

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 865 Department of Transportation

**SPONSOR(S):** Transportation & Tourism Appropriations Subcommittee; Transportation & Infrastructure Subcommittee; Williamson and others

**TIED BILLS:** IDEN./SIM. **BILLS:** CS/SB 1118

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	13 Y, 0 N, As CS	Johnson	Vickers
2) Transportation & Tourism Appropriations Subcommittee	13 Y, 0 N, As CS	Cobb	Davis
3) Government Accountability Committee			

### SUMMARY ANALYSIS

This bill is a comprehensive bill relating to the Department of Transportation (DOT). In summary, the bill:

- Increases the allowable weight of natural gas-fueled vehicles on the Interstate Highway System.
- Authorizes DOT to request permission from the Federal Highway Administration (FHWA) to conduct bridge inspections at risk-based intervals.
- Increases the maximum dollar threshold for rapid response contracts issued by DOT.
- Makes the validation of turnpike revenue bonds optional instead of mandatory.
- Provides that amendments to DOT's work program for certain emergency repairs are not subject to Legislative Budget Commission approval.
- Repeals the Highway Beautification Council, but retains highway beautification grants within DOT.
- Prohibits SFRTA from entering into a contract or other agreement, or renewing or extending any existing contract or other agreement, which may be funded, in whole or in part, with DOT provided funds without the DOT's prior review and written approval of SFRTA's proposed expenditures.
- Clarifies that those DOT funds constitute state financial assistance while outlining the parameters for advancing such funds and reimbursing SFRTA invoices.
- Requires DOT to provide a fiscal analysis regarding the redesignation of certain district boundaries and district headquarters.

DOT expects an insignificant decrease in revenues associated with allowing heavier natural gas-fueled vehicles to operate on the highways. Other provisions of the bill will have an indeterminate fiscal impact on DOT. See Fiscal Analysis for details.

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

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

The bill is a comprehensive bill relating to the Department of Transportation (DOT). For ease of understanding, this bill analysis is arranged by topic.

#### **Truck Weights - Natural Gas Vehicles (Section 2)**

##### Current Situation

*Federal Regulations* - On December 4, 2015, the federal Fixing America's Surface Transportation (FAST) Act was signed into law.<sup>1</sup> The FAST Act allows states to increase the allowable weight of natural gas vehicles by an amount equal to the difference between the weight attributable to the vehicle's natural gas tank and fueling system and the weight of a comparable diesel tank and fueling system, up to a maximum gross vehicle weight of 82,000 pounds when operating on the Interstate Highway System.<sup>2</sup> This allows states to increase the gross vehicle weight limit for natural gas fueled vehicles on the Interstate Highway System without the Federal Highway Administration (FHWA) withholding funding from DOT.<sup>3</sup>

*Maximum Vehicle Weights* - In Florida, with respect to the Interstate Highway System, the overall gross weight of a vehicle or combination of vehicles, including all enforcement tolerances, is determined by a formula.<sup>4</sup> However, such overall gross weight of any vehicle or combination of vehicles may not exceed 80,000 pounds, including all enforcement tolerances.<sup>5</sup>

According to DOT, since the weight increase authorized by the FAST Act is not currently allowed under Florida law, DOT developed a permit process allowing natural gas-fueled vehicles at the Federal weight limits. Previously, these vehicles were not required to obtain permits. To date, DOT has not issued any of these permits, which may be due to the industry being unaware that they need to obtain a permit and how to obtain a permit.<sup>6</sup>

Presently, there are several cases before the Commercial Motor Vehicle Review Board (CMVRB)<sup>7</sup> regarding citations issued for operating overweight natural gas-fueled vehicles. A number of commercial motor vehicle operators assumed the change in Federal law allowed them to legally operate in Florida, without requiring any additional permits from DOT. The CMVRB is not granting relief or refunds for these citations because they are based on violations of current Florida Statutes regarding maximum vehicle weight.<sup>8</sup>

*Unlawful Weights and Loads* - A person violating the state's overloading provisions<sup>9</sup> is presumed to have damaged this state's highways by reason of overloading, and a fine is assessed as follows:

- Ten dollars if the weight in excess of the maximum allowed weight, is 200 pounds or less.<sup>10</sup>

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<sup>1</sup> Fixing America's Surface Transportation (FAST) Act, Pub. L. No. 114-94, 129 Stat. 1312.

<sup>2</sup> Fixing America's Surface Transportation (FAST) Act, Pub. L. No. 114-94, § 1410, 129 Stat. 1312, 1411.

<sup>3</sup> 23 USC § 127 (2012).

<sup>4</sup> FLA. STAT. § 316.535(4). The formula is  $W = 500 * ((L * N / (N - 1)) + 12 * N + 36)$ , where L is the distance in feet between the extremes of any group of two or more consecutive axles, N is the number of axles in the group under consideration, and W represents the overall gross weight on any group of two or more consecutive axles to the nearest 500 pounds.

