; providing for claim of lien; providing for disposition of funds.

Section 32 Creates s. 705.184, F.S., relating to derelict or abandoned motor vehicles on the premises of public-use airports; creating a process to remove these vehicles, providing definitions; providing for removal of motor vehicle; providing notice requirements; providing for sale of motor vehicle; proving for liability of charges related to motor vehicle; providing for claim of lien.

Section 33 Amends s. 288.063, F.S., relating to contracts for transportation projects to conform a cross-reference.

Section 34 Amends s. 311.07, F.S., relating to seaport transportation and economic development funding to conform a cross-reference.

Section 35 Amends s. 311.09, F.S., relating to the Florida Seaport Transportation and Economic Development Council to conform a cross-reference.

Section 36 Amends s. 316.2122, F.S., relating to the operation of low-speed vehicles on certain roadways to remove cross-references and clarify that these vehicles may be operated on certain roads.

Section 37 Amends s. 316.515, F.S., relating to maximum width, height, and length to conform a cross-reference.

Section 38 Amends s. 332.14, F.S., relating to the Secure Airports for Florida's Economy Council to conform a cross-reference.

Section 39 Amends s. 336.01, F.S., relating to the designation of the county road system to conform a cross-reference.

Section 40 Amends s. 318.222, F.S., relating to DOT as the sole governmental entity to acquire, construct, or operate turnpike projects to conform a cross-reference.

Section 41 Amends s. 403.7211, F.S., relating to hazardous waste facilities managing hazardous waste generated offsite; federal facilities managing hazardous waste to conform a cross-reference.

Section 42 Amends s. 409.01, F.S., relating to definitions, to conform a cross-reference.

Section 43 Designates the first week in September as "Drowsy Driving Prevention Week" in Florida.

Section 44 Authorizes the Northwest Florida Regional Transportation Planning Organization to study the feasibility of advance-funding the costs of capacity projects in its member counties; requiring study to be provided to certain entities; providing assumptions for the study; providing requirements for the study; requiring Legislative authorization.

Section 45 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The state school fund will lose the revenues it currently receives from the sale of property abandoned at airports. The amount of revenue is indeterminate.

2. Expenditures:

   The state school fund will lose the revenues it currently receives from the sale of property abandoned at airports. The amount of revenue is indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   Airports may see some additional revenues following the disposal of property that is abandoned at the airport. However, the revenue it receives will be used to offset the airport's cost of disposing of the property.

2. Expenditures:

   According to DOT, any administrative expenses associated with reviewing its current initiatives for an appropriate focus on drowsy driving is expected to be absorbed within existing resources.

   According to DHSMV, the cost of creating and implementing educational materials related to drowsy driving will be absorbed by the department.

   There may be some costs to the Northwest Florida Regional Transportation Planning Organization associated with conducting the required study.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Developers of certain affordable housing developments may see reduced costs due to the exemption from the transportation concurrency requirements.

The increase in maximum length permitted, with a DOT permit, for an overlength trailer delivering a manufactured building may lead to a reduced cost in transporting these buildings due to a larger portion of the building being on each trailer.

The increase in the highway weight limit will allow trucks to carry heavier loads. This will allow more to be carried on each truck, resulting in fewer truck trips and benefiting businesses that transport goods or products by truck.

Reducing the weight of idle reduction technologies in determining the penalties associated with an overweight vehicle may reduce some penalties for overweight trucks.

D. FISCAL COMMENTS:

There may be additional costs associated with increasing the weight limit on non-interstate highways. This is due to additional wear and tear on the roadways, and additional bridges where weight limit signs will need to be posted.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 18, 2009, the Roads, Bridges & Ports Policy Committee adopted seven amendments to the bill. The amendments are as follows:

Amendment 1 — Increased the weight limit for vehicles on non-Interstate highways from 80,000 pounds to 88,000 pounds.

Amendment 2 — Requires the Northwest Florida Regional Transportation Planning Organization to study the feasibility of advance funding

Amendment 3 — Addressed issues related to abandoned property at public-use airports, including procedures for finding the owner, notice requirements, and procedures related to the proceeds obtained from the sale.

Amendment 4 — Adds hangers used for the assembly and manufacture of aircraft to the definition of public transit facilities for a concurrency exemption.

Amendment 5 Provides legislative findings relating to construction aggregate materials mining.

Amendment 6 Permits counties to enter into public private partnership agreements to build, operate, own, or finance toll facilities.

Amendment 7 Creates the Florida Transportation Revenue Study Commission.

The bill was reported favorably as a committee substitute.

On April 10, 2009, the Economic Development & Community Policy Council noticed a Proposed Council Substitute. This differs from CS/HB 1451 in the following ways:

- Removes the study required of the Northwest Florida Regional Transportation Planning Organization.
- Removes Provisions related to the Transportation Revenue Study Commission
- Amends the concurrency statute to address planned transit as committed capacity; provides that certain affordable housing projects are exempt from transportation concurrency requirements; provides for funding of facilities outside of the approving Development of Regional Impact (DRI); defines "backlog."
- Amends the DRI statute to link level of service standards related to the comprehensive plan to the standards for the DRI's impact on transportation.
- Permits the Department of Highway Safety and Motor Vehicles to withhold vehicle registration and revalidation stickers for nonpayment of tolls.
- Exempts private investigators from window tinting requirements.
- Increases limitation on length for trailers, with a permit from DOT, delivering manufactured buildings.
- Revises language related to the weight limit increases on non-interstate highways.
- Allows for the reduction of the weight of vehicle idling devices in determining the penalties for overweight commercial vehicles.
- Moves the statutory location of the public-private partnership for counties provisions.
- Reenacts the SCRAP program in fiscal year 2012-2012 and continues it thereafter; revises eligibility requirements related to millage rates.
- Expands the SCOP program to provide additional projects where SCOP funds may be used.
- Repeals the Statewide Intermodal Transportation Advisory Council.
- Allows the Tampa-Hillsborough Expressway authority to work with other entities and gives it bonding authority.

On April 14, 2009, the Economic Development & Community Affairs Policy Council adopted five amendments to the Proposed Council Substitute. The amendments are as follows:

Amendment 1 Conforms the two definitions of "backlog" in s. 163.3180, F.S.

Amendment 2 Clarifies that compensation to DOT for the use of the right-of-way only applies the longitudinal placement of electric utility transmission lines on limited access facilities.

Amendment 3 Provides that for the Wekiva Parkway the use of lands identified in that statute satisfies the cumulative impact requirements of s.373.414(8), F.S.

Amendment 4 Designates "Drowsy Driving Prevention Week" in Florida.

Amendment 5 Authorizes the Northwest Florida Regional Transportation Planning Organization to study the feasibility of advance-funding the cost of capacity projects in its member counties

The bill was reported favorably as a council substitute.