

Agenda Order

Tab 1	CS/SB 266 by TR, Hooper; (Compare to CS/CS/H 00287) Transportation						
745354	D	S	RCS	ATD, Hooper	Delete everything after	02/09 03:10 PM	
Tab 2	CS/SB 356 by CM, Avila; (Compare to CS/H 01255) Notaries Public						
850420	A	S	WD	ATD, Avila	Delete L.63 - 323:	02/08 12:56 PM	
Tab 3	SB 512 by Bradley; (Identical to H 00407) Specialty License Plates/United Service Organizations						
Tab 4	CS/SB 716 by GO, Rodriguez (CO-INTRODUCERS) Stewart; (Similar to H 00629) Florida Women's Historical Marker Initiative						
298200	A	S	RCS	ATD, Rodriguez	Delete L.51 - 86:	02/08 12:54 PM	
296090	A	S	RCS	ATD, Rodriguez	btw L.94 - 95:	02/08 12:54 PM	
Tab 5	SB 736 by Trumbull; (Similar to CS/CS/H 00247) Services Provided by the Department of Highway Safety and Motor Vehicles or Its Agents						
828660	D	S	RCS	ATD, Trumbull	Delete everything after	02/09 03:04 PM	
Tab 6	CS/SB 754 by TR, DiCeglie; (Similar to CS/H 00405) Regulation of Commercial Motor Vehicles						
Tab 7	CS/SB 934 by TR, Yarborough; (Similar to CS/H 01671) Specialty License Plates/Cure Diabetes						
831476	A	S	RCS	ATD, Yarborough	Delete L.25:	02/08 12:54 PM	
Tab 8	CS/SB 1362 by TR, Harrell; (Compare to CS/H 00981) Aviation						
954964	D	S	RCS	ATD, Harrell	Delete everything after	02/08 12:53 PM	
144092	AA	S	WD	ATD, Harrell	btw L.134 - 135:	02/08 12:53 PM	
Tab 9	CS/SB 1420 by CM, Burgess; (Similar to H 01419) Department of Commerce						

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
APPROPRIATIONS COMMITTEE ON TRANSPORTATION,
TOURISM, AND ECONOMIC DEVELOPMENT
Senator Hooper, Chair
Senator Trumbull, Vice Chair

MEETING DATE: Thursday, February 8, 2024
TIME: 10:45 a.m.—12:15 p.m.
PLACE: *Toni Jennings Committee Room, 110 Senate Building*

MEMBERS: Senator Hooper, Chair; Senator Trumbull, Vice Chair; Senators DiCeglie, Stewart, Thompson, Wright, and Yarborough

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 266 Transportation / Hooper (Compare CS/CS/H 287)	Transportation; Prohibiting the Department of Transportation from annually committing more than a certain percentage of revenues derived from state fuel taxes and motor vehicle license-related fees to public transit projects; authorizing the department to enter into comprehensive agreements with private entities or the consortia thereof for the building, operation, ownership, or financing of transportation facilities; requiring the department to receive three letters of interest before proceeding with requests for proposals for certain contracts; revising a presumption regarding the proximate cause of death, injury, or damage in a civil suit against the department, etc. TR 01/17/2024 Fav/CS ATD 02/08/2024 Fav/CS AP	Fav/CS Yeas 7 Nays 0
2	CS/SB 356 Commerce and Tourism / Avila (Compare CS/H 1255)	Notaries Public; Requiring that certain notarial certificates contain the printed names of specified individuals; prohibiting a notary public from falsely notarizing the signature of a person who is not in that notary public's presence, either in person or online; deleting a provision that prohibits a notary public from notarizing a signature on a document of a person who is not, at the time of the notarial act, physically present or present by means of audio-video communication technology and that provides civil penalties; requiring a notary public to keep at least one tangible journal; requiring the Department of State to retain jurisdiction over the journal records for a specified timeframe for a certain purpose, etc. CM 01/23/2024 Fav/CS ATD 02/08/2024 Favorable FP	Favorable Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Committee on Transportation, Tourism, and Economic Development
 Thursday, February 8, 2024, 10:45 a.m.—12:15 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	SB 512 Bradley (Identical H 407)	Specialty License Plates/United Service Organizations; Directing the Department of Highway Safety and Motor Vehicles to develop a United Service Organizations (USO) license plate; providing for distribution and use of fees collected from the sale of the plate, etc. TR 01/17/2024 Favorable ATD 02/08/2024 Favorable FP	Favorable Yeas 7 Nays 0
4	CS/SB 716 Governmental Oversight and Accountability / Rodriguez (Similar H 629)	Florida Women's Historical Marker Initiative; Citing this act as the "Florida Women's Historical Marker Initiative"; establishing the Florida Women's Historical Marker Initiative within the Division of Historical Resources of the Department of State; requiring the Florida Historical Marker Program to place a certain number of historical markers over a certain time period; establishing the Women's Historical Marker Selection Committee, etc. GO 01/22/2024 Fav/CS ATD 02/08/2024 Fav/CS FP	Fav/CS Yeas 7 Nays 0
5	SB 736 Trumbull (Similar CS/H 247)	Services Provided by the Department of Highway Safety and Motor Vehicles or Its Agents; Providing that a certain affidavit constitutes proof of ownership and right of possession to a motor vehicle or mobile home the previous owner of which died testate; prohibiting the department or a tax collector from charging a fee for reissuance of certain certificates of title; authorizing certain disabled veterans to be issued a military license plate or specialty license plate in lieu of a "DV" license plate, etc. TR 01/17/2024 Favorable ATD 02/08/2024 Fav/CS FP	Fav/CS Yeas 7 Nays 0
6	CS/SB 754 Transportation / DiCeglie (Similar CS/H 405)	Regulation of Commercial Motor Vehicles; Revising federal regulations to which owners and operators of certain commercial motor vehicles are subject; charging the Department of Highway Safety and Motor Vehicles with the administration and enforcement of certain federal regulations; prohibiting the department from issuing a commercial motor vehicle license to a person who is ineligible under certain federal regulations; applying a reinstatement service fee to a person whose privilege to operate a commercial vehicle has been downgraded, etc. TR 01/10/2024 Fav/CS ATD 01/24/2024 Temporarily Postponed ATD 02/08/2024 Favorable FP	Favorable Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Committee on Transportation, Tourism, and Economic Development
 Thursday, February 8, 2024, 10:45 a.m.—12:15 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	CS/SB 934 Transportation / Yarborough (Similar CS/H 1671)	Specialty License Plates/Cure Diabetes; Directing the Department of Highway Safety and Motor Vehicles to develop a Cure Diabetes license plate, etc. TR 01/23/2024 Fav/CS ATD 02/08/2024 Fav/CS FP	Fav/CS Yeas 7 Nays 0
8	CS/SB 1362 Transportation / Harrell (Compare CS/H 981)	Aviation; Revising requirements for the statewide aviation system plan developed by the Department of Transportation; providing duties of the department, subject to funding, with respect to vertiports, electric aviation, and other advances in aviation technology, etc. TR 01/23/2024 Fav/CS ATD 02/08/2024 Fav/CS FP	Fav/CS Yeas 7 Nays 0
9	CS/SB 1420 Commerce and Tourism / Burgess (Similar H 1419)	Department of Commerce; Providing that amendments are deemed withdrawn if the local government fails to transmit the comprehensive plan amendments to the department, in its role as the state land planning agency, within a certain time period; revising the maximum length of a loan term under the Local Government Emergency Revolving Bridge Loan Program; requiring the department to establish a direct-support organization; specifying that the organization is a direct-support organization of the department and a corporation not for profit; authorizing the organization to take certain actions regarding administration of property and expenditures, etc. CM 01/23/2024 Fav/CS ATD 02/08/2024 Favorable RC	Favorable Yeas 7 Nays 0

Other Related Meeting Documents

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 Appropriations Committee on Transportation, Tourism, and Economic Development

BILL: CS/CS/SB 266

INTRODUCER: Appropriations Committee on Transportation, Tourism, and Economic Development, Transportation Committee, and Senator Hooper

SUBJECT: Department of Transportation

DATE: February 12, 2024 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Vickers</u>	<u>TR</u>	<u>Fav/CS</u>
2.	<u>Nortelus</u>	<u>Jerrett</u>	<u>ATD</u>	<u>Fav/CS</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 266 contains various provisions relating to transportation. Specifically, the bill:

- Prohibits the Florida Department of Transportation (FDOT), with specified exceptions, from annually committing more than 20 percent of the revenues derived from state motor fuel taxes and motor vehicle license-related fees to public transit projects.
- Amends provisions relating to the FDOT’s authority regarding public-private partnerships to:
 - Replace the term “public-private partnership agreement” with the term “comprehensive agreement.”
 - Require an “independent,” instead of an “investment grade,” traffic and revenue study prepared by a traffic and revenue expert.
 - Revise the timeframe, based on the project’s complexity, during which the FDOT will accept other proposals for the same project as it received an unsolicited public-private partnership proposal.
 - Authorize the FDOT to enter into an interim agreement with a private entity proposing the development or operation of a qualifying project.
 - Limit the FDOT secretary’s power, upon written findings that a comprehensive agreement requires a term in excess of 50 years, to authorize a term of up to 75 years to projects partially or completely funded from project user fees.
 - Requires the FDOT to notify the Division of Bond Finance prior to entering into interim or comprehensive agreements.
 - Confirms other statutory provisions referencing to public-private partnership agreements.

- Clarifies that a local governmental entity may not deem reclaimed asphalt pavement as solid waste.
- Authorizes FDOT to allow the issuance of multiple contract performance and payment bonds for phased design-build contracts.
- Provides that a claimant must institute an action against a contractor or surety within 365 days after the performance of the labor or completion of delivery of the materials or supplies.
- Revises a presumption of sole proximate cause on the part of a driver of a vehicle involved in a crash within a construction zone to exclude low-THC cannabis.
- Defines terms and expands contractor limits of liability for personal injury, property damage, or death arising from specified performance of work on a transportation facility or from specified acts or omissions of a third party.
- Revises the application of immunity when the proximate cause of the injury, damage, or death is a latent condition, defect, error, or omission created by the contractor and in the contract documents, or when the proximate cause was the contractor's failure to perform, update, or comply with the maintenance of traffic control plans, instead of with the traffic safety plan. Provides that such provision does not amend workers compensation law or preclude liability due to a contractor's negligence.
- Removes current law providing that in any civil action against the FDOT or its agents, consultants, engineers, or contractors for work performed, if the FDOT and others specified are immune from liability or are not parties to the litigation, they may not be named on the verdict form or be found to be at fault or responsible for the personal injury, property damage, or death.
- Codifies the FDOT's existing local agency program into Florida law and provides statutory requirements for the program.

The bill has a potential negative fiscal impact on state and local governmental entities. See Section V., Fiscal Impact Statement.

The bill takes effect July 1, 2024.

II. Present Situation:

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

III. Effect of Proposed Changes:

Public Transit Funding from the State Transportation Trust Fund (Section 1)

Present Situation

State Transportation Trust Fund

Section 206.46(1), F.S., creates the State Transportation Trust Fund (STTF) within the Florida Department of Transportation (FDOT). The FDOT, as provided by law, must use all moneys in the STTF for transportation purposes.

Florida law identifies specific funding from moneys in the STTF for certain transportation systems and projects, as well as specific funding programs aimed at transportation projects in rural communities. Section 206.46(3), F.S., requires that the FDOT commit annually a minimum of 15 percent of all state revenues deposited into the STTF annually for public transportation projects.¹

State Fuel Taxes

Under Florida law, the sale of motor fuel, diesel fuel, and aviation fuel is subject to state taxes. State taxes on fuel include the Highway Fuel Sales Tax, the Off-Highway Fuel Sales Tax, the State Comprehensive Enhanced Transportation System (SCETS) Tax, the Constitutional Fuel Tax, County Fuel Tax, Municipal Fuel Tax, and the Aviation Fuel Tax. Florida law annually indexes the Highway Fuel Sales Tax and the SCETS Tax to the consumer price index.² Revenues deposited into the STTF include the Highway Fuel Sales Tax on both motor fuel and diesel fuel, the SCETS Tax on both on motor fuel and diesel fuel, and the Aviation Fuel Tax on aviation fuel.³

Motor Vehicle License-Related Fees

The STTF also receives specified revenues from motor-vehicle license fees administered by the Department of Highway Safety and Motor Vehicles. Motor vehicle license-related fees deposited into the STTF include motor vehicle-title related fees,⁴ the initial motor vehicle registration fee,⁵ an additional surcharge on certain commercial vehicles,⁶ a license tax surcharge,⁷ and various dispositions of proceeds from motor vehicle license taxes.⁸

Effect of Proposed Changes

The bill creates s. 206.46(6), F.S., prohibiting the FDOT from annually committing to public transit⁹ projects in accordance with ch. 341, F.S., more than 20 percent of the revenues derived from state fuel taxes and motor vehicle license-related fees deposited into the STTF. The bill provides the following exceptions:

- A public transit project that uses revenues derived from state fuel taxes and motor vehicle-license related fees to match funds made available by the federal government.

¹ Florida Department of Transportation (FDOT), Agency Analysis of 2024 Senate Bill 266, p.2. January 3, 2024. (On file with Senate Committee on Transportation)

² Florida Department of Transportation (FDOT), *Florida Transportation Tax Sources: A Primer 2023*, p 3. <https://fdotewp1.dot.state.fl.us/FMSupportApps/Documents/prs/Primer.pdf> (last visited January 3, 2024).