<sup>5</sup> FLA. STAT. § 316.535(4) (2017).

<sup>6</sup> DOT Legislative Proposal: Natural Gas Fueled Vehicles - Truck Weights. (Copy on file with Transportation & Infrastructure Subcommittee.)

<sup>7</sup> The Commercial Motor Vehicle Review Board is created in s. 316.545(7), F.S.

<sup>8</sup> DOT Legislative Proposal: Natural Gas Fueled Vehicles - Truck Weights.

<sup>9</sup> Maximum weight provisions are generally provided in s. 316.535(3), F.S.

<sup>10</sup> FLA. STAT. § 316.545(3)(a)1. (2017).

- Five cents per pound for each pound of weight in excess of the maximum allowed weight if the excess weight is greater than 200 pounds.<sup>11</sup>
- If the gross weight<sup>12</sup> of the vehicle or combination of vehicles does not exceed the maximum allowable gross weight, the maximum fine for the first 600 pounds of unlawful axle weight is \$10.<sup>13</sup>

For a vehicle equipped with fully functional idle-reduction technology, the fine is calculated by reducing the actual gross vehicle weight or the internal bridge weight by the certified weight of the idle-reduction technology or by 550 pounds, whichever is less.<sup>14</sup> The vehicle operator is required to present written certification of the weight of the idle-reduction technology and demonstrate or certify that the idle-reduction technology is fully functional.<sup>15</sup> This additional weight is not allowed for vehicles such as dump trucks, garbage trucks, concrete mixing trucks, and trucks constructed for a special type of work or use.<sup>16</sup>

### Proposed Changes

The bill creates s. 316.545(3)(c), F.S., providing that for a vehicle fueled by natural gas, the fine is calculated by reducing the actual gross vehicle weight by the certified weight difference between the natural gas tank fueling system and a comparable diesel tank and fueling system.<sup>17</sup> Upon the request of any weight inspector or law enforcement officer, the vehicle operator is required to present written certification identifying the weight of the natural gas tank and fueling system and the difference in weight of a comparable diesel tank and fueling system. The written certification is required to originate from the vehicle manufacturer or the installer of the natural gas tank and fueling system.

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

This additional weight is not allowed for vehicles such as dump trucks, garbage trucks, concrete mixing trucks, and trucks constructed for a special type of work or use.

### **Bridge Inspections (Section 3)**

#### Current Situation

*Federal Law* - FHWA bridge inspection standards establish the inspection frequency of bridges.<sup>18</sup> In general, routine inspections occur at regular intervals not to exceed 24 months.<sup>19</sup> However, certain bridges require more frequent inspections considering factors such as age, traffic characteristics, and known deficiencies.<sup>20</sup> With written FHWA approval, certain bridges may be inspected at greater than 24 month intervals, not to exceed 48 months.<sup>21</sup> Longer intervals may be appropriate when past inspection findings and analysis justifies increasing the inspection interval.<sup>22</sup>

<sup>11</sup> FLA. STAT. § 316.545(3)(a)2. (2017).

<sup>12</sup> Section 316.003(27). F.S., defines “gross weight” as the weight of a vehicle without load plus the weight of any load thereon.

<sup>13</sup> FLA. STAT. § 316.545(3)(a)3. (2017).

<sup>14</sup> FLA. STAT. § 316.545(3)(b) (2017).

<sup>15</sup> FLA. STAT. § 316.545(3)(b) (2017).

<sup>16</sup> These vehicles are described in s. 316.535(6), F.S; FLA. STAT. § 316.545(3)(b) (2017).

<sup>17</sup> Thus, the formula would be: gross vehicle weight – [(natural gas tank + fueling system) – (comparable diesel tank + fueling system)].

<sup>18</sup> 23 C.F.R. § 650, pt. c (2016).

<sup>19</sup> 23 C.F.R. § 650.311 (2016).

<sup>20</sup> 23 C.F.R. § 650.311(a)(2) (2016).

<sup>21</sup> 23 C.F.R. § 650.311(a)(3) (2016).

<sup>22</sup> 23 C.F.R. § 650.311(a)(3) (2016).

For underwater inspections, underwater structural elements are inspected at regular intervals not to exceed 60 months.<sup>23</sup> However, certain underwater structural elements require inspection at less than 60 month intervals.<sup>24</sup> Criteria to determine the level and frequency to which underwater structural elements are inspected considers factors such as construction material, environment, age, scour characteristics, condition rating from past inspections and known deficiencies.<sup>25</sup> However, certain underwater structural elements may be inspected at greater than 60 month intervals, not to exceed 72 months, with written FHWA approval.<sup>26</sup> This may be appropriate when past inspection findings and analysis justifies the increased inspection interval.<sup>27</sup>

Fracture critical members<sup>28</sup> are inspected at intervals not to exceed 24 months.<sup>29</sup> However, certain fracture critical members require inspection at less than 24-month intervals.<sup>30</sup> Criteria to determine the level and frequency to which fracture critical members are inspected consider factors such as age, traffic characteristics, and known deficiencies.<sup>31</sup>

