

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1451 Transportation Facilities

SPONSOR(S): Ray

TIED BILLS: IDEN./SIM. BILLS:

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Roads, Bridges & Ports Policy Committee	17 Y, 0 N, As CS	Cater	Miller
2)	Military & Local Affairs Policy Committee			
3)	Economic Development & Community Affairs Policy Council			
4)	Transportation & Economic Development Appropriations Committee			
5)				

SUMMARY ANALYSIS

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

- Amends the concurrency exception for public transit facilities to include hangers that manufacture and assemble aircraft.
- Increases the commercial motor vehicle weight limit on non-interstate highways.
- 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 to build, operate, own, or finance toll facilities on the county road system.
- Provides legislative findings related to the mining of construction aggregate materials.
- 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,
- Requires the Northwest Florida Regional Transportation Planning Organization to study the feasibility of advance funding the cost of capacity projects in its member counties.
- Creates the Florida Transportation Revenue Study Commission to study state, regional, and local transportation needs and to develop new and innovative funding options and recommendations.
- Provides an appropriation for the Florida Transportation Revenue Funding Commission.

There is a \$225,000 negative fiscal impact to the state for the 2009-2010 and 2010-2011 fiscal years related to the Florida Transportation Revenue Study Commission; however, this appropriation is of federal metropolitan planning organization funds. The state school fund may also lose some revenue due to monies from the sale of abandoned property at airports not going to the fund.

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 Northwest Florida Regional Transportation Planning Organization may incur some costs in conducting the required feasibility study.

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.

#### **Concurrency**

##### **Current Situation**

The Local Government Comprehensive Planning and Land Development Regulation Act<sup>1</sup> - 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.<sup>2</sup>

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.

##### **Proposed Changes**

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.

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<sup>1</sup> Part II of Chapter 163, F.S.

<sup>2</sup> Department of Community Affairs website on Growth Management and Comprehensive Planning.  
<http://www.dca.state.fl.us/fdcp/DCP/complanning/index.cfm>

## **Truck Weights**

### **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.<sup>3</sup> A vehicle's weight limit is based on factors such as the number of axles and the distance between two or more consecutive axles. The weight limits also include a 10 percent enforcement tolerance to allow for a difference in scale weights.<sup>4</sup> For both the Interstate and non-interstate highway system, the maximum gross weight limit is 80,000 pounds, including all enforcement tolerances.

### **Proposed Change**

The bill amends s. 316.535, F.S., to increase the maximum gross weight limit for vehicles not on the Interstate Highway System from 80,000 pounds to 88,000 pounds, including all enforcement tolerances.

## **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.

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.<sup>5</sup> 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

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<sup>3</sup> 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>

<sup>4</sup> 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>

<sup>5</sup> Section 335.0415, F.S.

what DOT previously used for jurisdictional requirements. The only reference to this term in state statute relates to the access control classification system.<sup>6</sup>

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.

## **County Public-Private Partnerships**

### **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.<sup>7</sup> However, there is currently not the same type of provision for local governments.

### **Proposed Changes**

The bill creates s. 334.301, 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 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.

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<sup>6</sup> Section 335.188(3)(c)(1), F.S.

<sup>7</sup> Section 334.30, F.S.

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.<sup>8</sup>

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.

## **Abandoned Airport Property**

### **Current Situation**

Currently, s. 705.18, F.S., addresses the disposal of personal property lost or abandoned at public use airports.<sup>9</sup> 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.

### **Proposed Changes**

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<sup>8</sup> Section 337.0261(1), F.S.

<sup>9</sup> 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.

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<sup>10</sup> 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

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<sup>10</sup> 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,<sup>11</sup> 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.

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<sup>11</sup> 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.<sup>12</sup>, 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 free of the rights of persons then holding any legal or equitable interest in the vehicle, whether or not this interest is recorded.

## **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. Current law prohibits the state from bonding its annual capacity funds, which are used for pay-as-you-go road projects. Since limited funds are available, major capacity projects may not be done, due to a lack of funds.

### **Proposed Change**

The bill provides Legislative findings and declarations that there is a shortage of current funds available for capacity projects on state roads and desires to study the possibility of certain counties advancing funds to pay for the costs of these projects.

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<sup>12</sup> Section 713.78, F.S., relates to liens for recovering, towing, or storing vehicles and vessels.

The bill directs the Northwest Florida Regional Transportation Planning Organization (NFRTPPO)<sup>13</sup> to study the feasibility of advance funding the cost of capacity projects in its member counties.<sup>14</sup> DOT is required to assist the organization with the study.