³ *Id.* at 20.

⁴ *See* s. 319.32(5), F.S.

⁵ *See* s. 320.072(4), F.S. That statute allocates 3.4 percent of the proceeds from the initial motor vehicle registration fee to the New Starts Transit Program.

⁶ *See* s. 320.0801(2), F.S.

⁷ *See* s. 320.0804, F.S.

⁸ *See* s. 320.20, F.S.

⁹ Section 341.031(6), F.S., defines the term “public transit” 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.”

- A public transit project included in the transportation improvement program¹⁰ and approved by a supermajority vote of the board of county commissioners where the project is located.

Public-Private Partnerships (Sections 2, 3, and 9)

Present Situation

Public-private partnerships (P3s) are contractual agreements between a public agency and a private entity that allow for greater private participation in the delivery of projects. For transportation projects, this participation typically involves the private sector taking on additional project risks such as design, construction, finance, long-term operation, and traffic revenue.¹¹

Section 334.30, F.S., authorizes the FDOT to enter into P3 agreements for the building, operation, ownership or financing of transportation facilities. The FDOT's P3 transportation facilities include the I-4 Ultimate in Orange and Seminole Counties and the PortMiami tunnel in Miami-Dade County.¹²

Under s. 334.30, F.S., the FDOT may receive or solicit proposals and, with legislative approval evidenced by the project's approval in the FDOT's work program, enter into P3 agreements with private entities, or consortia thereof, for the building, operation, ownership, or financing of transportation facilities. The FDOT, by rule, must establish an application fee for submitting an unsolicited P3 proposal, which must be sufficient to pay the FDOT's costs to evaluate the proposals.¹³ Before approving a P3, the FDOT must determine that the proposed project:

- Is in the public's best interest;
- Would not require state funds to be used unless the project is on the State Highway System;
- Would have adequate safeguards in place to ensure that no additional costs or service disruptions would be realized in the event of default or cancellation of the agreement;
- Would have adequate safeguards in place to ensure that the FDOT or the private entity has the opportunity to add capacity to the proposed project and other transportation facilities serving similar origins and destinations; and
- Would be owned by the FDOT upon completion or termination of the agreement.

The FDOT must ensure that all reasonable costs to the state, related to transportation facilities that are not part of the State Highway System, are borne by the private entity. The FDOT must also ensure that all reasonable costs to the state and substantially affected local governments and utilities, related to the private transportation facility, are borne by the private entity for privately owned transportation facilities. For projects on the State Highway System, the FDOT may use state resources to participate in funding and financing the project as provided for under its enabling legislation.¹⁴

¹⁰ Metropolitan planning organizations develop transportation improvement programs pursuant to s. 339.135(8), F.S.

¹¹ U.S. Department of Transportation, Public Private-Partnerships (P3), Overview, <https://www.transportation.gov/buildamerica/p3> (last visited January 4, 2024).

¹² FDOT, *Public-Private Partnership Projects*, last updated Aug. 7, 2023, https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/comptroller/pfo/p3-summary_8-7-2023.pdf (last visited January 3, 2024).

¹³ Rule 14-107.0011, F.S., sets the initial fee for an unsolicited P3 proposal at \$50,000.

¹⁴ Section 334.30(1), F.S.

P3 agreements may authorize the private entity to impose tolls or fares on the transportation facility. Various conditions apply to P3s imposing tolls or fares, including that the P3 agreement must provide that a negotiated portion of revenues from tolls or fares are returned to the FDOT over the life of the agreement. Additionally, the private entity must 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 must also provide a finance plan identifying the project cost, revenues by source, financing, major assumptions, internal rate of return on private investments, and whether any government funds are required to deliver a cost-feasible project, and a total cash flow analysis beginning with implementation of the project and extending for the term of the agreement.¹⁵

The FDOT may request proposals for P3 projects from private entities. However, if the FDOT receives an unsolicited P3 proposal, it must publish a notice in the Florida Administrative Register and a newspaper of general circulation at least once a week for two weeks. The notice must state that the FDOT has received an unsolicited P3 proposal and will accept, for 120 days after the initial date of publication, other proposals for the same project purpose. The FDOT must mail a copy of the notice to each local government in the affected area.¹⁶

P3 agreements are limited to a term of 50 years. Upon making written findings that a P3 agreement requires a term in excess of 50 years, the FDOT's secretary may authorize an agreement for up to 75 years. P3 agreements may not exceed 75 years unless specifically approved by the Legislature. The FDOT must identify each new P3 project with a term exceeding 75 years in the transmittal letter that accompanies the submittal of its tentative work program to the Governor and the Legislature.¹⁷

In connection with a proposal to finance or refinance a transportation facility using a P3, the FDOT must consult with the Division of Bond Finance.¹⁸ The FDOT must provide the division with the information necessary to provide timely consultation and recommendations. The division may make an independent recommendation to the Executive Office of the Governor.¹⁹

Effect of Proposed Changes

The bill amends s. 334.30, F.S., regarding P3 transportation facilities. Specifically, the bill:

- Authorizes the FDOT to enter into comprehensive agreements for projects approved by the Legislature as evidenced by approval of the FDOT work program.
- Replaces reference to “public-private partnership agreement with “comprehensive” agreement, effectively deleting the term “public-private partnership agreement” from s. 334.30, F.S.
- Requires a private entity, as part of its proposal, to provide an independent, instead of investment grade, traffic and revenue study prepared by a traffic and revenue expert.

¹⁵ Section 334.30(2), F.S.

¹⁶ Section 334.30(6)(a), F.S.

¹⁷ Section 334.30(11), F.S.

¹⁸ The Division of Bond Finance is part of the State Board of Administration.

¹⁹ Section 330.30(13), F.S.

- Requires the independent traffic and revenue study to be accepted by national bond rating agencies before closing on financing that supports the comprehensive agreement for the P3 project.
- Requires the FDOT to publish a notice in the Florida Administrative Register and a newspaper of general circulation at least once a week for 2 weeks stating that the FDOT has received the proposal and will accept, for between 30 and 120 days after the initial date of publication as determined by the FDOT based on the complexity of the project, other proposals for the same project purpose.

The bill authorizes the FDOT before or in connection with the negotiation of a comprehensive agreement, to enter into an interim agreement with the private entity proposing the development or operation of a qualifying project. An interim agreement does not obligate the FDOT to enter into a comprehensive agreement. The interim agreement is discretionary with the parties and is not required on a project for which the parties may proceed directly to a comprehensive agreement without the need for an interim agreement. An interim agreement must be limited to any of the following provisions that:

- Authorize the private entity to commence activities for which it may be compensated related to the proposed qualifying project, including, but not limited to, project planning and development, designing, environmental analysis and mitigation, surveying, other activities concerning any part of the proposed qualifying project, and ascertaining the availability of financing for the proposed facility or facilities.
- Establish the process and timing for the negotiation of the comprehensive agreement.
- Contain such other provisions related to an aspect of the development or operation of a qualifying project which the FDOT and the private entity deem appropriate.

The bill requires that a comprehensive agreement with a term of more than 50 and no more than 75 years for projects that are partially or completely funded from project user fees.

The bill requires the FDOT to notify the Division of Bond Finance before entering into an interim agreement or comprehensive agreement regarding a P3.

According to the FDOT, the interim agreement provision may be most useful for projects without an existing corridor and/or on undeveloped land, which the FDOT has not already performed the project development and environmental (PD&E), design, environmental, and survey. On established corridors, the FDOT typically has significant information and analysis which it has made available as part of other P3 procurements. If the project does not move forward, the FDOT risks having to pay the entity for the work performed.²⁰

The bill amends ss. 288.9606 and 339.2825, F.S., making conforming changes regarding P3 agreements.

²⁰ *Supra* note 1 at 9.

Use of Recyclable Materials in Construction (Section 4)

Present Situation

Under Florida law, a local governmental entity²¹ may not adopt standards or specifications that are contrary to the FDOT's standards or specifications for permissible use of reclaimed asphalt pavement material in construction. For this purpose, such material may not be considered solid waste.²²

Effect of Proposed Changes

The bill amends s. 336.044(5), F.S., to prohibit a local governmental entity from deeming reclaimed asphalt pavement as solid waste.

Design-Build Contracts (Section 5)

Present Situation

Section 337.11(7), F.S., authorizes the FDOT, if it determines that it is in the public's best interest to enter into design-build contracts by combining the design and construction phase of a project into a single contract, known as a design-build contract.²³

If the FDOT determines that it is in the public's best interests, it may combine the design and construction phases of a project fully funded in its work program into a single contract, known as a phased design build contract. With such a contract, the FDOT selects the design-build firm in the early stages of a project to ensure that the design-build firm is part of the collaboration and development of the design as part of a step-by-step progression through construction. For phased design-build contracts, selection and award is a two-phase process. For phase one, the FDOT competitively awards the contract to a design-build firm based upon qualifications. For phase two, the design-build firm competitively bids construction trade subcontractor packages and, based upon these bids, negotiates with the FDOT a fixed firm price or guaranteed maximum price that meets the project budget and scope as advertised in the request for qualifications.²⁴

Under current law, the FDOT must receive at least three letters of interest in order to proceed with a request for proposals. The FDOT must request proposals from no fewer than three of the design-build firms submitting letters of interest. If a design-build firm withdraws from consideration after the FDOT requests proposals, it may continue if it receives least two proposals.²⁵

²¹ Section 334.03(13), F.S. defines the term "local governmental entity" to mean a unit of government with less than statewide jurisdiction, or any officially designated public agency or authority of such a unit of government, that has the responsibility for planning, construction, operation, or maintenance of, or jurisdiction over, a transportation facility; the term includes, but is not limited to, a county, an incorporated municipality, a metropolitan planning organization, an expressway or transportation authority, a road and bridge district, a special road and bridge district, and a regional governmental unit.

²² Section 336.044(5), F.S.

²³ Section 337.11(7)(a), F.S.

²⁴ Section 337.11(7)(b), F.S.

²⁵ Section 337.11(7)(e), F.S.

Effect of Proposed Changes

The bill amends s. 337.11(7)(e), F.S., clarifying that for design-build contracts and phased design-build contracts, the FDOT must receive requests for proposals from no fewer than three of the firms submitting letters of interest. As is current law, if a firm withdraws from consideration after the FDOT requests proposals, the FDOT may continue if it receives least two proposals.

FDOT Contractor Motor Vehicle Registration (Section 5)***Present Situation***

Under Ch. 320, F.S., relating to motor vehicle licenses, except as otherwise provided, every owner or person in charge of a motor vehicle that is operated or driven on Florida's roads must register the motor vehicle in Florida.²⁶

Section 337.11(13), F.S., requires each contract let by the FDOT for the performance of road or bridge construction or maintenance work to require all motor vehicles that the contractor operates or causes to be operated in Florida to be registered in compliance with ch. 320, F.S.

Section 337.141(2), F.S., prohibits any payment to a construction or maintenance contractor until FDOT receives a notarized affidavit from the contractor that he or she has registered all motor vehicles that he or she operates in Florida in compliance with ch. 320, F.S.

Effect of Proposed Changes

The bill amends s. 337.11(13), F.S., to require that any motor vehicle used in the performance of road or bridge construction or maintenance work for the FDOT to be registered in compliance with ch. 320, F.S. Therefore, the FDOT contracts would no longer require a provision regarding motor vehicle registration. However, the affidavit provision in s. 337.141(2), F.S., remains in law.

Surety Bonds – Phased Design Build Contracts (Section 6)***Present Situation***

Under Florida law, if the FDOT determines that it is in the best interests of the public, the FDOT may enter into phased design-build contracts.²⁷

Under Florida law, a surety bond is required of the successful bidder of an FDOT construction or maintenance contract in an amount equal to the awarded contract price. However, the FDOT may choose, in its discretion and applicable only to multi-year maintenance contracts, to allow for incremental annual contract bonds that cumulatively total the full, awarded, multiyear contract price.²⁸

²⁶ Section 320.02(1), F.S.

²⁷ Section 337.11(7)(b) F.S.

²⁸ Section 337.18(1)(a), F.S.

Effect of Proposed Changes

The bill amends s. 337.18(1), F.S., authorizing FDOT, in its discretion and applicable only to phased design-build construction contracts, to allow the issuance of multiple contract performance and payment bonds in succession to align with each phase of the contract to meet the bonding requirements.

Surety Bonds for the FDOT Construction and Maintenance Contracts (Section 6)

Present Situation

Under Florida law, when the commencement of work is not essential to the public health, safety, or welfare and flexible start and finish times are used in a given contract, the FDOT may withhold up to ten percent retainage on completed work when the contractor either fails to timely commence work or falls behind in work progress at any point prior to completion of the contract.²⁹ Retainage is the portion of monies kept aside until a project is completed in all aspects according to the contract.³⁰

Section 337.175, F.S., provides, in part, that the FDOT “may provide in its construction contracts for retaining a portion of the amount due a contractor for work that the contractor has completed, until completion and final acceptance of the project by the department.”³¹

Section 337.11(11)(a), F.S., authorizes a *prime contractor*, as opposed to the FDOT, to withhold amounts from progress payments made by the FDOT to a prime contractor pursuant to a prime contractor’s agreement with a subcontractor for work completed and materials furnished.