FHWA has adopted a risk-based inspection system providing for more frequent inspections for bridges in poor condition and less frequent inspections for bridges in good condition. Sixteen states have adopted the FHWA risk-based bridge inspection cycle.<sup>32</sup>

*Florida Law* - Florida Statutes requires safety inspection of bridges at regular intervals, not to exceed two years, each bridge on a public transportation facility is inspected for structural soundness and safety for the passage of traffic on such bridge.<sup>33</sup> The thoroughness with which bridges are to be inspected depends on factors such as age, traffic characteristics, state of maintenance, and known deficiencies.<sup>34</sup> The governmental entity responsible for maintaining the bridge is responsible for performing inspections and preparing inspection reports.<sup>35</sup>

### Proposed Changes

The bill amends s. 335.074(2), F.S., changing the required bridge inspection interval from a time frame not to exceed two years to intervals as required by FHWA. This aligns the state statute with federal law and, subject to FHWA approval, allows DOT to establish a risk-based bridge assessment program as other states have done.

## **Rapid Response Contracts (Section 4)**

### Current Situation

DOT may enter into contracts for the construction and maintenance of all roads on the State Highway System<sup>36</sup> or the State Park Road System<sup>37</sup> or of any roads placed under its supervision.<sup>38</sup> DOT may

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<sup>23</sup> 23 C.F.R. § 650.311(b)(1) (2016).

<sup>24</sup> 23 C.F.R. § 650.311(b)(2) (2016).

<sup>25</sup> 23 C.F.R. § 650.311(c)(2) (2016).

<sup>26</sup> 23 C.F.R. § 650.311(b)(3) (2016).

<sup>27</sup> 23 C.F.R. § 650.311(b)(3) (2016).

<sup>28</sup> 23 CFR § 650.305 defines “fracture critical member” as “a steel member in tension, or with a tension element, whose failure would probably cause a portion or the entire bridge to collapse.

<sup>29</sup> 23 C.F.R. § 650.311(c)(1) (2016).

<sup>30</sup> 23 C.F.R. § 650.311(c)(2) (2016).

<sup>31</sup> 23 C.F.R. § 650.311(c)(2) (2016).

<sup>32</sup> The sixteen states are: Arizona, Arkansas, California, Connecticut, Illinois, Minnesota, Mississippi, Montana, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Washington, and West Virginia.

<sup>33</sup> FLA. STAT. § 335.074(1) (2017).

<sup>34</sup> FLA. STAT. § 335.074(2) (2017).

<sup>35</sup> FLA. STAT. § 335.074(2) (2017).

<sup>36</sup> Section 334.03(24), F.S., defines “State Highway System” as the interstate system and all other roads within the state which were under the jurisdiction of the state on June 10, 1995, and roads constructed by an agency of the state for the State Highway System, plus roads transferred to the state’s jurisdiction after that date by mutual consent with another

also enter into contracts for the construction and maintenance of rest areas, weigh stations, and other structures, including roads, parking areas, supporting facilities and associated buildings used in connection with such facilities.<sup>39</sup>

When DOT determines that it is in the best interest of the public for reasons of public concern, economy, improved operations or safety, and only when circumstances dictate rapid completion of the work, DOT may enter into contracts, up to the amount of \$120,000, for construction and maintenance without advertising and receiving competitive bids.<sup>40</sup> DOT may enter into these contracts only upon a determination that the work is necessary for one of the following reasons:<sup>41</sup>

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

In such instances DOT is required to make a good faith effort to obtain two or more quotes, if available, from qualified contractors before entering into any contract. However, when the work exists within the limits of an existing contract, DOT is required to make a good faith effort to negotiate and enter into a contract with the prime contractor on the existing contract.<sup>42</sup> DOT often uses these contracts for items such as sinkhole and guardrail repairs.<sup>43</sup>

According to DOT, the increase in construction cost due to inflation has limited the usefulness of the rapid response contracting statute. The current threshold of \$120,000 for rapid response contracts was established in 2002. According to DOT, increasing the rapid response contract amount to \$250,000 will account for increased construction costs and extend DOT's ability to quickly respond to construction and maintenance needs that are in the best interest of safety and the economy.<sup>44</sup>

### Proposed Changes

The bill amends s. 337.11(6)(c), F.S., increasing the maximum amount of a rapid response contract that DOT may enter into from \$120,000 to \$250,000.

### **Turnpike Bond Validation (Sections 1 and 5)**

#### Current Situation

*Bond Validation* - Chapter 75, F.S., establishes certain criteria for bond validation. Bond validation is a judicial process through which the legality of a proposed bond issue may be determined in advance of its issuance. It serves to assure bondholders that future court proceedings will not invalidate a government's pledge to repay the bonds. Validation is generally not necessary for established borrowing programs, such as Turnpike bonds, where any legal issues relating to the bonds have been

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governmental entity, but not including roads so transferred from the state's jurisdiction. These facilities shall be facilities to which access is regulated.

