

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Transportation

BILL: SB 1226

INTRODUCER: Senator DiCeglie

SUBJECT: Department of Transportation

DATE: February 5, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Vickers	TR	Pre-meeting
2.			ATD	
3.			RC	

I. Summary:

SB 1226 relates to the Florida Department of Transportation (FDOT). The bill:

- Repeals obsolete language regarding the appointment of FDOT’s inspector general.
- Provides a tiered approach, based on the dollar value of the project, regarding the amount of funds FDOT must spend on the purchase of plant materials.
- Increases from three years to ten years the length of time before an inactive prepaid toll account becomes unclaimed property.
- Requires FDOT to calculate the annual state average administrative costs for public transit providers.
- Requires each public transit provider to annually certify that its budgeted and actual administrative costs are no greater than 10 percent above the state average administrative costs.
- Requires FDOT to maintain a rail corridor within the right-of-way of Interstate 4 between Orlando and Tampa.
- Requires FDOT to make specified infrastructure improvements along the Interstate 4 rail corridor and authorizes FDOT to recover such incremental costs in a future lease agreement.

The bill may have both negative and positive fiscal impacts on private and governmental sectors. See Fiscal Impact Statement for details.

The bill takes effect July 1, 2024.

II. Present Situation:

For ease of readability and organization, the present situation is discussed below with the effect of proposed changes.

III. Effect of Proposed Changes:

Appointment of the Florida Department of Transportation's Inspector General (Section 1)

Present Situation

Florida law establishes an office of inspector general in each state agency, providing a central point of coordination of and responsibility for activities that promote accountability, integrity, and efficiency in government. Florida law provides various duties and responsibility regarding the responsibility of each state agency's inspector general.¹

In 2014, the Legislature transferred the appointment and removal of a Governor's agency inspector general from the agency head to the Governor's Chief Inspector General.² For state agencies under the jurisdiction of the Cabinet or the Governor and Cabinet, the agency head appoints the agency's inspector general. For state agencies under the jurisdiction of the Governor, the Chief Inspector General appoints the agency's inspector general.³ The Florida Department of Transportation (FDOT) is under the Governor's jurisdiction.⁴

Conflicting with the generally applicable requirements regarding the appointment of an inspector General, Florida law also requires the Secretary of Transportation to appoint the Florida Department of Transportation's (FDOT) inspector general.⁵

Effect of Proposed Changes

The bill repeals obsolete language regarding the Secretary of Transportation's authority to appoint FDOT's inspector general.

FDOT Landscaping Projects (Section 2)

Present Situation

Florida law requires FDOT to allocate, on a statewide basis, at least 1.5 percent of the amount contracted for construction projects for the purchase of plant materials. To the greatest extent practical, at least 50 percent of the funds allocated to purchase plant materials must be allocated for large plant materials and the remaining funds for other plant materials. Except as prohibited by applicable federal law or regulation, FDOT must purchase all plant materials from Florida commercial nursery stock on a uniform competitive bid basis. FDOT must develop grades and standards for landscaping materials purchased through this process.⁶

Effect of Proposed Changes

The bill provides a tiered amount of appropriated funds which are to be allocated for the purchase of plant materials as follows:

¹ Section 20.055, F.S.

² Chapter 2014-144, Laws of Fla.

³ Section 20.055(3)(a)1., F.S.

⁴ See s. 20.23(1)(a), F.S.

⁵ Section 20.23(3)(c), F.S.

⁶ Section 334.044(26), F.S.

Projects With Contracted Amounts of:	Allocated Percentage	Number of Projects FY 2024-2025 ⁷
\$50,000,000 or less	1.5 percent	652
\$50,000,001 to \$100,000,000	1.0 percent	8
\$100,000,001 to \$250,000,000	0.75 percent	6
\$250,000,001 to \$500,000,000	0.50 percent	4
\$500,000,001 or more	0.25 percent	0

The bill also removes the existing minimum requirement of 1.5 percent of the amount contracted for construction projects, on a statewide basis, be expended for plant materials.

Inactive Prepaid Toll Accounts (Section 3)

Present Situation

FDOT, through the Florida Turnpike Enterprise, operates its electronic prepaid toll program (SunPass), which may be used on most of Florida’s toll facilities and is operable on toll facilities in some other states.⁸

Under the Florida Disposition of Unclaimed Property Act,⁹ except as otherwise provided in that act, all intangible property that is held, issued, or owing in the ordinary course of the holder’s business and the owner fails to claim such property for more than five years after the property becomes payable or distributable is presumed unclaimed.¹⁰ Unclaimed property is reported to the Division of Unclaimed Property in Department of Financial Services (DFS).¹¹

Unclaimed property funds are deposited into the Unclaimed Property Trust Fund. DFS retains funds to make prompt payment of claims and to pay the cost of administering the program. All remaining funds are deposited into the State School Fund.¹²

Florida law presumes that any prepaid toll account, which has been inactive for three years, is unclaimed property. After three years, DFS must handle the account’s disposition in accordance with the Florida’s Disposition of Unclaimed Property Act and FDOT must close the prepaid toll account.¹³

Effect of Proposed Changes

The bill increases from three years to ten years the length of time that a prepaid toll account must be inactive prior to it becoming unclaimed property. At the end of ten years, the inactive toll account becomes subject to the Florida Disposition of Unclaimed Property Act.

⁷ FDOT, *Landscaping Proposal by the Numbers*, December 2023. (on file with Senate Committee on Transportation).

⁸ SunPass, *Frequently Asked Questions*, <https://www.sunpass.com/en/support/faq.shtml> (last visited January 23, 2024).