Effect of Proposed Changes

The bill revises certain time frames specified in s. 337.18(1)(d), F.S. The bill provides that an action, except for an action for recovery of retainage, must be instituted by a claimant, against the contractor or the surety on the payment bond or the payment provisions of a combined payment and performance bond within 365 days after the performance of the labor or completion of delivery of the materials or supplies. An action for recovery of retainage must be instituted against the contractor or the surety within 365 days after final acceptance of the contract work by the FDOT.

According to the FDOT, s. 337.18(1)(d), F.S., requires claimants to institute an action against a contractor or surety within 365 days after the FDOT’s final acceptable. While the bill retains this timeline as to an action to recover retainage, it shortens the time to institute an action for payment for labor or materials/supplies by beginning the 365-day timeframe at the time of performance or delivery rather than final acceptance.³²

²⁹ Section 337.015(5), F.S.

³⁰ Black’s Law Dictionary, 2nd Edition.

³¹ *Supra* note 1 at 3.

³² *Id.* at 11

Medical Marijuana/Cause of Impairment (Section 7)

Present Situation

Florida law provides a presumption that a driver of a motor vehicle under the influence of specified substances, including alcohol and certain controlled substances, while involved in a crash in a construction zone is the sole proximate cause of his or her own personal injury, property damage, or death. This presumption can be overcome only if the gross negligence or intentional misconduct of the FDOT, or of its agents, consultants, or contractors, was a proximate cause of the driver's injury, damage, or death.³³

Effect of Proposed Changes

The bill revises the presumption of impairment in s. 337.195(1), F.S., providing that the sole proximate cause on the part of an under-the-influence driver of a vehicle involved in a crash within a construction zone to exclude low-THC cannabis from the list of controlled substances.

FDOT Contractor Limits on Liability (Section 7)

Present Situation

Section 337.195, F.S., limits the liability of the FDOT's construction and maintenance contractors performing services to the FDOT under certain circumstances and limits the liability of a person or entity contracting with the FDOT to provide engineering plans for construction or repair of highway, road, street, bridge, or other transportation facility under certain circumstances.

Section 337.195(2), F.S., provides that a contractor who constructs, maintains, or repairs a highway, road, street, bridge, or other transportation facility for the FDOT is not liable to a claimant for personal injury, property damage, or death arising from the performance of the construction, maintenance, or repair if, at the time of the personal injury, property damage, or death, the contractor was in compliance with contract documents material to the condition that was the proximate cause of the personal injury, property damage, or death.

Section 337.195(2)(a), F.S., provides that a limitation on liability does not apply when the proximate cause of the personal injury, property damage, or death is a latent condition, defect, error, or omission that was created by the contractor and not a defect, error, or omission in the contract documents; or when the proximate cause of the personal injury, property damage, or death was the contractor's failure to perform, update, or comply with the maintenance of the traffic safety plan as required by the contract documents.

For a person or entity who contracts with FDOT to prepare or provide engineering plans, s. 337.195(3), F.S., provides that in all cases involving personal injury, property damage, or death, a person or entity who contracts to prepare or provide engineering plans for the construction or repair of a highway, road, street, bridge, or other transportation facility for FDOT is presumed to have prepared such engineering plans using the degree of care and skill ordinarily exercised by other engineers in the field under similar conditions and in similar localities and with due

³³ Section 337.195(1), F.S.

regard for acceptable engineering standards and principles if the engineering plans conformed to the FDOT's design standards material to the condition or defect that was the proximate cause of the personal injury, property damage, or death. This presumption can be overcome only upon a showing of the person's or entity's gross negligence in the preparation of the engineering plans and may not be interpreted or construed to alter or affect any claim of the FDOT against such person or entity. This limitation on liability does not apply to any hidden or undiscoverable condition created by the engineer. This does not affect any claim of any entity against such engineer or engineering firm, which claim is associated with such entity's facilities on or in the FDOT's roads or other transportation facilities.

Regarding civil actions against the FDOT or its agents, consultants, engineers, or contractors, section 337.195(4), F.S., provides that in any civil action for death, injury, or damages against the FDOT or its agents, consultants, engineers, or contractors for work performed on a highway, road, street, bridge, or other transportation facility, if the department, its agents, consultants, engineers, or contractors are immune from liability pursuant to s. 337.195, F.S., or are not parties to the litigation, they may not be named on the jury verdict form or be found to be at fault or responsible for the injury, death, or damage that gave rise to the damages.

Construction, Engineering and Inspection Firms under FDOT Contract

Section 768.28, F.S., governs waiver of sovereign immunity for tort actions for the state and for its agencies and subdivisions. Under s. 768.28(10)(e), F.S., a professional firm that provides monitoring and inspection services of work required for state roadway, bridge, or other transportation facility construction projects, or any of the firm's employees performing such services, are considered agents of the FDOT while acting within the scope of the firm's contract with the FDOT to ensure that the project is constructed in conformity with the project's plans, specifications, and contract provisions.³⁴

Any contract between the professional firm and the state, to the extent permitted by law, must provide for the indemnification of the FDOT for any liability, including reasonable attorney's fees, incurred up to the limits set out in ch. 768, F.S., to the extent caused by the negligence of the firm or its employees.³⁵

However, s. 768.28(10)(a), F.S., is not applicable to the professional firm or its employees if involved in an accident while operating a motor vehicle. Additionally, s. 768.28(10)(a), F.S., is not applicable to a firm engaged by the FDOT for the design or construction of a state roadway, bridge, or other transportation facility construction project or to its employees, agents, or subcontractors.³⁶

FDOT Contract Documents

While the term "contract documents" is not defined in statute, the FDOT's Standards Specifications for Road and Bridge Construction defines the term to include: the "Advertisement for Proposal, Proposal, Certification as to Publication and Notice of Advertisement for Proposal, Appointment of Agent by Nonresident Contractors, Noncollusion Affidavit, Warranty

³⁴ *Supra* note 1 at 4.

³⁵ *Id.*

³⁶ *Id.*

Concerning Solicitation of the Contract by Others, Resolution of Award of Contract, Executed Form of Contract, Performance Bond and Payment Bond, Specifications, Plans (including revisions thereto issued during construction), Estimated Quantities Report, Standard Plans, Addenda, or other information mailed or otherwise transmitted to the prospective bidders prior to the receipt of bids, work orders and supplemental agreements, all of which are to be treated as one instrument whether or not set forth at length in the form of contract.”³⁷

Maintenance of Traffic Plans

Section 337.11(14), F.S., requires that each the FDOT contract for road or bridge construction or maintenance work contain a traffic maintenance plan showing appropriate regulatory signs and traffic control devices for the work zone area. Traffic maintenance plans are, therefore, part of the contract documents.

Maintenance of traffic “includes all facilities, devices, and operations as required for safety and convenience of the public within the work zone.”³⁸ Maintenance of traffic involves activities such as constructing and maintaining detours; providing facilities for access to residences and businesses; furnishing, installing, and maintaining traffic control and safety devices during construction; and furnishing and installing work zone pavement markings in construction areas.

Effect of Proposed Changes

The bill amends s. 337.195, F.S., regarding limits on liability. The bill defines the term “contract documents” to have same meaning as in the FDOT’s Standard Specifications for Road and Bridge Construction applicable under the contract between the FDOT and the contractor. According to the FDOT, this definition does not appear to contemplate that contracts can be amended during a project or to include specifications that are applicable to the FDOT maintenance contracts.³⁹

The bill defines the term “contractor” to mean a person or an entity, at any contractual tier, including any member of a design-build team, who, pursuant to s. 337.11, F.S., constructs, maintains, or repairs a highway, road, street, bridge, or other transportation facility for the FDOT or in connection with a FDOT project.

According to the FDOT, its Standard Specification 8-1 states: “The Department recognizes a subcontractor only in the capacity of an employee or agent of the Contractor, and the Engineer may require the Contractor to remove the subcontractor as in the case of an employee.” The bill appears to separate the subcontractor from the supervision and general responsibility of the Contractor – inconsistent with the subcontractor being recognized as an employee of the

³⁷ See section 1-3 of the FDOT’s Standard Specifications for Road and Bridge Construction (Standard Specs) available at https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/programmanagement/implemented/specbooks/fy-2023-24/fy2023-24ebook.pdf?sfvrsn=6b69416d_24 (last visited January 4, 2024). Note that for purposes of certain provisions of the Standard Specs, the term does not include work orders and supplementary agreement, or Resolution of Award of Contract, Executed Form of Contract, and Performance and Payment Bond.

³⁸ See section 102-1 of FDOT’s Standard Specs

³⁹ *Supra* note 1 at 11.

Contractor. The FDOT pays the Contractor to supervise its subcontractors which is shown by the mark-up for extra work.⁴⁰

The bill defines the term “design engineer” to mean a person or an entity, including the design consultant of a design-build team, who contracts to prepare or provide engineering plans, including traffic control plans, for the construction or repair of a highway, road, street, bridge, or other the FDOT transportation facility for the FDOT or in connection with a FDOT project.

The bill defines the term “traffic control plans” to mean the maintenance of traffic plans designed by a professional engineer, or otherwise in accordance with the FDOT’s maintenance of traffic standards and approved by the FDOT.

The bill provides that a contractor is not liable for personal injury, property damage, or death arising from any of the following:

- The performance of the construction, maintenance, or repair of the transportation facility, if, at the time the personal injury, property damage, or death occurred, the contractor was in compliance with the contract documents material to the personal injury, property damage, or death.
- Acts or omissions of a third party that furnishes or contracts at any contractual level to furnish services or materials to the transportation facility, including any subcontractor; sub-subcontractor; laborer; materialman; owner, lessor, or driver of a motor vehicle, trailer, semitrailer, truck, heavy truck, truck tractor, or commercial motor vehicle; or any person who performs services as an architect, a landscape architect, an interior designer, an engineer, or a surveyor and mapper.
- Acts or omissions of a third party who trespasses within the limits of the transportation facility or otherwise is not authorized to enter the area of the transportation facility in which the personal injury, property damage, or death occurred. According to the FDOT, there may be instances where the trespassing was unintentional, such as a motor vehicle accident or a third party’s vehicle breaking down.⁴¹
- Acts or omissions of a third party who damages, modifies, moves, or removes any traffic control device, warning device, barrier, or other facility or device used for the public’s safety and convenience. According to the FDOT, there may be instances where the acts or omission of a third party were unintentional, such as a motor vehicle accident that resulted in damaging, modifying, or moving a traffic control device.⁴²

The bill provides that the limitations on liability do not apply when the proximate cause of the personal injury, property damage, or death is a latent condition, defect, error, or omission that was created by the contractor and not a defect, error, or omission in the traffic control plans, or when the proximate cause of the personal injury, property damage, or death was the contractor’s failure to comply with the traffic control plans as required by contract documents.

The bill provides that the limitation on liability may not be interpreted or construed as relieving the contractor of any obligation to provide the FDOT with written notice of any apparent error or

⁴⁰ *Id.*

⁴¹ *Id.* at 12.

⁴² *Id.*

omission in the contract documents, or as relieving the contractor of his or her contract responsibility to manage the work of others performing under the contract.

The bill provides that this limitation of liability may not be interpreted or construed to alter or amend any provision of the Workers' Compensation Law,⁴³ which takes precedence in the event of any conflict with provisions in this law.

The bill also provides that this limitation on liability does not preclude liability where the contractor's negligence is the proximate cause of the personal injury, property damage, or death.

The bill repeals existing s. 337.195(4), F.S., concerning civil actions for death, injury, or damages against the FDOT or its agents, consultants, engineers, or contractors for work performed on a highway, road, street, bridge, or other transportation facility.

Local Agency Program (Section 8)

Present Situation

Under its Local Agency Program (LAP), the FDOT administers several federal grant programs to provide sub-recipient towns, cities and counties funding to develop, design, and construct transportation facilities. The FDOT is the steward of the federal funds and is responsible for oversight of funded projects on behalf of the Federal Highway Administration (FHWA). Local agencies must be certified to deliver LAP projects.⁴⁴

A LAP may include a wide range of projects, from very simple enhancement projects to the development and construction of major transportation facilities. Federal funds may be authorized for the following project phases:

- Planning;
- Project development and engineering (PD&E) studies;
- Preliminary Engineering;
- Design;
- Right of Way;
- Construction; and
- Construction Engineering and Inspection⁴⁵

Certification and recertification is required for local agencies participating in LAP projects. This certification documents the local agency's capability and proficiency in delivering transportation projects under the program. LAP is the required project delivery mechanism for Federal-aid projects administered by local agencies because the FDOT has established oversight policies and monitoring procedures in LAP that ensure that federal requirements are met throughout project delivery.⁴⁶

⁴³ Chapter 440, F.S.

⁴⁴ Department of Transportation, Program Management/Local Programs, <https://www.fdot.gov/programmanagement/lp/lp> (last visited January 4, 2024).