<sup>37</sup> Section 334.03(25), F.S., defines "State Park Road System" as roads embraced within the boundaries of state parks and state roads leading to state parks, other than roads of the State Highway System, the county road systems, or the city street systems.

<sup>38</sup> FLA. STAT. § 337.11(1) (2017).

<sup>39</sup> FLA. STAT. § 337.11(1) (2017).

<sup>40</sup> FLA. STAT. § 337.11(6)(c) (2017).

<sup>41</sup> FLA. STAT. §§ 337.11(6)(c)1.-3. (2017).

<sup>42</sup> FLA. STAT. § 337.11(6)(c) (2017).

<sup>43</sup> DOT Bill Proposal: Rapid Response Contracts-Price Cap Increase. Copy on file with the Transportation & Infrastructure Subcommittee.

<sup>44</sup> DOT Bill Proposal: Rapid Response Contracts-Price Cap Increase. Copy on file with the Transportation & Infrastructure Subcommittee.

resolved previously. Validation is optional for almost all bonds issued by the Division of Bond Finance, including Public Education Capital Outlay Bonds and University Revenue Bonds. If a constitutional or statutory question arises for a proposed bond issue, a complaint for validation may be filed in circuit court even if validation is not required.

*State Bond Act* - Any bonds issued pursuant to the State Bond Act<sup>45</sup> are validated in the manner prescribed by chapter 75, F.S.<sup>46</sup> In any action to validate turnpike revenue bonds,<sup>47</sup> the complaint is filed in the circuit court of the county where the seat of state government is located, the required notice<sup>48</sup> is published in a newspaper of general circulation in the county where the complaint is filed, and in two other newspapers of general circulation. The complaint and order of the circuit court is served only on the state attorney of the circuit in which the action is pending.<sup>49</sup>

*Turnpike Revenue Bonds* - DOT is authorized to borrow money as provided by the State Bond Act for the purpose of paying all or any part of the cost of any one or more legislatively approved Turnpike projects.<sup>50</sup> The principal of, and the interest on, Turnpike revenue bonds is payable only from revenues pledged for their payment.<sup>51</sup>

### Proposed Changes

The bill creates s. 338.227(5), F.S., providing that notwithstanding s. 215.82, F.S., Turnpike revenue bonds are not required to be validated, but may be validated at the option of the Division of Bond Finance. A complaint regarding such validation is filed in the circuit court of the county in which the seat of state government is situated. The required notice is published only in the county in which the complaint is filed. The complaint and order of the circuit court is served on the state attorney of the circuit in which the action is pending.

The bill also amends s. 215.82, F.S., removing a cross-reference.

### **DOT Work Program (Section 6)**

#### Current Situation

In general, s. 339.135, F.S., provides for DOT's work program, which lists transportation projects which DOT plans to undertake in the next five fiscal years. More specifically, s. 339.135(7), F.S., establishes procedures related to adding, advancing, deferring, or deleting projects or major phases from the list of projects. These actions are prepared as work program amendments, which are subject to notice and consultation procedures in s. 216.177, F.S.,<sup>52</sup> and public notice provisions for other stakeholders.

Section 339.135(7)(e), F.S., authorizes the DOT Secretary to request from Executive Office of the Governor (EOG) the ability to amend DOT's adopted work program when an emergency<sup>53</sup> exists, and the emergency relates to the repair or rehabilitation of any state transportation facility. The EOG may approve the amendment to the adopted work program and amend that portion of the DOT's approved

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<sup>45</sup> FLA. STAT. §§ 215.57-.83 (2017).

<sup>46</sup> FLA. STAT. § 215.82 (2017); *see also* FLA. STAT. § 215.82(2) (2017).

<sup>47</sup> Turnpike revenue bonds are issued pursuant to s. 338.227, F.S.

<sup>48</sup> Notice is required pursuant to s. 75.06, F.S.

<sup>49</sup> FLA. STAT. § 215.616(6) (2017).

<sup>50</sup> FLA. STAT. § 338.227(1) (2017).

<sup>51</sup> FLA. STAT. § 338.227(1) (2017).

<sup>52</sup> Section 216.177, F.S., provides for appropriations acts, statement of intent, violation, notice, review and objection procedures.

<sup>53</sup> Section 252.34(4), F.S., defines "emergency" as "any occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property."

budget if a delay due to notification requirements<sup>54</sup> would be detrimental to the state's interests. However, DOT immediately notifies the parties specified in the notification requirements and provides such parties written justification for the emergency action within seven days after the EOGs approval of the amendment to the adopted work program and DOT's budget. The adopted work program may not be amended under s. 339.135(7)(e), F.S., without DOT's Comptroller certifying that there are sufficient funds available pursuant to DOT's 36-month cash forecast and applicable statutes.

In 2016, the Legislature created s. 337.135(7)(h), F.S., requiring that any work program amendment that also adds a new project, or phase of a new project, to the adopted work program in excess of \$3 million is subject to approval by the Legislative Budget Commission.