The bill requires the organization, by February 1, 2010, to provide a study to the Governor, President of the Senate, Speaker of the House of Representatives, DOT, any metropolitan planning organization in any county served by the organization. The study must address the financial viability of advancing transportation funds to pay for current capacity projects. The study is required to be based on the following assumptions:

- Any advanced projects must be consistent with NFRTPPO's five-year plan and DOT's work program.
- Any bonds shall have a maturity not to exceed 30 years.
- A maximum of 25 percent of DOT's capacity funds allocated to the counties served by the NFRTPPO may be used to pay the debt service on the bonds.
- Funds may only be advanced for the planning, engineering, design, right-of-way acquisition, and construction components of a construction project.
- Project costs must be balanced with the funds available from the bonds.
- DOT has the final approval of the projects financed through advanced funds.

The bill requires the study to contain:

- An analysis of the financial feasibility of advancing capacity projects.
- A long-range financial plan, including an estimate of the annual debt service on the bonds.
- 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. 339.132(2)(b).
- A five-year work program for the project to be advanced. This program must be consistent with ch. 339, F.S.
- A report of any statutory changes, including a draft bill, needed to give the organization the ability to advance construction projects. The draft bill shall, at a minimum, address:
  - Development of a list of road projects to be advanced, consistent with the organization's five-year plan.
  - Authorizing DOT to review projects to determine consistency with its current work program.
  - Authorizing the organization to issue bonds with a maturity of not greater than 30 years.
  - Requiring bond proceeds 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.
  - Provide that, in the event that the capacity funds allocated to the organization's member counties are less than the amount needed to satisfy payment requirements, DOT shall defer the funded capacity on any other projects in the organization's member counties to the extent necessary to make up such deficiency, to make the required debt service

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<sup>13</sup> The NFRTPPO is an interlocal agency under Part I of Chapter 163, F.S.

<sup>14</sup> The member counties are Escambia, Okaloosa, Santa Rosa, and Walton.

- payments on the bonds, or to replenish the reserves established for the bonds which may have been used to make up for such deficiency.
- Provide that the bonds shall state on their face that they do not constitute a pledge of the faith or taxing power of the state of Florida, and a holder of any bond shall not 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.
  - 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.

## **Transportation Revenue Study Commission**

### **Current Situation**

#### **Transportation Revenues**

Florida's transportation system is funded from a variety of sources. Approximately 26 percent of Florida's transportation funding comes from the federal government. The primary source of federal funding for both transit and highways is from motor fuel taxes, which are collected in all states, including Florida. State fuel taxes and fees provide about 51 percent of the state's transportation funds. Sources of this funding include the state fuel tax, the State Comprehensive Enhanced Transportation System Tax (SCETS), aviation fuel tax, the rental car surcharge, and fees and taxes related to vehicle registration and titling.

For decades, growth in traditional transportation revenues such as the motor fuel tax has been robust or at least stable. In recent years, the growth rate has slowed significantly and has recently declined resulting in declining revenue receipts to the State Transportation Trust Fund (STTF). Current federal highway trust fund receipts, comprising primarily of the federal motor fuel tax, are also lower than originally estimated.

The recent decline can be traced to reductions in the consumption of motor fuel brought about by higher motor fuel prices and the increasing fuel economy of many vehicles including the advent of commercially successful hybrid vehicles. As technological innovation and manufacturing lines transition toward the production of even more fuel-efficient vehicles, it is likely the trend of declining fuel tax revenues will continue.

#### **Construction Costs**

Highway and other transportation construction costs have become unpredictable. The cost of materials used in transportation projects (such as earthwork, road-base, asphalt, concrete and steel) have ranged from increases of nearly 47 percent to decreases of 26 percent in the past four years.

#### **Congestion**

Increased population has led to a significant increase in traffic congestion on most major urban highways in Florida. In the most recent congestion index report by the Texas Transportation Institute, Miami ranked 5th nationally in terms of heaviest rush-hour traffic. Fort Lauderdale was ranked 19th nationally. In Miami, the annual delay per traveler during rush hour was 50 minutes. Traffic congestion consumes more fuel, adversely affects the environment, delays travelers, negatively impacts the state's economy, and decreases the quality of life.

#### **Federal Planning Funds**

Each year, the Federal Highway Administration apportions a lump sum amount to Florida Metropolitan Planning Organizations (MPO). These metropolitan planning funds can only be used for the transportation planning process at the metropolitan level. DOT distributes these funds to each MPO and into a common reserve using a distribution formula agreed upon by all MPOs.