⁴⁵ *Id.*

⁴⁶ *Id.*

FDOT and FHWA retain responsibility for the following:

- Project selection;
- Authorization of funds;
- Determination of National Environmental Policy Act (NEPA) environmental class of action;
- Right of way certification;
- Approval of final plans, specifications, and estimates for all projects;
- Final inspection;
- Equal Employment Opportunity Contract Compliance Program; and
- Disadvantaged Business Enterprise Program.⁴⁷

Receiving federal funds to deliver a LAP project, “federalizes” the project and requires that all phases of project development be completed or retrofitted to comply with applicable federal rules and regulations,⁴⁸ including the federal Uniform Act for right of way acquisition, the National Environmental Policy Act (NEPA), and Buy America.⁴⁹

Federal regulations do not allow the FDOT to delegate the certification of right of way or the determination of environmental class of action. The FDOT must prequalify local agencies on a project-by-project basis to acquire right of way or perform PD&E phases. The local agency must obtain the FDOT’s authorization to proceed with right of way activities after qualification and prior to beginning any right of way activities on the project. Any funds expended or costs incurred prior to authorization will not be reimbursed.⁵⁰

Effect of Proposed Changes

The bill creates s. 339.2820, F.S., creating within the FDOT a local agency program for providing assistance to subrecipient agencies, which include counties, municipalities, intergovernmental agencies and other eligible governmental entities, to develop, design, and construct transportation facilities using federal funds allocated to the FDOT from federal agencies which are awarded to local agencies. The FDOT must update the project cost estimate in the year the project is granted to the local agency and include a contingency amount as part of the project cost estimate.

The FDOT is authorized to oversee projects funded FHWA. Local agencies must prioritize budgeting local projects through their respective metropolitan planning organizations or governing boards so that those organizations or boards may receive reimbursement for the services they provide to the public which are in compliance with applicable federal statutes, rules, and regulations.

Federal-aid highway funds are available only to local agencies that are certified by the FDOT based on the agencies’ qualifications, experience, and ability to comply with federal requirements, and ability to undertake and satisfactorily complete the work.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ FDOT, *LAP Frequently Asked Questions*, available at <https://www.fdot.gov/programmanagement/LAP/FAQ.shtm> (last visited January 4, 2024).

⁵⁰ *Id.*

At a minimum, local agencies must include in their contracts to develop, design, or construct transportation facilities, the FDOT's Division I General Requirements and Covenants for local agencies and a contingency amount in the project cost to account for unforeseen conditions.

Effective Date (Section 10)

The bill takes effect July 1, 2024.

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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Interim agreements on P3 projects may reduce costs associated with project risk because it allows the private entity to perform the necessary due diligence as the final contract is being negotiated.⁵¹

C. Government Sector Impact:

The bill provides that the FDOT may not annually commit, with specified exceptions, more than 20 percent of the revenues derived from state fuel taxes and motor vehicle license-related fees deposited into the STTF to public transit projects. This funding cap limits the total amount of state discretionary funding the FDOT can provide to local

⁵¹ *Supra* Note 1 at 9.

governments and transit agencies.⁵² This may have an indeterminate negative fiscal impact on local governments and public transit agencies.

The bill may have an indeterminate positive fiscal impact on the FDOT and its contractors to the extent that such contractors benefit from the affirmative defenses from liability for personal injury, property damage, or death that may occur due to a motor vehicle crash within a construction zone.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 206.46, 288.9606, 334.30, 337.11, 336.044, 337.18, 337.195, and 339.2825.

This bill creates section 339.2820 of the Florida Statutes.

IX. Additional Information:

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

CS by Appropriations Committee on Transportation, Tourism, and Economic Development on February 8, 2024:

The committee substitute:

- Requires the FDOT to notify the Division of Bond Finance before entering into an interim agreement or comprehensive agreement under its P3 statute.
- Clarifies that a local government entity may not deem reclaimed asphalt pavement material as solid waste.
- Authorizes the FDOT to allow the issuance of multiple contract performance and payment bonds for phased design-build contracts.
- Provides that the bill's limitations of liability provisions may not be interpreted or construed to alter or amend any of the Worker's Compensation Law, and in the event of any conflict, the Workers' Compensation Law takes precedence.
- Provides that the limits of liability do not preclude liability where the contractor's negligence is the proximate cause of personal injury, property damage, or death.
- Removes provisions relating to utility relocation.

⁵² *Id.* at 9.

CS by Transportation on January 17, 2024:

Makes conforming changes regarding comprehensive agreements for public-private partnership agreements.

- Removes language requiring the FDOT to pay interest at the judgement interest rate for amounts that remain 75 days after the completion of added work or the eliminate of a project delay.
- Clarifies that for design-build and phased design-build contracts, the FDOT must receive at least three letters of interest in order to proceed with requests for proposals.
- Revises the definitions of “design engineer” as it relates to limitations of liability to include an entity.
- Changes the contractor’s immunity from liability to the contractor being in compliance with the contract documents, instead of the traffic control plan.
- Reiterates that contractors retain responsibility to manage the work of others performing under the contract.
- Requires utility relocation agreements with the FDOT to contain a reasonable relocation schedule to expedite the completion of the FDOT projects and specify a reasonable liquidated damages amount for work that is incomplete beyond the completion date.
- Requires utilities to provide a reasonable utility relocation schedule to expedite the completion of construction or maintenance project on a transportation facility.
- Requires utilities to pay authorities reasonable costs, including liquidated damages, from the utility’s failure or refusal to perform the work.
- Removes language limiting the designation of additional metropolitan planning organizations.
- Makes technical corrections to provisions relating to the Local Agency Program.
- Makes other technical and conforming changes.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/09/2024	.	
	.	
	.	
	.	

The Appropriations Committee on Transportation, Tourism, and Economic Development (Hooper) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (6) is added to section 206.46,
Florida Statutes, to read:

206.46 State Transportation Trust Fund.—

(6) The department may not annually commit more than 20
percent of the revenues derived from state fuel taxes and motor
vehicle license-related fees deposited into the State



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11 Transportation Trust Fund to public transit projects, in
12 accordance with chapter 341. However, this subsection does not
13 apply to either of the following:

14 (a) A public transit project that uses revenues derived
15 from state fuel taxes and motor vehicle license-related fees to
16 match funds made available by the Federal Government.

17 (b) A public transit project included in the transportation
18 improvement program adopted pursuant to s. 339.175(8) and
19 approved by a supermajority vote of the board of county
20 commissioners where the project is located.

21 Section 2. Subsections (6) and (7) of section 288.9606,
22 Florida Statutes, are amended to read:

23 288.9606 Issue of revenue bonds.—

24 (6) The proceeds of any bonds of the corporation may not be
25 used, in any manner, to acquire any building or facility that
26 will be, during the pendency of the financing, used by, occupied
27 by, leased to, or paid for by any state, county, or municipal
28 agency or entity. This subsection does not prohibit the use of
29 proceeds of bonds of the corporation for the purpose of
30 financing the acquisition or construction of a transportation
31 facility under a comprehensive ~~public-private partnership~~
32 agreement authorized by s. 334.30.

33 (7) Notwithstanding any provision of this section, the
34 corporation in its corporate capacity may, without authorization
35 from a public agency under s. 163.01(7), issue revenue bonds or
36 other evidence of indebtedness under this section to:

37 (a) Finance the undertaking of any project within the state
38 that promotes renewable energy as defined in s. 366.91 or s.
39 377.803;



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40 (b) Finance the undertaking of any project within the state
41 that is a project contemplated or allowed under s. 406 of the
42 American Recovery and Reinvestment Act of 2009; ~~or~~

43 (c) If permitted by federal law, finance qualifying
44 improvement projects within the state under s. 163.08; ~~or-~~

45 (d) Finance the costs of acquisition or construction of a
46 transportation facility by a private entity or consortium of
47 private entities under a comprehensive ~~public-private~~
48 ~~partnership~~ agreement authorized by s. 334.30.

49 Section 3. Present subsections (8) through (13) of section
50 334.30, Florida Statutes, are redesignated as subsections (9)
51 through (14), respectively, a new subsection (8) is added to
52 that section, and subsections (1), (2), and (6) and present
53 subsections (8), (10), (11), and (13) of that section are
54 amended, to read:

55 334.30 Public-private transportation facilities.—The
56 Legislature finds and declares that there is a public need for
57 the rapid construction of safe and efficient transportation
58 facilities for the purpose of traveling within the state, and
59 that it is in the public's interest to provide for the
60 construction of additional safe, convenient, and economical
61 transportation facilities.

62 (1) The department may receive or solicit proposals and,
63 with legislative approval as evidenced by approval of the
64 project in the department's work program, enter into
65 comprehensive agreements with private entities, or consortia
66 thereof, for the building, operation, ownership, or financing of
67 transportation facilities. The department may advance projects
68 programmed in the adopted 5-year work program or projects



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69 increasing transportation capacity and greater than \$500 million
70 in the 10-year Strategic Intermodal Plan using funds provided by
71 public-private partnerships or private entities to be reimbursed
72 from department funds for the project as programmed in the
73 adopted work program. The department shall by rule establish an
74 application fee for the submission of unsolicited proposals
75 under this section. The fee must be sufficient to pay the costs
76 of evaluating the proposals. The department may engage the
77 services of private consultants to assist in the evaluation.
78 Before approval, the department must determine that the proposed
79 project:

80 (a) Is in the public's best interest;

81 (b) Would not require state funds to be used unless the
82 project is on the State Highway System;

83 (c) Would have adequate safeguards in place to ensure that
84 no additional costs or service disruptions would be realized by
85 the traveling public and residents of the state in the event of
86 default or cancellation of the comprehensive agreement by the
87 department;

88 (d) Would have adequate safeguards in place to ensure that
89 the department or the private entity has the opportunity to add
90 capacity to the proposed project and other transportation
91 facilities serving similar origins and destinations; and

92 (e) Would be owned by the department upon completion or
93 termination of the comprehensive agreement.

94

95 The department shall ensure that all reasonable costs to the
96 state, related to transportation facilities that are not part of
97 the State Highway System, are borne by the private entity. The



98 department shall also ensure that all reasonable costs to the
99 state and substantially affected local governments and
100 utilities, related to the private transportation facility, are
101 borne by the private entity for transportation facilities that
102 are owned by private entities. For projects on the State Highway
103 System, the department may use state resources to participate in
104 funding and financing the project as provided for under the
105 department's enabling legislation. Because the Legislature
106 recognizes that private entities or consortia thereof would
107 perform a governmental or public purpose or function when they
108 enter into comprehensive agreements with the department to
109 design, build, operate, own, or finance transportation
110 facilities, the transportation facilities, including leasehold
111 interests thereof, are exempt from ad valorem taxes as provided
112 in chapter 196 to the extent property is owned by the state or
113 other government entity, and from intangible taxes as provided
114 in chapter 199 and special assessments of the state, any city,
115 town, county, special district, political subdivision of the
116 state, or any other governmental entity. The private entities or
117 consortia thereof are exempt from tax imposed by chapter 201 on
118 all documents or obligations to pay money which arise out of the
119 comprehensive agreements to design, build, operate, own, lease,
120 or finance transportation facilities. Any private entities or
121 consortia thereof must pay any applicable corporate taxes as
122 provided in chapter 220, and reemployment assistance taxes as
123 provided in chapter 443, and sales and use tax as provided in
124 chapter 212 shall be applicable. The private entities or
125 consortia thereof must also register and collect the tax imposed
126 by chapter 212 on all their direct sales and leases that are



127 subject to tax under chapter 212. The comprehensive agreement
128 between the private entity or consortia thereof and the
129 department establishing a transportation facility under this
130 chapter constitutes documentation sufficient to claim any
131 exemption under this section.

132 (2) Comprehensive agreements entered into pursuant to this
133 section may authorize the private entity to impose tolls or
134 fares for the use of the facility. The following provisions
135 shall apply to such agreements:

136 (a) With the exception of the Florida Turnpike System, the
137 department may lease existing toll facilities through public-
138 private partnerships. The comprehensive ~~public-private~~
139 ~~partnership~~ agreement must ensure that the transportation
140 facility is properly operated, maintained, and renewed in
141 accordance with department standards.

142 (b) The department may develop new toll facilities or
143 increase capacity on existing toll facilities through public-
144 private partnerships. The comprehensive ~~public-private~~
145 ~~partnership~~ agreement must ensure that the toll facility is
146 properly operated, maintained, and renewed in accordance with
147 department standards.

148 (c) Any toll revenues shall be regulated by the department
149 pursuant to s. 338.165(3). The regulations governing the future
150 increase of toll or fare revenues shall be included in the
151 comprehensive ~~public-private partnership~~ agreement.

152 (d) The department shall provide the analysis required in
153 subparagraph (6)(e)2. to the Legislative Budget Commission
154 created pursuant to s. 11.90 for review and approval prior to
155 awarding a contract on a lease of an existing toll facility.



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156 (e) The department shall include provisions in the
157 comprehensive public-private partnership agreement which that
158 ensure a negotiated portion of revenues from tolled or fare
159 generating projects are returned to the department over the life
160 of the comprehensive public-private partnership agreement. In
161 the case of a lease of an existing toll facility, the department
162 shall receive a portion of funds upon closing on the
163 comprehensive agreement ~~agreements~~ and shall also include
164 provisions in the comprehensive agreement to receive payment of
165 a portion of excess revenues over the life of the public-private
166 partnership.

167 (f) The private entity shall provide an independent
168 ~~investment grade~~ traffic and revenue study prepared by a an
169 ~~internationally recognized~~ traffic and revenue expert as part of
170 the private entity proposal. The study must be ~~that is~~ accepted
171 by the national bond rating agencies before closing on the
172 financing that supports the comprehensive agreement for the
173 public-private partnership project. The private entity shall
174 also provide a finance plan that identifies the project cost,
175 revenues by source, financing, major assumptions, internal rate
176 of return on private investments, and whether any government
177 funds are assumed to deliver a cost-feasible project, and a
178 total cash flow analysis beginning with implementation of the
179 project and extending for the term of the comprehensive
180 agreement.