Subsequent to the passage of the 2016 legislation, DOT's inspection and investigation into a differentially settled sidewalk along Main Street over Hogans Creek in Duval County revealed multiple structural deficiencies with the supporting culvert structure. The circumstances were dire enough to warrant closing Main Street at the location. Further inspection revealed full structure replacement as the most efficient alternative to restore the roadway to full service. In response, DOT declared an emergency<sup>55</sup> to prevent harm and danger to vehicular, bicycle, and pedestrian traffic, and to accelerate repair in order to restore roadway operation. The Hogans Creek culvert replacement cost of \$4,436,307 was added to the list of projects making up DOT's work program and contracts were executed in order to protect the public and restore operation of the roadway. DOT believes that the ability to take immediate action to protect life, health and safety is critical.<sup>56</sup>

However, according to DOT, it is unclear if emergency events are exempt from s. 339.135(7)(h), F.S., requiring LBC review and approval for certain amendments to DOT's work program.

### Proposed Changes

The bill amends s. 339.135(7)(e), F.S., exempting from work program amendments related to emergency repairs which exceed the \$3 million threshold from the LBC review and approval requirements in s. 339.135(7)(h), F.S.

## **Florida Highway Beautification Council (Section 7)**

### Current Situation

Section 344.044, F.S., provides DOT's powers and duties. This section stipulates that **at least** 1.5 percent of the amount contracted for construction projects is allocated by DOT on a statewide basis for the purchase of plant materials.<sup>57</sup>

*Florida Highway Beautification Council* - Established in 1987,<sup>58</sup> s. 339.2405, F.S., creates the Florida Highway Beautification Council (council) within DOT. The council has seven members appointed by the Governor. One member must be a licensed landscape architect, one member must be a representative of the Florida Federation of Garden Clubs, Inc., one member must be a representative of the Florida Nurserymen and Growers Association, one member must be a representative of DOT as designated by the Secretary of DOT,<sup>59</sup> one member must be a representative of the Department of Agriculture and Consumer Services, and two members must be private citizens. Council members serve at the pleasure of the Governor.<sup>60</sup>

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<sup>54</sup> Notification requirements are provided in s. 339.135(7)(d), F.S.

<sup>55</sup> DOT declared the emergency as it is defined in s. 337.11, relating to DOT's contracting authority, s. 339.135(7)(e), F.S., relating to DOT's work program, and s. 252.34(4), F.S., which defines "emergency" as it relates emergency management.

<sup>56</sup> Legislative Budget Commission Meeting Packet, September 12, 2016. EOG Number W2017-0026.

<sup>57</sup> FLA. STAT. § 334.044(26) (2017).

<sup>58</sup> Chapter 87-121, L.O.F.

<sup>59</sup> The head of DOT is the DOT Secretary.

<sup>60</sup> FLA. STAT. § 339.2405(1) (2017).

The council meets no less than semiannually. Four members constitute a quorum for the purpose of exercising all of the council's powers. A vote of the majority of the members present is sufficient for all council actions.<sup>61</sup>

Council members are prohibited from participating in any discussion or decision to recommend grants to any qualified local government with which the member is associated as a member of the governing body or as an employee or with which the member has entered into a contractual arrangement.<sup>62</sup>

The council's duties include:<sup>63</sup>

- Provide information to local governments and local highway beautification councils regarding the state highway beautification grants program.
- Accept grant requests from local governments.
- Review grant requests for compliance with council rules.
- Establish rules for evaluating and prioritizing the grant requests. The rules must include, but are not limited to, an examination of each grant's aesthetic value, cost-effectiveness, level of local support, feasibility of installation and maintenance, and compliance with state and federal regulations. Rules adopted by the council which it uses to evaluate grant applications must take into consideration the contributions made by the highway beautification project in preventing litter.
- Maintain a prioritized list of approved grant requests. The list must include recommended funding levels for each request and, if staged implementation is appropriate, funding requirements for each stage must be provided.
- Assess the feasibility of planting and maintaining indigenous wildflowers and plants, instead of sod groundcovers, along the rights-of-way of state roads and highways. In making such assessment, the council must utilize data from other states which include indigenous wildflower and plant species in their highway vegetative management systems.

The council may, at the request of the Secretary of DOT, review and make recommendations on any other highway beautification matters relating to the State Highway System.<sup>64</sup> The Secretary provides from existing personnel such staff support services to the council as are necessary to enable the council to fulfill its duties and responsibilities.<sup>65</sup>

Local highway beautification councils may be created by local governmental entities or by the Legislature. Prior to being submitted to the council, a grant request must be approved by the local government or governments of the area in which the project is located.<sup>66</sup>

The Secretary, after receiving recommendations from the council, awards grants to local governmental entities that have submitted grant requests for beautification of roads on the State Highway System and which requests are on the council's approved list. The grants are awarded in the order they appear on the council's prioritized list and in accordance with available funding.<sup>67</sup>

State highway beautification grants may be requested only for projects to beautify through landscaping roads on the State Highway System.<sup>68</sup> The grant request is required to identify all costs associated with the project, including sprinkler systems, plant materials, equipment, and labor.<sup>69</sup> A grant provides for

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<sup>61</sup> FLA. STAT. § 339.2405(3) (2017).