⁹ Chapter 717, F.S.

¹⁰ Section 717.102, F.S.

¹¹ Florida Department of Financial Services, Division of Unclaimed Property, *Why Should I Search for Unclaimed Property*, <https://www.fltreasurehunt.gov/UP-Web/sitePages/About.jsp> (last visited January 23, 2024).

¹² Section 717.123(1), F.S.

¹³ Section 338.231(3)(c), F.S.

Public Transit Performance and Productivity Measures (Section 4)

Present Situation

A public transit provider is statutorily defined as public agency providing public transit service, including rail authorities.¹⁴

The term “public transit” is defined to mean the transporting of people by conveyances, or systems of conveyances, traveling on land or water, local or regional in nature, and available for use by the public. Public transit systems may be either governmentally owned or privately owned. Public transit specifically includes those forms of transportation commonly known as “paratransit.”¹⁵

There are no statutory limits on administrative costs for public transit providers.

Effect of Proposed Changes

The bill requires each public transit provider to annually certify that its budgeted and actual administrative costs are no greater than 10 percent above the annual state average of administrative costs.

To support compliance, the bill requires FDOT to annually determine the state average of administrative costs by calculating the annual administrative costs for each public transit provider in this state. For this purpose, administrative costs include, but are not limited to:

- Employee salaries and benefits;
- Small business outreach;
- Insurance; and
- Professional service contracts.

Administrative costs may also include any overhead cost not directly related to the operation and maintenance of the public transit system.

Passenger Rail Corridor (Section 5)

Present Situation

Brightline Florida operates intercity passenger rail between Miami and Orlando. In order to build its service, the company took a phased approach, first building from Miami to West Palm Beach. In 2023, the company expanded operations to the Orlando International Airport, with trains operating at 125 miles per hour on a dedicated line between Cocoa and the airport. While still in the planning phase, Brightline intends to expand its operations to Tampa, with a proposed dedicated line that can run trains at 125 miles per hour.¹⁶

¹⁴ Section 341.031(3), F.S.

¹⁵ Section 341.031(6), F.S. Section 341.031(5), F.S., defines the term “paratransit” to mean those elements of public transit which provide service between specific origins and destinations selected by the individual user with such service being provided at a time that is agreed upon by the user and the provider of the service. Paratransit service is provided by taxis, limousines, “dial-a-ride” buses, and other demand-responsive operations that are characterized by their nonscheduled, nonfixed route nature.

¹⁶ High-Speed Rail Alliance, *Brightline Florida*, <https://www.hsrail.org/brightline-florida/>, last visited February 1, 2023.

In building its rail network, Brightline took advantage of a state policy dedicating the right-of-way along some highways for high-speed rail. Brightline was also able to use tax exempt bonds issued through the Florida Development Finance Corporation to attract private capital.¹⁷

Effect of Proposed Changes

The bill provides that the Legislature finds that it is in the strategic interest of the state and the traveling public to extend the existing passenger rail service currently terminating in Orlando. To facilitate this extension, FDOT must preserve a 44 foot wide rail corridor,¹⁸ within the right-of-way of Interstate 4 between Orlando and Tampa and provide for a minimum vertical clearance for bridges and overpasses.

FDOT must use advanced multimodal planning along and within the Interstate 4 corridor to minimize future disruption while optimizing the cost of infrastructure within this corridor. To that end, future infrastructure improvements made along the Interstate 4 corridor, should to the greatest extent feasible, include grading of the median within the proposed rail envelope and placement of necessary drainage structures; providing adequate bridge column spacing and vertical clearances; and providing a physical barrier separating the rail envelope from travel lanes. FDOT must monitor and record the incremental costs of such improvements and is authorized to recover such incremental costs in any future lease agreement of the rail corridor.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

¹⁷ *Id.*

¹⁸ Section 341.301(8), F.S., defines the term “rail corridor” to mean a linear contiguous strip of real property that is used for rail service. The term includes the corridor and structures essential to railroad operations, including the land, structures, improvements, rights-of-way, easements, rail lines, rail beds, guideway structures, switches, yards, parking facilities, power relays, switching houses, rail stations, any ancillary development, and any other facilities or equipment used for the purposes of construction, operation, or maintenance of a railroad that provides rail service.

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

None.

B. Private Sector Impact:

Growers of plant materials may see a reduction in revenues associated with the tiered approach in the amount of funds that FDOT is required to spend on plant material.

Passenger rail companies wishing to lease portions of the Interstate 4 corridor between Orlando and Tampa may see a reduction in costs in preparing the corridor for rail. However, in any future lease, the bill requires the company to reimburse FDOT for any incremental costs it incurs.

C. Government Sector Impact:

The tiered approach to the amount of funds that FDOT must spend on plant materials may reduce FDOT's costs associated with landscaping and allow those funds to be used for additional construction projects.

FDOT may incur some additional costs along Interstate 4 where it is required to preserve a rail corridor and make specified improvements. However, the bill authorizes FDOT to recover these costs in a future lease of the rail corridor.

Public transit providers may see changes in their cost structures associated with complying with provisions in the bill limiting their administrative costs and certifying that their administrative costs are within the limits provided for in the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

For purposes of determining the administrative costs of public transit providers the definition of administrative costs appears to be broad and could include what is generally considered operational costs such as the salaries and benefits of transit drivers. The bill also does not provide how the administrative costs for transit providers will be calculated.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.23, 334.044, 338.231, and 341.051.

This bill creates an undesignated section of the Florida Statutes.

IX. Additional Information:

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

None.

- B. **Amendments:**

None.

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