181 (6) The procurement of public-private partnerships by the
182 department shall follow the provisions of this section. Sections
183 337.025, 337.11, 337.14, 337.141, 337.145, 337.175, 337.18,
184 337.185, 337.19, 337.221, and 337.251 may ~~shall~~ not apply to



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185 procurements under this section unless a provision is included
186 in the procurement documents. The department shall ensure that
187 generally accepted business practices for exemptions provided by
188 this subsection are part of the procurement process or are
189 included in the comprehensive ~~public-private partnership~~
190 agreement.

191 (a) The department may request proposals from private
192 entities for public-private transportation projects or, if the
193 department receives an unsolicited proposal, the department
194 shall publish a notice in the Florida Administrative Register
195 and a newspaper of general circulation at least once a week for
196 2 weeks stating that the department has received the proposal
197 and will accept, for between 30 and 120 days after the initial
198 date of publication as determined by the department based on the
199 complexity of the project, other proposals for the same project
200 purpose. A copy of the notice must be mailed to each local
201 government in the affected area.

202 (b) Public-private partnerships shall be qualified by the
203 department as part of the procurement process as outlined in the
204 procurement documents, provided such process ensures that the
205 private firm meets at least the minimum department standards for
206 qualification in department rule for professional engineering
207 services and road and bridge contracting prior to submitting a
208 proposal under the procurement.

209 (c) The department shall ensure that procurement documents
210 include provisions for performance of the private entity and
211 payment of subcontractors, including, but not limited to, surety
212 bonds, letters of credit, parent company guarantees, and lender
213 and equity partner guarantees. The department shall balance the



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214 structure of the security package for the public-private
215 partnership that ensures performance and payment of
216 subcontractors with the cost of the security to ensure the most
217 efficient pricing.

218 (d) After the public notification period has expired, the
219 department shall rank the proposals in order of preference. In
220 ranking the proposals, the department may consider factors that
221 include, but are not limited to, professional qualifications,
222 general business terms, innovative engineering or cost-reduction
223 terms, finance plans, and the need for state funds to deliver
224 the project. If the department is not satisfied with the results
225 of the negotiations, the department may, at its sole discretion,
226 terminate negotiations with the proposer. If these negotiations
227 are unsuccessful, the department may go to the second-ranked and
228 lower-ranked firms, in order, using this same procedure. If only
229 one proposal is received, the department may negotiate in good
230 faith and, if the department is not satisfied with the results
231 of the negotiations, the department may, at its sole discretion,
232 terminate negotiations with the proposer. Notwithstanding this
233 subsection, the department may, at its discretion, reject all
234 proposals at any point in the process up to completion of a
235 contract with the proposer.

236 (e) The department shall provide an independent analysis of
237 the proposed public-private partnership that demonstrates the
238 cost-effectiveness and overall public benefit at the following
239 times:

- 240 1. Prior to moving forward with the procurement; and
- 241 2. If the procurement moves forward, prior to awarding the
242 contract.



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243 (8) Before or in connection with the negotiation of a
244 comprehensive agreement, the department may enter into an
245 interim agreement with the private entity proposing the
246 development or operation of a qualifying project. An interim
247 agreement does not obligate the department to enter into a
248 comprehensive agreement. The interim agreement is discretionary
249 with the parties and is not required on a project for which the
250 parties may proceed directly to a comprehensive agreement
251 without the need for an interim agreement. An interim agreement
252 must be limited to any of the following provisions that:

253 (a) Authorize the private entity to commence activities for
254 which it may be compensated related to the proposed qualifying
255 project, including, but not limited to, project planning and
256 development, designing, environmental analysis and mitigation,
257 surveying, other activities concerning any part of the proposed
258 qualifying project, and ascertaining the availability of
259 financing for the proposed facility or facilities.

260 (b) Establish the process and timing for the negotiation of
261 the comprehensive agreement.

262 (c) Contain such other provisions related to an aspect of
263 the development or operation of a qualifying project which the
264 department and the private entity deem appropriate.

265 (9) ~~(8)~~ The department may enter into comprehensive public-
266 private partnership agreements that include extended terms
267 providing annual payments for performance based on the
268 availability of service or the facility being open to traffic or
269 based on the level of traffic using the facility. In addition to
270 other provisions in this section, the following provisions shall
271 apply:



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272 (a) The annual payments under any such comprehensive
273 agreement ~~must shall~~ be included in the department's tentative
274 work program developed under s. 339.135 and the long-range
275 transportation plan for the applicable metropolitan planning
276 organization developed under s. 339.175. The department shall
277 ensure that annual payments on multiyear comprehensive public-
278 ~~private partnership~~ agreements are prioritized ahead of new
279 capacity projects in the development and updating of the
280 tentative work program.

281 (b) The annual payments are subject to annual appropriation
282 by the Legislature as provided in the General Appropriations Act
283 in support of the first year of the tentative work program.

284 ~~(11)-(10)~~ Before ~~Prior to~~ entering into any comprehensive
285 ~~such~~ agreement in which ~~where~~ funds are committed from the State
286 Transportation Trust Fund, the project must be prioritized as
287 follows:

288 (a) The department, in coordination with the local
289 metropolitan planning organization, shall prioritize projects
290 included in the Strategic Intermodal System 10-year and long-
291 range cost-feasible plans.

292 (b) The department, in coordination with the local
293 metropolitan planning organization or local government where
294 there is no metropolitan planning organization, shall prioritize
295 projects, for facilities not on the Strategic Intermodal System,
296 included in the metropolitan planning organization cost-feasible
297 transportation improvement plan and long-range transportation
298 plan.

299 ~~(12)-(11)~~ Comprehensive ~~Public-private partnership~~
300 agreements under this section are ~~shall be~~ limited to a term not



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301 exceeding 50 years. Upon making written findings that a
302 comprehensive ~~an~~ agreement under this section requires a term in
303 excess of 50 years, the secretary of the department may
304 authorize a term of up to 75 years for projects that are
305 partially or completely funded from project user fees.

306 Comprehensive agreements under this section may ~~shall~~ not have a
307 term in excess of 75 years unless specifically approved by the
308 Legislature. The department shall identify each new project
309 under this section with a term exceeding 75 years in the
310 transmittal letter that accompanies the submittal of the
311 tentative work program to the Governor and the Legislature in
312 accordance with s. 339.135.

313 (14) ~~(13)~~ In connection with a proposal to finance or
314 refinance a transportation facility pursuant to this section,
315 the department shall consult with the Division of Bond Finance
316 of the State Board of Administration. The department shall
317 notify the division before entering into an interim agreement or
318 comprehensive agreement and provide the division with the
319 information necessary to provide timely consultation and
320 recommendations. The Division of Bond Finance may make an
321 independent recommendation to the Executive Office of the
322 Governor.

323 Section 4. Subsection (5) of section 336.044, Florida
324 Statutes, is amended to read:

325 336.044 Use of recyclable materials in construction.-

326 (5) Notwithstanding any law, rule, or ordinance to the
327 contrary, a local governmental entity may not adopt standards or
328 specifications that are contrary to the department standards or
329 specifications for permissible use of reclaimed asphalt pavement



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330 material or deem reclaimed asphalt pavement material as in
331 ~~construction. For purposes of this section, such material may~~
332 ~~not be considered~~ solid waste.

333 Section 5. Paragraph (e) of subsection (7) and subsection
334 (13) of section 337.11, Florida Statutes, are amended to read:

335 337.11 Contracting authority of department; bids; emergency
336 repairs, supplemental agreements, and change orders; combined
337 design and construction contracts; progress payments; records;
338 requirements of vehicle registration.-

339 (7)

340 (e) For design-build contracts and phased design-build
341 contracts, the department must receive at least three letters of
342 interest in order to proceed with a request for proposals. The
343 department shall request proposals from no fewer than three of
344 the ~~design-build~~ firms submitting letters of interest. If a
345 ~~design-build~~ firm withdraws from consideration after the
346 department requests proposals, the department may continue if at
347 least two proposals are received.

348 (13) Any motor vehicle used in ~~Each contract let by the~~
349 ~~department for~~ the performance of road or bridge construction or
350 maintenance work on a department project must ~~shall require all~~
351 ~~motor vehicles that the contractor operates or causes to be~~
352 ~~operated in this state to~~ be registered in compliance with
353 chapter 320.

354 Section 6. Paragraphs (a) and (d) of subsection (1) of
355 section 337.18, Florida Statutes, are amended to read:

356 337.18 Surety bonds for construction or maintenance
357 contracts; requirement with respect to contract award; bond
358 requirements; defaults; damage assessments.-



359 (1) (a) A surety bond shall be required of the successful
360 bidder in an amount equal to the awarded contract price.
361 However, the department may choose, in its discretion and
362 applicable only to multiyear maintenance contracts, to allow for
363 incremental annual contract bonds that cumulatively total the
364 full, awarded, multiyear contract price. The department may also
365 choose, in its discretion and applicable only to phased design-
366 build construction contracts under s. 337.11(7) (b), to allow the
367 issuance of multiple contract performance and payment bonds in
368 succession to align with each phase of the contract to meet the
369 bonding requirement in this subsection.

370 1. The department may waive the requirement for all or a
371 portion of a surety bond if:

372 a. The contract price is \$250,000 or less and the
373 department determines that the project is of a noncritical
374 nature and that nonperformance will not endanger public health,
375 safety, or property;

376 b. The prime contractor is a qualified nonprofit agency for
377 the blind or for the other severely handicapped under s.
378 413.036(2); or

379 c. The prime contractor is using a subcontractor that is a
380 qualified nonprofit agency for the blind or for the other
381 severely handicapped under s. 413.036(2). However, the
382 department may not waive more than the amount of the
383 subcontract.

384 2. If the Secretary of Transportation or the secretary's
385 designee determines that it is in the best interests of the
386 department to reduce the bonding requirement for a project and
387 that to do so will not endanger public health, safety, or



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388 property, the department may waive the requirement of a surety
389 bond in an amount equal to the awarded contract price for a
390 project having a contract price of \$250 million or more and, in
391 its place, may set a surety bond amount that is a portion of the
392 total contract price and provide an alternate means of security
393 for the balance of the contract amount that is not covered by
394 the surety bond or provide for incremental surety bonding and
395 provide an alternate means of security for the balance of the
396 contract amount that is not covered by the surety bond. Such
397 alternative means of security may include letters of credit,
398 United States bonds and notes, parent company guarantees, and
399 cash collateral. The department may require alternate means of
400 security if a surety bond is waived. The surety on such bond
401 shall be a surety company authorized to do business in the
402 state. All bonds shall be payable to the department and
403 conditioned for the prompt, faithful, and efficient performance
404 of the contract according to plans and specifications and within
405 the time period specified, and for the prompt payment of all
406 persons defined in s. 713.01 furnishing labor, material,
407 equipment, and supplies for work provided in the contract;
408 however, whenever an improvement, demolition, or removal
409 contract price is \$25,000 or less, the security may, in the
410 discretion of the bidder, be in the form of a cashier's check,
411 bank money order of any state or national bank, certified check,
412 or postal money order. The department shall adopt rules to
413 implement this subsection. Such rules shall include provisions
414 under which the department shall refuse to accept bonds on
415 contracts when a surety wrongfully fails or refuses to settle or
416 provide a defense for claims or actions arising under a contract



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417 for which the surety previously furnished a bond.

418 (d) An action, except for an action for recovery of
419 retainage, must be instituted by a claimant, whether in privity
420 with the contractor or not, against the contractor or the surety
421 on the payment bond or the payment provisions of a combined
422 payment and performance bond within 365 days after the
423 performance of the labor or completion of delivery of the
424 materials or supplies. An action for recovery of retainage must
425 be instituted against the contractor or the surety within 365
426 days after final acceptance of the contract work by the
427 department. A claimant may not waive in advance his or her right
428 to bring an action under the bond against the surety. In any
429 action brought to enforce a claim against a payment bond under
430 this section, the prevailing party is entitled to recover a
431 reasonable fee for the services of his or her attorney for trial
432 and appeal or for arbitration, in an amount to be determined by
433 the court, which fee must be taxed as part of the prevailing
434 party's costs, as allowed in equitable actions.

435 Section 7. Section 337.195, Florida Statutes, is amended to
436 read:

437 337.195 Limits on liability.—

438 (1) In a civil action for the death of or injury to a
439 person, or for damage to property, against the Department of
440 Transportation or its agents, consultants, or contractors for
441 work performed on a highway, road, street, bridge, or other
442 transportation facility when the death, injury, or damage
443 resulted from a motor vehicle crash within a construction zone
444 in which the driver of one of the vehicles was under the
445 influence of alcoholic beverages as set forth in s. 316.193,



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446 under the influence of any chemical substance as set forth in s.
447 877.111, or illegally under the influence of any substance
448 controlled under chapter 893, excluding low-THC cannabis, to the
449 extent that her or his normal faculties were impaired or that
450 she or he operated a vehicle recklessly as defined in s.
451 316.192, it is presumed that the driver's operation of the
452 vehicle was the sole proximate cause of her or his own death,
453 injury, or damage. This presumption can be overcome if the gross
454 negligence or intentional misconduct of the Department of
455 Transportation, or of its agents, consultants, or contractors,
456 was a proximate cause of the driver's death, injury, or damage.