<sup>62</sup> FLA. STAT. § 339.2405(5) (2017).

<sup>63</sup> FLA. STAT. § 339.2405(7)(a) (2017).

<sup>64</sup> FLA. STAT. § 339.2405(7)(b) (2017).

<sup>65</sup> FLA. STAT. § 339.2405(8) (2017).

<sup>66</sup> FLA. STAT. § 339.2405(9) (2017).

<sup>67</sup> FLA. STAT. § 339.2405(10) (2017).

<sup>68</sup> FLA. STAT. § 339.2405(11) (2017).

<sup>69</sup> FLA. STAT. § 339.2405(11) (2017).



the costs of purchase and installation of a sprinkler system, the cost of plant materials and fertilizer, and may provide for the costs for labor associated with the installation of the plantings.<sup>70</sup>

The council annually submits to the Secretary a proposal recommending the level of grant funding.<sup>71</sup>

*Department of Transportation* - Currently, each DOT district<sup>72</sup> appoints a District Highway Beautification Council Grant Manager who works with the District Landscape Architect and State Transportation Landscape Architect to promote the grant program and assist applicants through the grant process. Each District Grant Manager compiles a district-wide list to the State Transportation Landscape Architect, who compiles a statewide list. The council then ranks all submitted applications. After the council ranks each project, the State Transportation Landscape Architect produces a ranked list of the projects and grants are awarded in the ranked order until the remaining budget is not sufficient to fund the next ranked project.

Below are the landscaping budget and highway beautification line item from the General Appropriations Act for each of the past five years:

<b>Fiscal Year</b>	<b>Landscaping Budget</b>	<b>Highway Beautification Line Item</b>
2012-2013	\$43,226,736	\$1,000,000
2013-2014	\$52,612,493,	\$1,000,000
2014-2015	\$53,052,665	\$1,800,000
2015-2016	\$50,168,127	\$1,817,000
2016-2017	\$65,272,208	\$1,800,000

Proposed Changes

The bill amends s. 339.2405, F.S., eliminating the Florida Highway Beautification Council. The bill also provides that the Secretary makes final highway beautification grant decisions based on input from District Grant Managers, District Landscape Architects, and the State Transportation Landscape Architect. Local governments will continue to have input regarding the selection of landscaping projects through their local DOT districts.

Additionally, DOT would no longer be responsible for the administrative operation and travel expenses associated with the Florida Highway Beautification Council.

**South Florida Regional Transportation Authority (Sections 8 through 11)**

Part II of Ch. 343, F.S., is the South Florida Regional Transportation Authority (SFRTA) Act. SFRTA provides Tri-Rail commuter rail service in Palm Beach, Broward, and Miami-Dade counties.

Current Situation

**Definitions (Section 8)**

Section 343.52, F.S., provides definitions relating to the South Florida Regional Transportation Act.

**SFRTA (Section 9)**

Section 343.53, F.S., creates SFRTA.

**SFRTA Powers and Duties (Section 10)**

<sup>70</sup> FLA. STAT. § 339.2405(11) (2017).

<sup>71</sup> FLA. STAT. § 339.2405(12) (2017).

<sup>72</sup> DOT consists of seven geographic districts, the turnpike enterprise, and the rail enterprise.

Included in SFRTA'S powers and duties are provisions allowing it to contract for the procurement of various goods and services.<sup>73</sup>

### **SFRTA Funding (Section 11)**

Generally, s. 343.58, F.S., provides the statutory funding for SFRTA. More specifically, s. 348.58(4), F.S., provides that effective July 1, 2010, until as provided below, DOT is required to annually transfer from the State Transportation Trust Fund (STTF) to SFRTA the amounts specified below.

- If SFRTA becomes responsible for maintaining and dispatching the South Florida Rail Corridor:
  - \$15 million from the STTF to SFRTA for operations, maintenance, and dispatch; and
  - An amount no less than the work program commitments equal to \$27.1 million for fiscal year 2010-2011, as of July 1, 2009, for operating assistance to the authority and corridor track maintenance and contract maintenance for the South Florida Rail Corridor.
- If SFRTA does not become responsible for maintaining and dispatching the South Florida Rail Corridor:
  - \$13.3 million from the STTF to SFRTA for operations; and
  - An amount no less than the work program commitments equal to \$17.3 million for fiscal year 2010-2011, as of July 1, 2009, for operating assistance to the authority.

SFRTA is currently responsible for maintaining and dispatching on the South Florida Rail Corridor; therefore, the first funding scenario is in effect.