### **Proposed Changes**

The bill declares legislative findings and creates the Florida Transportation Revenue Study Commission (FTRSC) to examine transportation needs and to develop recommendations for funding those needs. Specifically, the FTRSC is created to examine state, regional, and local transportation needs and to develop recommendations for funding those needs. The commission must report its findings to the Legislature by January 1, 2011. At a minimum, the report must address:

- The effect of emerging technology, alternative fuels, fuel efficiency and other state and federal initiatives on the stability of existing transportation revenue sources;
- The ability to fund and address needs of state, regional, and local transportation facilities; and
- New and innovative funding options that can be used by the state, metropolitan planning organizations, local governments and major transportation providers to fund transportation facilities and services.

The bill establishes the following membership of the FTRSC:

- Three members appointed by the Governor;
- Three members appointed by the President of the Senate;
- Three members appointed by the Speaker of the House of Representatives;
- The Secretary of the Department of Transportation (or designee);
- One member appointed by the Metropolitan Planning Organization Advisory Council;
- One member appointed by the Florida Association of Counties, Inc. (from among its members); and
- One member appointed by the Florida League of Cities, Inc. (from among its members).

In addition to transportation organizations and local governments, the membership must represent developers, homebuilders, the business and environmental communities, transportation labor organizations and other stakeholders in the transportation system. All members' terms expire at the end of the 2011 Legislative session. Members will serve without compensation, but are entitled to per diem and travel expenses.

Beginning no later than October 1, 2009, the FTRSC will meet at least three times per year. The Center for Urban Transportation Research (CUTR) at the University of South Florida will provide staff and other support to the commission.

The bill appropriates \$225,000 for each of the 2009-2010 and 2010-2011 fiscal years, for a total of \$450,000. The source of funds is federal metropolitan planning funds appropriated from the State Transportation Trust Fund.

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

#### B. SECTION DIRECTORY:

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| Section 1 | Amends s. 163.3180, F.S., relating to concurrency; providing an exception to the transportation concurrency requirements, conforming a cross-reference.                                       |
| Section 2 | Amends s. 316.535, F.S., relating to maximum vehicle weights, increasing the weight limit on non-interstate highways.   |
| Section 3 | Amends s. 334.03, F.S., relating to definitions in the Florida Transportation Code to revise definitions.   |
| Section 4 | 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 5 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 6 Creates s. 334.301, 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 7 Amends s. 337.0261, F.S., relating to legislative intent, recognizing that construction aggregate materials mining is an industry of critical importance and that the mining of construction aggregate materials is in the public interest.
- Section 8 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 9 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 10 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 11 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; providing for liability of charges related to motor vehicle; providing for claim of lien.
- Section 12 Amends s. 288.063, F.S., relating to contracts for transportation projects to conform a cross-reference.
- Section 13 Amends s. 311.07, F.S., relating to seaport transportation and economic development funding to conform a cross-reference.
- Section 14 Amends s. 311.09, F.S., relating to the Florida Seaport Transportation and Economic Development Council to conform a cross-reference.
- Section 15 Amends s. 316.2122, 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 16 Amends s. 316.515, relating to maximum width, height, and length to conform a cross-reference.
- Section 17 Amends s. 332.14, F.S., relating to the Secure Airports for Florida's Economy Council to conform a cross-reference.
- Section 18 Amends s. 336.01, F.S., relating to the designation of the county road system to conform a cross-reference.

- Section 19 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 20 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 21 Amends s. 409.01, F.S., relating to definitions, to conform a cross-reference.
- Section 22 Requires the Northwest Florida Regional Transportation Planning Organization to study the possibility of counties advance funding the cost of transportation capacity projects; requiring the study to be provided to certain entities providing principles for the study; providing for content of the study.
- Section 23 Declares legislative findings and creates the Florida Transportation Revenue Study Commission to examine transportation needs and to develop recommendations for funding those needs.
- Section 24 Provides an appropriation for the Florida Transportation Revenue Study Commission
- Section 25 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:

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

The bill appropriates \$225,000 for each of the 2009-2010 and 2010-2011 fiscal years, for a total of \$450,000, for the purpose of paying the expenses of staff services and providing other related assistance to the FTRSC. The source of funds is federal metropolitan planning funds appropriated from the State Transportation Trust Fund.

### 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:

None

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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.

### 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:

The mandates provision may apply because the bill, depending on the interlocal agreement, may require counties in the NFRTPPO may to expend funds related to the required study. However, the insignificant fiscal impact exemption appears to apply since it is expected to be an insignificant fiscal impact to counties in the aggregate.

##### 2. Other:

None

#### B. RULE-MAKING AUTHORITY:

None

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

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.

### 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:

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| 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.