457 (2) (a) For purposes of this section, the term:

458 1. "Contract documents" has the same meaning as in the
459 department's Standard Specifications for Road and Bridge
460 Construction applicable under the contract between the
461 department and the contractor.

462 2. "Contractor" means a person or an entity, at any
463 contractual tier, including any member of a design-build team
464 pursuant to s. 337.11, who constructs, maintains, or repairs a
465 highway, road, street, bridge, or other transportation facility
466 for the department in connection with a department project.

467 3. "Design engineer" means a person or an entity, including
468 the design consultant of a design-build team, who contracts at
469 any tier to prepare or provide engineering plans, including
470 traffic control plans, for the construction or repair of a
471 highway, road, street, bridge, or other department
472 transportation facility for the department or in connection with
473 a department project.

474 4. "Traffic control plans" means the maintenance of traffic



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475 plans designed by a professional engineer, or otherwise in
476 accordance with the department's standard plans, and approved by
477 the department.

478 (b) A contractor is not liable for personal injury,
479 property damage, or death arising from any of the following:

480 1. The performance of the construction, maintenance, or
481 repair of the transportation facility, if, at the time the
482 personal injury, property damage, or death occurred, the
483 contractor was in compliance with the contract documents
484 material to the personal injury, property damage, or death.

485 2. Acts or omissions of a third party that furnishes or
486 contracts at any contractual level to furnish services or
487 materials to the transportation facility, including any
488 subcontractor; sub-subcontractor; laborer; materialman; owner,
489 lessor, or driver of a motor vehicle, trailer, semitrailer,
490 truck, heavy truck, truck tractor, or commercial motor vehicle,
491 as those terms are defined in s. 320.01; or any person who
492 performs services as an architect, a landscape architect, an
493 interior designer, an engineer, or a surveyor and mapper.

494 3. Acts or omissions of a third party who trespasses within
495 the limits of the transportation facility or otherwise is not
496 authorized to enter the area of the transportation facility in
497 which the personal injury, property damage, or death occurred.

498 4. Acts or omissions of a third party who damages,
499 modifies, moves, or removes any traffic control device, warning
500 device, barrier, or other facility or device used for the
501 public's safety and convenience who constructs, maintains, or
502 repairs a highway, road, street, bridge, or other transportation
503 facility for the Department of Transportation is not liable to a



504 ~~claimant for personal injury, property damage, or death arising~~
505 ~~from the performance of the construction, maintenance, or repair~~
506 ~~if, at the time of the personal injury, property damage, or~~
507 ~~death, the contractor was in compliance with contract documents~~
508 ~~material to the condition that was the proximate cause of the~~
509 ~~personal injury, property damage, or death.~~

510 (c) ~~(a)~~ The limitations ~~limitation~~ on liability contained in
511 this subsection do ~~does~~ not apply when the proximate cause of
512 the personal injury, property damage, or death is a latent
513 condition, defect, error, or omission that was created by the
514 contractor and not a defect, error, or omission in the contract
515 documents; or when the proximate cause of the personal injury,
516 property damage, or death was the contractor's failure to
517 ~~perform, update, or~~ comply with the ~~maintenance of the~~ traffic
518 control plans ~~safety plan~~ as required by the contract documents.

519 (d) ~~(b)~~ ~~Nothing in~~ This subsection may not ~~shall~~ be
520 interpreted or construed as relieving the contractor of any
521 obligation to provide the department ~~of Transportation~~ with
522 written notice of any apparent error or omission in the contract
523 documents, or as relieving the contractor of his or her contract
524 responsibility to manage the work of others performing under the
525 contract.

526 (e) ~~(c)~~ ~~Nothing in~~ This subsection may not ~~shall~~ be
527 interpreted or construed to alter or affect any claim of the
528 department ~~of Transportation~~ against such contractor.

529 (f) ~~(d)~~ This subsection does not affect any claim of any
530 entity against such contractor, which claim is associated with
531 such entity's facilities on or in department ~~of Transportation~~
532 roads or other transportation facilities.



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533 (g) This subsection may not be interpreted or construed to
534 alter or amend any of the provisions of chapter 440, which shall
535 take precedence in the event of any conflict with this
536 subsection.

537 (h) This subsection does not preclude liability where the
538 contractor's negligence is the proximate cause of the personal
539 injury, property damage, or death.

540 (3) In all cases involving personal injury, property
541 damage, or death, a design engineer is ~~person or entity who~~
542 ~~contracts to prepare or provide engineering plans for the~~
543 ~~construction or repair of a highway, road, street, bridge, or~~
544 ~~other transportation facility for the Department of~~
545 ~~Transportation shall be presumed to have prepared such~~
546 engineering plans using the degree of care and skill ordinarily
547 exercised by other engineers in the field under similar
548 conditions and in similar localities and with due regard for
549 acceptable engineering standards and principles if the
550 engineering plans conformed to the department's ~~Department of~~
551 ~~Transportation's~~ design standards material to the condition or
552 defect that was the proximate cause of the personal injury,
553 property damage, or death. This presumption can be overcome only
554 upon a showing of the design engineer's ~~person's or entity's~~
555 gross negligence in the preparation of the engineering plans and
556 may shall not be interpreted or construed to alter or affect any
557 claim of the department ~~of Transportation~~ against such design
558 engineer ~~person or entity~~. The limitation on liability contained
559 in this subsection does shall not apply to any hidden or
560 undiscoverable condition created by the design engineer. This
561 subsection does not affect any claim of any entity against such



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562 ~~design engineer or engineering firm, which claim is associated~~
563 ~~with such entity's facilities on or in department of~~
564 ~~Transportation roads or other transportation facilities.~~

565 ~~(4) In any civil action for death, injury, or damages~~
566 ~~against the Department of Transportation or its agents,~~
567 ~~consultants, engineers, or contractors for work performed on a~~
568 ~~highway, road, street, bridge, or other transportation facility,~~
569 ~~if the department, its agents, consultants, engineers, or~~
570 ~~contractors are immune from liability pursuant to this section~~
571 ~~or are not parties to the litigation, they may not be named on~~
572 ~~the jury verdict form or be found to be at fault or responsible~~
573 ~~for the injury, death, or damage that gave rise to the damages.~~

574 Section 8. Section 339.2820, Florida Statutes, is created
575 to read:

576 339.2820 Local agency program.—

577 (1) There is created within the department a local agency
578 program for the purpose of providing assistance to subrecipient
579 agencies, which include counties, municipalities,
580 intergovernmental agencies, and other eligible governmental
581 entities, to develop, design, and construct transportation
582 facilities using federal funds allocated to the department from
583 federal agencies which are suballocated to local agencies. The
584 department shall update the project cost estimate in the year
585 the project is granted to the local agency and include a
586 contingency amount as part of the project cost estimate.

587 (2) The department is authorized to oversee projects funded
588 by the Federal Highway Administration.

589 (3) Local agencies shall prioritize budgeting local
590 projects through their respective M.P.O.'s or governing boards



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591 so that those organizations or boards may receive reimbursement
592 for the services they provide to the public which are in
593 compliance with applicable federal laws, rules, and regulations.

594 (4) Federal-aid highway funds are available only to local
595 agencies that are certified by the department based on the
596 agencies' qualifications, experience, and ability to comply with
597 federal requirements, and their ability to undertake and
598 satisfactorily complete the work.

599 (5) Local agencies shall include in their contracts to
600 develop, design, or construct transportation facilities the
601 department's Division I General Requirements and Covenants for
602 local agencies as well as a contingency amount to cover costs
603 incurred due to unforeseen conditions.

604 Section 9. Subsection (3) of section 339.2825, Florida
605 Statutes, is amended to read:

606 339.2825 Approval of contractor-financed projects.—

607 (3) This section does not apply to a comprehensive public-
608 private partnership agreement authorized in s. 334.30(2)(a).

609 Section 10. This act shall take effect July 1, 2024.

610

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

612 And the title is amended as follows:

613 Delete everything before the enacting clause
614 and insert:

615 A bill to be entitled
616 An act relating to transportation; amending s. 206.46,
617 F.S.; prohibiting the Department of Transportation
618 from annually committing more than a certain
619 percentage of revenues derived from state fuel taxes



620 and motor vehicle license-related fees to public
621 transit projects; providing exceptions; amending s.
622 288.9606, F.S.; conforming provisions to changes made
623 by the act; making technical changes; amending s.
624 334.30, F.S.; authorizing the department to enter into
625 comprehensive agreements with private entities or the
626 consortia thereof for the building, operation,
627 ownership, or financing of transportation facilities;
628 conforming provisions to changes made by the act;
629 replacing the term "public-private partnership
630 agreement" with the term "comprehensive agreement";
631 requiring a private entity to provide an independent
632 traffic and revenue study prepared by a certain
633 expert; providing a requirement for such study;
634 revising the timeframe within which the department
635 must publish a certain notice of receipt of an
636 unsolicited proposal for a public-private
637 transportation project; authorizing the department to
638 enter into an interim agreement with a private entity
639 regarding a qualifying project; providing that an
640 interim agreement does not obligate the department to
641 enter into a comprehensive agreement and is not
642 required under certain circumstances; providing
643 requirements for an interim agreement; conforming
644 provisions to changes made by the act; authorizing the
645 secretary of the department to authorize comprehensive
646 agreements for a term of up to 75 years for certain
647 projects; making technical changes; requiring the
648 department to notify the Division of Bond Finance of



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649 the State Board of Administration before entering into
650 an interim agreement or comprehensive agreement;
651 amending s. 336.044, F.S.; prohibiting a local
652 governmental entity from adopting certain standards or
653 specifications concerning asphalt pavement material;
654 amending s. 337.11, F.S.; requiring the department to
655 receive three letters of interest before proceeding
656 with requests for proposals for certain contracts;
657 making technical changes; amending s. 337.18, F.S.;
658 authorizing the department to allow the issuance of
659 multiple contract performance and payment bonds in
660 succession to meet certain requirements; revising the
661 timeframe for certain actions against the contractor
662 or the surety; specifying a timeframe for when an
663 action for recovery of retainage must be instituted;
664 amending s. 337.195, F.S.; revising a presumption
665 regarding the proximate cause of death, injury, or
666 damage in a civil suit against the department;
667 defining terms; providing for immunity for contractors
668 under certain circumstances; conforming provisions
669 related to certain limitations on liability relating
670 to traffic control plans; making technical changes;
671 providing construction; providing that certain
672 provisions do not preclude liability when the
673 contractor's negligence is the proximate cause of the
674 personal injury, property damage, or death; revising a
675 presumption regarding a design engineer's degree of
676 care and skill; deleting immunity for certain persons
677 and entities; creating s. 339.2820, F.S.; creating



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678 within the department a local agency program for a
679 specified purpose; requiring the department to update
680 certain project cost estimates at a specified time and
681 include a contingency amount as part of the project
682 cost estimate; authorizing the department to oversee
683 certain projects; requiring local agencies to
684 prioritize budgeting certain local projects through
685 their respective M.P.O.'s or governing boards for a
686 specified purpose; specifying that certain funds are
687 available only to local agencies that are certified by
688 the department; requiring local agencies to include in
689 certain contracts a specified document and a
690 contingency amount for costs incurred due to
691 unforeseen conditions; amending s. 339.2825, F.S.;
692 conforming a provision to changes made by the act;
693 providing an effective date.

By the Committee on Transportation; and Senator Hooper

596-02183-24

2024266c1

1 A bill to be entitled
 2 An act relating to transportation; amending s. 206.46,
 3 F.S.; prohibiting the Department of Transportation
 4 from annually committing more than a certain
 5 percentage of revenues derived from state fuel taxes
 6 and motor vehicle license-related fees to public
 7 transit projects; providing exceptions; amending s.
 8 288.9606, F.S.; conforming provisions to changes made
 9 by the act; making technical changes; amending s.
 10 334.30, F.S.; authorizing the department to enter into
 11 comprehensive agreements with private entities or the
 12 consortia thereof for the building, operation,
 13 ownership, or financing of transportation facilities;
 14 conforming provisions to changes made by the act;
 15 replacing the term "public-private partnership
 16 agreement" with the term "comprehensive agreement";
 17 requiring a private entity to provide an independent
 18 traffic and revenue study prepared by a certain
 19 expert; providing a requirement for such study;
 20 revising the timeframe within which the department
 21 must publish a certain notice; authorizing the
 22 department to enter into an interim agreement with a
 23 private entity regarding a qualifying project;
 24 providing that an interim agreement does not obligate
 25 the department to enter into a comprehensive agreement
 26 and is not required under certain circumstances;
 27 providing requirements for an interim agreement;
 28 authorizing the secretary of the department to
 29 authorize comprehensive agreements for a term of up to

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

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2024266c1

30 75 years for certain projects; making technical
 31 changes; amending s. 337.11, F.S.; requiring the
 32 department to receive three letters of interest before
 33 proceeding with requests for proposals for certain
 34 contracts; requiring the department to pay interest at
 35 a certain rate to contractors under certain
 36 circumstances; making technical changes; amending s.
 37 337.18, F.S.; revising the timeframe for certain
 38 actions against the contractor or the surety;
 39 specifying a timeframe for when an action for recovery
 40 of retainage must be instituted; amending s. 337.195,
 41 F.S.; revising a presumption regarding the proximate
 42 cause of death, injury, or damage in a civil suit
 43 against the department; defining terms; providing for
 44 immunity for contractors under certain circumstances;
 45 conforming provisions related to certain limitations
 46 on liability relating to traffic control plans; making
 47 technical changes; revising a presumption regarding a
 48 design engineer's degree of care and skill; deleting
 49 immunity for certain persons and entities; amending s.
 50 337.401, F.S.; requiring that certain permits and
 51 relocation agreements require the utility owner to be
 52 responsible for certain damage; requiring that the
 53 relocation agreement contain a utility relocation
 54 schedule and specify a liquidated damage amount for
 55 each day work remains incomplete beyond a certain
 56 date; amending s. 337.403, F.S.; requiring a utility
 57 owner to provide to the authority a reasonable utility
 58 relocation schedule to expedite completion of the

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59 authority's construction or maintenance project
 60 identified in a specified notice and initiate
 61 necessary work within a specified timeframe; requiring
 62 that the notice the authority gives the utility for
 63 unreasonable interference on a public road or publicly
 64 owned rail corridor specify a certain liquidated
 65 damage amount for each day that work remains
 66 incomplete; requiring the utility to pay certain costs
 67 to the authority for untimely performance of the work;
 68 amending s. 339.2820, F.S.; creating within the
 69 department a local agency program for a specified
 70 purpose; requiring the department to update certain
 71 project cost estimates at a specified time and include
 72 a contingency amount as part of the project cost
 73 estimate; authorizing the department to oversee
 74 certain projects; requiring local agencies to
 75 prioritize budgeting certain local projects through
 76 their respective M.P.O.'s or governing boards for a
 77 specified purpose; specifying that certain funds are
 78 available only to local agencies that are certified by
 79 the department; requiring local agencies to include in
 80 certain contracts a specified document and a
 81 contingency amount for costs incurred due to
 82 unforeseen conditions; amending s. 339.2825, F.S.;

83 conforming provisions to changes made by the act;
 84 providing an effective date.