Funding required by s. 343.58(4), F.S. may not be provided from the funds dedicated to the Florida Rail Enterprise.<sup>74</sup>

SFRTA may not commit these DOT-provided funds without DOT approval, which may not be unreasonably withheld.<sup>75</sup> At least 90 days before advertising any procurement or renewing any existing contract that will rely on state funds for payment, SFRTA is required to notify DOT of the proposed procurement or renewal and the proposed terms of the procurement or renewal.<sup>76</sup> If DOT, within 60 days after receiving the notice, objects in writing to the proposed procurement or renewal, specifying its reasons for objection, SFRTA may not proceed with the proposed procurement or renewal. Failure of DOT to object in writing within 60 days after notice is deemed consent.<sup>77</sup>

To enable DOT to evaluate SFRTA's proposed uses of state funds, SFRTA annually provides DOT with its proposed budget for the following fiscal year and provides DOT with any additional documentation or information required by DOT for its evaluation of the proposed uses of the state funds.

The statutory required funding ceases upon commencement of an alternate dedicated local funding source sufficient for SFRTA to meet its responsibilities for operating, maintaining, and dispatching the South Florida Rail Corridor.<sup>78</sup> SFRTA and DOT are required to cooperate in the effort to identify and implement such an alternate dedicated local funding source before July 1, 2019.<sup>79</sup> Upon commencement of the alternate dedicated local funding source, DOT conveys to SFRTA a perpetual commuter rail easement in the South Florida Rail Corridor and all of DOT's right, title, and interest in rolling stock, equipment, tracks, and other personal property owned and used by DOT for the operation and maintenance of the commuter rail operations in the South Florida Rail Corridor.<sup>80</sup>

In recent correspondence with SFRTA, DOT expressed concern regarding SFRTA's accountability for DOT-provided state funds used for SFRTA's operation and maintenance costs. This concern was

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<sup>73</sup> FLA. STAT. § 343.54 (2017).

<sup>74</sup> Funds are dedicated to the Florida Rail Enterprise pursuant to s. 201.15(4)(a)4., F.S.

<sup>75</sup> FLA. STAT. § 348.58(4)(c)1. (2017).

<sup>76</sup> FLA. STAT. § 348.58(4)(c)1. (2017).

<sup>77</sup> FLA. STAT. § 348.58(4)(c)1. (2017).

<sup>78</sup> FLA. STAT. § 348.58(4)(d) (2017).

<sup>79</sup> FLA. STAT. § 348.58(4)(d) (2017).

<sup>80</sup> FLA. STAT. § 348.58(4)(d) (2017).

heightened by the SFRTA's board's decision to award a long-term operations and maintenance contract after unilaterally rejecting all but one of the proposals submitted.<sup>81</sup>

## Proposed Changes

### **Definitions (Section 8)**

The bill amends s. 343.52, F.S., defining "department" as the Department of Transportation. The bill also alphabetizes the definitions in that section.

### **SFRTA (Section 9)**

The bill amends s. 343.53(2), F.S., conforming a cross-reference.

### **SFRTA Power and Duties (Section 10)**

The bill creates s. 343.54(4), F.S., prohibiting SFRTA from entering into a contract or other agreement, or renewing or extending any existing contract or other agreement, which may be funded, in whole or in part, with DOT provided funds without the DOT's prior review and written approval of SFRTA's proposed expenditures.

### **SFRTA's Funding (Section 11)**

The bill amends s. 343.58(4)(c)1., F.S., by specifying that funds provided to the authority by DOT constitute state financial assistance for the purpose of carrying out certain state projects. DOT shall provide the funds in accordance with a written agreement to be entered into between the authority and DOT. This will allow DOT to review, approve, and audit the authority's expenditure of the funds. The agreement shall also include such other provisions required by applicable law. DOT is specifically authorized to agree to advance the authority one-fourth of the total funding provided in s. 343.58(4), F.S., for a state fiscal year at the beginning of each state fiscal year, with monthly payments over the fiscal year on a reimbursement basis and a reconciliation of the advance against remaining invoices in the last quarter of the fiscal year.

### **DOT Districts (Section 12)**

#### Current Situation

Section 20.23, F.S., creates DOT as a decentralized agency. DOT's operations are organized into seven districts, each headed by a district secretary, and a turnpike enterprise and a rail enterprise, each headed by an executive director.<sup>82</sup> In order to provide for efficient operations and to expedite the decision-making process, DOT is required to provide for maximum decentralization to the districts.<sup>83</sup>

While s. 20.23(4)(a), F.S., provides the headquarters of each of the DOT districts and enterprises, the counties contained in each district are not provided in statute. The districts and counties served are as follows:

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<sup>81</sup> Letter from DOT Secretary Jim Boxhold to Jack Stephens, Executive Director of SFRTA. January 27, 2017. Copy on file with Transportation & Infrastructure Subcommittee.

<sup>82</sup> FLA. STAT. § 2023(4)(a) (2017).

<sup>83</sup> Section 20.23(4)(a), F.S.