85
 86 Be It Enacted by the Legislature of the State of Florida:
 87

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88 Section 1. Subsection (6) is added to section 206.46,
 89 Florida Statutes, to read:
 90 206.46 State Transportation Trust Fund.—
 91 (6) The department may not annually commit more than 20
 92 percent of the revenues derived from state fuel taxes and motor
 93 vehicle license-related fees deposited into the State
 94 Transportation Trust Fund to public transit projects, in
 95 accordance with chapter 341. However, this subsection does not
 96 apply to either of the following:
 97 (a) A public transit project that uses revenues derived
 98 from state fuel taxes and motor vehicle license-related fees to
 99 match funds made available by the Federal Government.
 100 (b) A public transit project included in the transportation
 101 improvement program adopted pursuant to s. 339.175(8) and
 102 approved by a supermajority vote of the board of county
 103 commissioners where the project is located.
 104 Section 2. Subsections (6) and (7) of section 288.9606,
 105 Florida Statutes, is amended to read:
 106 288.9606 Issue of revenue bonds.—
 107 (6) The proceeds of any bonds of the corporation may not be
 108 used, in any manner, to acquire any building or facility that
 109 will be, during the pendency of the financing, used by, occupied
 110 by, leased to, or paid for by any state, county, or municipal
 111 agency or entity. This subsection does not prohibit the use of
 112 proceeds of bonds of the corporation for the purpose of
 113 financing the acquisition or construction of a transportation
 114 facility under a comprehensive public-private partnership
 115 agreement authorized by s. 334.30.
 116 (7) Notwithstanding any provision of this section, the

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117 corporation in its corporate capacity may, without authorization
 118 from a public agency under s. 163.01(7), issue revenue bonds or
 119 other evidence of indebtedness under this section to:

120 (a) Finance the undertaking of any project within the state
 121 that promotes renewable energy as defined in s. 366.91 or s.
 122 377.803;

123 (b) Finance the undertaking of any project within the state
 124 that is a project contemplated or allowed under s. 406 of the
 125 American Recovery and Reinvestment Act of 2009; ~~or~~

126 (c) If permitted by federal law, finance qualifying
 127 improvement projects within the state under s. 163.08; or

128 (d) Finance the costs of acquisition or construction of a
 129 transportation facility by a private entity or consortium of
 130 private entities under a comprehensive public-private
 131 ~~partnership~~ agreement authorized by s. 334.30.

132 Section 3. Present subsections (8) through (13) of section
 133 334.30, Florida Statutes, are redesignated as subsections (9)
 134 through (14), respectively, a new subsection (8) is added to
 135 that section, and subsections (1), (2), and (6) and present
 136 subsections (8), (10), and (11) of that section are amended, to
 137 read:

138 334.30 Public-private transportation facilities.—The
 139 Legislature finds and declares that there is a public need for
 140 the rapid construction of safe and efficient transportation
 141 facilities for the purpose of traveling within the state, and
 142 that it is in the public's interest to provide for the
 143 construction of additional safe, convenient, and economical
 144 transportation facilities.

145 (1) The department may receive or solicit proposals and,

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146 with legislative approval as evidenced by approval of the
 147 project in the department's work program, enter into
 148 comprehensive agreements with private entities, or consortia
 149 thereof, for the building, operation, ownership, or financing of
 150 transportation facilities. The department may advance projects
 151 programmed in the adopted 5-year work program or projects
 152 increasing transportation capacity and greater than \$500 million
 153 in the 10-year Strategic Intermodal Plan using funds provided by
 154 public-private partnerships or private entities to be reimbursed
 155 from department funds for the project as programmed in the
 156 adopted work program. The department shall by rule establish an
 157 application fee for the submission of unsolicited proposals
 158 under this section. The fee must be sufficient to pay the costs
 159 of evaluating the proposals. The department may engage the
 160 services of private consultants to assist in the evaluation.
 161 Before approval, the department must determine that the proposed
 162 project:

163 (a) Is in the public's best interest;

164 (b) Would not require state funds to be used unless the
 165 project is on the State Highway System;

166 (c) Would have adequate safeguards in place to ensure that
 167 no additional costs or service disruptions would be realized by
 168 the traveling public and residents of the state in the event of
 169 default or cancellation of the comprehensive agreement by the
 170 department;

171 (d) Would have adequate safeguards in place to ensure that
 172 the department or the private entity has the opportunity to add
 173 capacity to the proposed project and other transportation
 174 facilities serving similar origins and destinations; and

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175 (e) Would be owned by the department upon completion or
 176 termination of the comprehensive agreement.
 177
 178 The department shall ensure that all reasonable costs to the
 179 state, related to transportation facilities that are not part of
 180 the State Highway System, are borne by the private entity. The
 181 department shall also ensure that all reasonable costs to the
 182 state and substantially affected local governments and
 183 utilities, related to the private transportation facility, are
 184 borne by the private entity for transportation facilities that
 185 are owned by private entities. For projects on the State Highway
 186 System, the department may use state resources to participate in
 187 funding and financing the project as provided for under the
 188 department's enabling legislation. Because the Legislature
 189 recognizes that private entities or consortia thereof would
 190 perform a governmental or public purpose or function when they
 191 enter into comprehensive agreements with the department to
 192 design, build, operate, own, or finance transportation
 193 facilities, the transportation facilities, including leasehold
 194 interests thereof, are exempt from ad valorem taxes as provided
 195 in chapter 196 to the extent property is owned by the state or
 196 other government entity, and from intangible taxes as provided
 197 in chapter 199 and special assessments of the state, any city,
 198 town, county, special district, political subdivision of the
 199 state, or any other governmental entity. The private entities or
 200 consortia thereof are exempt from tax imposed by chapter 201 on
 201 all documents or obligations to pay money which arise out of the
 202 comprehensive agreements to design, build, operate, own, lease,
 203 or finance transportation facilities. Any private entities or

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204 consortia thereof must pay any applicable corporate taxes as
 205 provided in chapter 220, and reemployment assistance taxes as
 206 provided in chapter 443, and sales and use tax as provided in
 207 chapter 212 shall be applicable. The private entities or
 208 consortia thereof must also register and collect the tax imposed
 209 by chapter 212 on all their direct sales and leases that are
 210 subject to tax under chapter 212. The comprehensive agreement
 211 between the private entity or consortia thereof and the
 212 department establishing a transportation facility under this
 213 chapter constitutes documentation sufficient to claim any
 214 exemption under this section.
 215 (2) Comprehensive agreements entered into pursuant to this
 216 section may authorize the private entity to impose tolls or
 217 fares for the use of the facility. The following provisions
 218 ~~shall~~ apply to such agreements:
 219 (a) With the exception of the Florida Turnpike System, the
 220 department may lease existing toll facilities through public-
 221 private partnerships. The comprehensive ~~public-private~~
 222 ~~partnership~~ agreement must ensure that the transportation
 223 facility is properly operated, maintained, and renewed in
 224 accordance with department standards.
 225 (b) The department may develop new toll facilities or
 226 increase capacity on existing toll facilities through public-
 227 private partnerships. The comprehensive ~~public-private~~
 228 ~~partnership~~ agreement must ensure that the toll facility is
 229 properly operated, maintained, and renewed in accordance with
 230 department standards.
 231 (c) Any toll revenues shall be regulated by the department
 232 pursuant to s. 338.165(3). The regulations governing the future

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233 increase of toll or fare revenues shall be included in the
234 comprehensive public-private partnership agreement.

235 (d) The department shall provide the analysis required in
236 subparagraph (6) (e)2. to the Legislative Budget Commission
237 created pursuant to s. 11.90 for review and approval prior to
238 awarding a contract on a lease of an existing toll facility.

239 (e) The department shall include provisions in the
240 comprehensive public-private partnership agreement ~~which that~~
241 ensure a negotiated portion of revenues from tolled or fare
242 generating projects are returned to the department over the life
243 of the comprehensive public-private partnership agreement. In
244 the case of a lease of an existing toll facility, the department
245 shall receive a portion of funds upon closing on the
246 comprehensive agreement ~~agreements~~ and shall also include
247 provisions in the comprehensive agreement to receive payment of
248 a portion of excess revenues over the life of the public-private
249 partnership.

250 (f) The private entity shall provide an independent
251 ~~investment grade~~ traffic and revenue study prepared by a ~~an~~
252 ~~internationally recognized~~ traffic and revenue expert as part of
253 the private entity proposal. The study must be ~~that is~~ accepted
254 by the national bond rating agencies before closing on the
255 financing that supports the comprehensive agreement for the
256 public-private partnership project. The private entity shall
257 also provide a finance plan that identifies the project cost,
258 revenues by source, financing, major assumptions, internal rate
259 of return on private investments, and whether any government
260 funds are assumed to deliver a cost-feasible project, and a
261 total cash flow analysis beginning with implementation of the

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262 project and extending for the term of the comprehensive
263 agreement.

264 (6) The procurement of public-private partnerships by the
265 department shall follow the provisions of this section. Sections
266 337.025, 337.11, 337.14, 337.141, 337.145, 337.175, 337.18,
267 337.185, 337.19, 337.221, and 337.251 ~~may shall~~ not apply to
268 procurements under this section unless a provision is included
269 in the procurement documents. The department shall ensure that
270 generally accepted business practices for exemptions provided by
271 this subsection are part of the procurement process or are
272 included in the comprehensive public-private partnership
273 agreement.

274 (a) The department may request proposals from private
275 entities for public-private transportation projects or, if the
276 department receives an unsolicited proposal, the department
277 shall publish a notice in the Florida Administrative Register
278 and a newspaper of general circulation at least once a week for
279 2 weeks stating that the department has received the proposal
280 and will accept, for between 30 and 120 days after the initial
281 date of publication as determined by the department based on the
282 complexity of the project, other proposals for the same project
283 purpose. A copy of the notice must be mailed to each local
284 government in the affected area.

285 (b) Public-private partnerships shall be qualified by the
286 department as part of the procurement process as outlined in the
287 procurement documents, provided such process ensures that the
288 private firm meets at least the minimum department standards for
289 qualification in department rule for professional engineering
290 services and road and bridge contracting prior to submitting a

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291 proposal under the procurement.

292 (c) The department shall ensure that procurement documents
293 include provisions for performance of the private entity and
294 payment of subcontractors, including, but not limited to, surety
295 bonds, letters of credit, parent company guarantees, and lender
296 and equity partner guarantees. The department shall balance the
297 structure of the security package for the public-private
298 partnership that ensures performance and payment of
299 subcontractors with the cost of the security to ensure the most
300 efficient pricing.

301 (d) After the public notification period has expired, the
302 department shall rank the proposals in order of preference. In
303 ranking the proposals, the department may consider factors that
304 include, but are not limited to, professional qualifications,
305 general business terms, innovative engineering or cost-reduction
306 terms, finance plans, and the need for state funds to deliver
307 the project. If the department is not satisfied with the results
308 of the negotiations, the department may, at its sole discretion,
309 terminate negotiations with the proposer. If these negotiations
310 are unsuccessful, the department may go to the second-ranked and
311 lower-ranked firms, in order, using this same procedure. If only
312 one proposal is received, the department may negotiate in good
313 faith and, if the department is not satisfied with the results
314 of the negotiations, the department may, at its sole discretion,
315 terminate negotiations with the proposer. Notwithstanding this
316 subsection, the department may, at its discretion, reject all
317 proposals at any point in the process up to completion of a
318 contract with the proposer.

319 (e) The department shall provide an independent analysis of

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320 the proposed public-private partnership that demonstrates the
321 cost-effectiveness and overall public benefit at the following
322 times:

- 323 1. Prior to moving forward with the procurement; and
- 324 2. If the procurement moves forward, prior to awarding the
325 contract.