DOT District	Headquarters (County)	Counties Served
1	Bartow (Polk)	Charlotte, Collier, DeSoto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Polk, Sarasota.
2	Lake City (Columbia)	Alachua, Baker, Bradford, Clay, Columbia, Dixie, Duval, Gilchrist, Hamilton, Lafayette, Levy, Madison, Nassau, Putnam, St. Johns, Suwannee, Taylor, Union
3	Chipley (Washington)	Bay, Calhoun, Escambia, Franklin, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Santa Rosa, Wakulla, Walton, Washington
4	Ft. Lauderdale (Broward)	Broward, Indian River, Martin, Palm Beach, St. Lucie
5	DeLand (Volusia)	Brevard, Flagler, Lake, Marion, Orange, Osceola, Seminole, Sumter, Volusia
6	Miami (Miami-Dade)	Miami-Dade, Monroe
7	Tampa (Hillsborough)	Citrus, Hernando, Hillsborough, Pasco, Pinellas.

Section 20.23(4)(a), F.S., also requires the headquarters for the Turnpike Enterprise to be located in Orange County and the headquarters for the Rail Enterprise to be located in Leon County.

Section 20.23(4)(d), F.S., provides that DOT’s district director for the Fort Myers Urban Office<sup>84</sup> is responsible for developing the 5-year Transportation Plan for Charlotte, Collier, DeSoto, Glades, Hendry, and Lee counties. The Fort Myers Urban Office also is responsible for providing policy, direction, local government coordination, and planning for those counties.

#### Proposed Changes

The bill provides that on or before October 31, 2017, DOT must submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives, a fiscal analysis of the following:

- Moving DOT’s District 1 headquarters to Lee County;
- Making Polk County part of DOT District 5;
- Relocating DOT’s District 5 headquarters to Polk County; and
- Making DOT’s DeLand office an urban office located within DOT District 5.

#### B. SECTION DIRECTORY:

**Section 1.** Amends s. 215.82, F.S., to remove a cross-reference.

**Section 2.** Amends s. 316.545, F.S., relating to unlawful weights and loads.

**Section 3.** Amends s. 335.074, F.S., relating to the safety inspection of bridges.

**Section 4.** Amends s. 331.11, F.S., relating to DOT’s contracting authority.

**Section 5.** Amends s. 338.227, F.S., relating to turnpike revenue bonds.

**Section 6.** Amends s. 339.135, F.S., relating to DOT’s work program.

**Section 7.** Amends s. 339.2405, F.S., relating to the Florida Highway Beautification Council.

**Section 8.** Amends s. 343.52, F.S., relating to definitions.

**Section 9.** Amends s. 343.53, F.S., relating to the South Florida Regional Transportation Authority.

**Section 10.** Amends s. 343.54, F.S., relating to the powers and duties of the South Florida Regional Transportation Authority.

**Section 11.** Amends s. 343.58, F.S., providing funding for the South Florida Regional Transportation Authority.

**Section 12.** Requires DOT to perform a fiscal analysis regarding the redesignation of specified offices.

**Section 13.** Provides an effective date of July 1, 2017.

<sup>84</sup> The Fort Myers Urban Office is located in DOT District 1.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

DOT estimates an indeterminate but insignificant negative fiscal impact associated with additional weight allowances for natural gas-fueled vehicles because of the reduction in penalties assessed and collected by the State due to the increased weight limits.

#### 2. Expenditures:

DOT estimates a reduction in costs of approximately \$500,000 associated with conducting bridge inspections at risk-based intervals.

There may be some cost savings to the Division of Bond Finance associated with bond validation being optional for turnpike revenue bonds. The amount is indeterminate, but is expected to be insignificant.

DOT should see a reduction in costs associated with eliminating the Highway Beautification Council and the administrative costs associated with the council. The amount is indeterminate, but is expected to be insignificant.

DOT may incur some additional expenditures associated with conducting a fiscal analysis regarding its districts. The amount is indeterminate, but is expected to be insignificant.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

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

Operators of natural gas-fueled commercial vehicles will see a reduction in overweight fines associated with the increase in weight allowed for those vehicles.

There may be some reduced costs to the private sector with the increased dollar threshold for rapid response contracts since these contracts do not require securing a surety bond.

### D. FISCAL COMMENTS:

None.

## 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 action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 28, 2017, the Transportation & Infrastructure Subcommittee adopted two amendments and reported the bill favorably as a committee substitute. The amendments:

- Made a technical change to the natural gas vehicles language.
- Required DOT to conduct a fiscal analysis regarding the alignment and headquarters of some of its districts.

On April 17, 2017, the Transportation and Tourism Appropriations Subcommittee adopted one amendment and reported CS/HB 865 favorably. The amendment prohibits SFRTA from entering into a contract or other agreement funded through DOT without prior review and approval of SFTRA's proposed expenditures, and clarifies that DOT funds constitute state financial assistance while outlining the parameters for advancing funds and reimbursing SFRTA invoices.

This analysis is written to the committee substitute as amended.