326 (8) Before or in connection with the negotiation of a
327 comprehensive agreement, the department may enter into an
328 interim agreement with the private entity proposing the
329 development or operation of a qualifying project. An interim
330 agreement does not obligate the department to enter into a
331 comprehensive agreement. The interim agreement is discretionary
332 with the parties and is not required on a project for which the
333 parties may proceed directly to a comprehensive agreement
334 without the need for an interim agreement. An interim agreement
335 must be limited to any of the following provisions that:

336 (a) Authorize the private entity to commence activities for
337 which it may be compensated related to the proposed qualifying
338 project, including, but not limited to, project planning and
339 development, designing, environmental analysis and mitigation,
340 surveying, other activities concerning any part of the proposed
341 qualifying project, and ascertaining the availability of
342 financing for the proposed facility or facilities.

343 (b) Establish the process and timing for the negotiation of
344 the comprehensive agreement.

345 (c) Contain such other provisions related to an aspect of
346 the development or operation of a qualifying project which the
347 department and the private entity deem appropriate.

348 (9)-(8) The department may enter into comprehensive public-

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349 ~~private partnership~~ agreements that include extended terms
 350 providing annual payments for performance based on the
 351 availability of service or the facility being open to traffic or
 352 based on the level of traffic using the facility. In addition to
 353 other provisions in this section, the following provisions ~~shall~~
 354 apply:

355 (a) The annual payments under any such comprehensive
 356 agreement must ~~shall~~ be included in the department's tentative
 357 work program developed under s. 339.135 and the long-range
 358 transportation plan for the applicable metropolitan planning
 359 organization developed under s. 339.175. The department shall
 360 ensure that annual payments on multiyear comprehensive ~~public-~~
 361 ~~private partnership~~ agreements are prioritized ahead of new
 362 capacity projects in the development and updating of the
 363 tentative work program.

364 (b) The annual payments are subject to annual appropriation
 365 by the Legislature as provided in the General Appropriations Act
 366 in support of the first year of the tentative work program.

367 ~~(11)(10) Before~~ Prior to entering into any comprehensive
 368 ~~such~~ agreement in which ~~where~~ funds are committed from the State
 369 Transportation Trust Fund, the project must be prioritized as
 370 follows:

371 (a) The department, in coordination with the local
 372 metropolitan planning organization, shall prioritize projects
 373 included in the Strategic Intermodal System 10-year and long-
 374 range cost-feasible plans.

375 (b) The department, in coordination with the local
 376 metropolitan planning organization or local government where
 377 there is no metropolitan planning organization, shall prioritize

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378 projects, for facilities not on the Strategic Intermodal System,
 379 included in the metropolitan planning organization cost-feasible
 380 transportation improvement plan and long-range transportation
 381 plan.

382 ~~(12)(11) Comprehensive Public-private partnership~~
 383 agreements under this section are ~~shall be~~ limited to a term not
 384 exceeding 50 years. Upon making written findings that a
 385 comprehensive ~~an~~ agreement under this section requires a term in
 386 excess of 50 years, the secretary of the department may
 387 authorize a term of up to 75 years for projects that are
 388 partially or completely funded from project user fees.
 389 Comprehensive agreements under this section may ~~shall~~ not have a
 390 term in excess of 75 years unless specifically approved by the
 391 Legislature. The department shall identify each new project
 392 under this section with a term exceeding 75 years in the
 393 transmittal letter that accompanies the submittal of the
 394 tentative work program to the Governor and the Legislature in
 395 accordance with s. 339.135.

396 Section 4. Paragraph (e) of subsection (7) and subsection
 397 (13) of section 337.11, Florida Statutes, are amended to read:

398 337.11 Contracting authority of department; bids; emergency
 399 repairs, supplemental agreements, and change orders; combined
 400 design and construction contracts; progress payments; records;
 401 requirements of vehicle registration.-

402 (7)

403 (e) For design-build contracts and phased design-build
 404 contracts, the department must receive at least three letters of
 405 interest in order to proceed with a request for proposals. The
 406 department shall request proposals from no fewer than three of

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407 the ~~design-build~~ firms submitting letters of interest. If a
408 ~~design-build~~ firm withdraws from consideration after the
409 department requests proposals, the department may continue if at
410 least two proposals are received.

411 (13) ~~Any motor vehicle used in Each contract let by the~~
412 ~~department for the performance of road or bridge construction or~~
413 ~~maintenance work on a department project must shall require all~~
414 ~~motor vehicles that the contractor operates or causes to be~~
415 ~~operated in this state to be registered in compliance with~~
416 chapter 320.

417 Section 5. Paragraph (d) of subsection (1) of section
418 337.18, Florida Statutes, is amended to read:

419 337.18 Surety bonds for construction or maintenance
420 contracts; requirement with respect to contract award; bond
421 requirements; defaults; damage assessments.-

422 (1)

423 (d) An action, except for an action for recovery of
424 retainage, must be instituted by a claimant, whether in privity
425 with the contractor or not, against the contractor or the surety
426 on the payment bond or the payment provisions of a combined
427 payment and performance bond within 365 days after the
428 performance of the labor or completion of delivery of the
429 materials or supplies. An action for recovery of retainage must
430 be instituted against the contractor or the surety within 365
431 days after final acceptance of the contract work by the
432 department. A claimant may not waive in advance his or her right
433 to bring an action under the bond against the surety. In any
434 action brought to enforce a claim against a payment bond under
435 this section, the prevailing party is entitled to recover a

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436 reasonable fee for the services of his or her attorney for trial
437 and appeal or for arbitration, in an amount to be determined by
438 the court, which fee must be taxed as part of the prevailing
439 party's costs, as allowed in equitable actions.

440 Section 6. Section 337.195, Florida Statutes, is amended to
441 read:

442 337.195 Limits on liability.-

443 (1) In a civil action for the death of or injury to a
444 person, or for damage to property, against the Department of
445 Transportation or its agents, consultants, or contractors for
446 work performed on a highway, road, street, bridge, or other
447 transportation facility when the death, injury, or damage
448 resulted from a motor vehicle crash within a construction zone
449 in which the driver of one of the vehicles was under the
450 influence of alcoholic beverages as set forth in s. 316.193,
451 under the influence of any chemical substance as set forth in s.
452 877.111, or illegally under the influence of any substance
453 controlled under chapter 893, excluding low-THC cannabis, to the
454 extent that her or his normal faculties were impaired or that
455 she or he operated a vehicle recklessly as defined in s.
456 316.192, it is presumed that the driver's operation of the
457 vehicle was the sole proximate cause of her or his own death,
458 injury, or damage. This presumption can be overcome if the gross
459 negligence or intentional misconduct of the Department of
460 Transportation, or of its agents, consultants, or contractors,
461 was a proximate cause of the driver's death, injury, or damage.

462 (2) (a) For purposes of this section:

463 1. "Contract documents" has the same meaning as in the
464 department's Standard Specifications for Road and Bridge

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465 Construction applicable under the contract between the
466 department and the contractor.

467 2. "Contractor" means a person or an entity, at any
468 contractual tier, including any member of a design-build team
469 pursuant to s. 337.11, who constructs, maintains, or repairs a
470 highway, road, street, bridge, or other transportation facility
471 for the department in connection with a department project.

472 3. "Design engineer" means a person or an entity, including
473 the design consultant of a design-build team, who contracts at
474 any tier to prepare or provide engineering plans, including
475 traffic control plans, for the construction or repair of a
476 highway, road, street, bridge, or other department
477 transportation facility for the department or in connection with
478 a department project.

479 4. "Traffic control plans" means the maintenance of traffic
480 plans designed by a professional engineer, or otherwise in
481 accordance with the department's standard plans, and approved by
482 the department.

483 (b) A contractor is not liable for personal injury,
484 property damage, or death arising from any of the following:

485 1. The performance of the construction, maintenance, or
486 repair of the transportation facility, if, at the time the
487 personal injury, property damage, or death occurred, the
488 contractor was in compliance with the contract documents
489 material to the personal injury, property damage, or death.

490 2. Acts or omissions of a third party that furnishes or
491 contracts at any contractual level to furnish services or
492 materials to the transportation facility, including any
493 subcontractor; sub-subcontractor; laborer; materialman; owner,

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494 lessor, or driver of a motor vehicle, trailer, semitrailer,
495 truck, heavy truck, truck tractor, or commercial motor vehicle,
496 as those terms are defined in s. 320.01; or any person who
497 performs services as an architect, a landscape architect, an
498 interior designer, an engineer, or a surveyor and mapper.

499 3. Acts or omissions of a third party who trespasses within
500 the limits of the transportation facility or otherwise is not
501 authorized to enter the area of the transportation facility in
502 which the personal injury, property damage, or death occurred.

503 4. Acts or omissions of a third party who damages,
504 modifies, moves, or removes any traffic control device, warning
505 device, barrier, or other facility or device used for the
506 public's safety and convenience who constructs, maintains, or
507 repairs a highway, road, street, bridge, or other transportation
508 facility for the Department of Transportation is not liable to a
509 claimant for personal injury, property damage, or death arising
510 from the performance of the construction, maintenance, or repair
511 if, at the time of the personal injury, property damage, or
512 death, the contractor was in compliance with contract documents
513 material to the condition that was the proximate cause of the
514 personal injury, property damage, or death.

515 (c)(a) The ~~limitations~~ limitation on liability contained in
516 this subsection ~~do~~ does not apply when the proximate cause of
517 the personal injury, property damage, or death is a latent
518 condition, defect, error, or omission that was created by the
519 contractor and not a defect, error, or omission in the contract
520 documents; or when the proximate cause of the personal injury,
521 property damage, or death was the contractor's failure to
522 ~~perform, update, or~~ comply with the ~~maintenance of the traffic~~

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523 control plans ~~safety plan~~ as required by the contract documents.

524 ~~(d)(b) Nothing in~~ This subsection may not shall be
525 interpreted or construed as relieving the contractor of any
526 obligation to provide the department ~~of Transportation~~ with
527 written notice of any apparent error or omission in the contract
528 documents, or as relieving the contractor of his or her contract
529 responsibility to manage the work of others performing under the
530 contract.

531 ~~(e)(c) Nothing in~~ This subsection may not shall be
532 interpreted or construed to alter or affect any claim of the
533 department ~~of Transportation~~ against such contractor.

534 ~~(f)(d)~~ This subsection does not affect any claim of any
535 entity against such contractor, which claim is associated with
536 such entity's facilities on or in department ~~of Transportation~~
537 roads or other transportation facilities.

538 (3) In all cases involving personal injury, property
539 damage, or death, a design engineer is person or entity who
540 contracts to prepare or provide engineering plans for the
541 construction or repair of a highway, road, street, bridge, or
542 other transportation facility for the Department of
543 Transportation shall be presumed to have prepared such
544 engineering plans using the degree of care and skill ordinarily
545 exercised by other engineers in the field under similar
546 conditions and in similar localities and with due regard for
547 acceptable engineering standards and principles if the
548 engineering plans conformed to the department's Department of
549 Transportation's design standards material to the condition or
550 defect that was the proximate cause of the personal injury,
551 property damage, or death. This presumption can be overcome only

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552 upon a showing of the design engineer's person's or entity's
553 gross negligence in the preparation of the engineering plans and
554 may shall not be interpreted or construed to alter or affect any
555 claim of the department ~~of Transportation~~ against such design
556 engineer person or entity. The limitation on liability contained
557 in this subsection ~~does shall~~ not apply to any hidden or
558 undiscoverable condition created by the design engineer. This
559 subsection does not affect any claim of any entity against such
560 design engineer ~~or engineering firm~~, which claim is associated
561 with such entity's facilities on or in department ~~of~~
562 ~~Transportation~~ roads or other transportation facilities.

563 ~~(4) In any civil action for death, injury, or damages~~
564 ~~against the Department of Transportation or its agents,~~
565 ~~consultants, engineers, or contractors for work performed on a~~
566 ~~highway, road, street, bridge, or other transportation facility,~~
567 ~~if the department, its agents, consultants, engineers, or~~
568 ~~contractors are immune from liability pursuant to this section~~
569 ~~or are not parties to the litigation, they may not be named on~~
570 ~~the jury verdict form or be found to be at fault or responsible~~
571 ~~for the injury, death, or damage that gave rise to the damages.~~

572 Section 7. Subsection (2) of section 337.401, Florida
573 Statutes, is amended to read:

574 337.401 Use of right-of-way for utilities subject to
575 regulation; permit; fees.-

576 (2) The authority may grant to any person who is a resident
577 of this state, or to any corporation that which is organized
578 under the laws of this state or licensed to do business within
579 this state, the use of a right-of-way for the utility in
580 accordance with such rules or regulations as the authority may

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581 adopt. A utility may not be installed, located, or relocated
 582 unless authorized by a written permit issued by the authority.
 583 However, for public roads or publicly owned rail corridors under
 584 the jurisdiction of the department, a ~~utility relocation~~
 585 ~~schedule and~~ relocation agreement may be executed in lieu of a
 586 written permit. The permit or relocation agreement must require
 587 the utility owner ~~permitholder~~ to be responsible for any damage
 588 resulting from the work performed under ~~issuance of~~ such permit
 589 or relocation agreement. The relocation agreement must contain a
 590 reasonable utility relocation schedule to expedite the
 591 completion of the department's construction or maintenance
 592 project and specify a reasonable liquidated damage amount for
 593 each day the work remains incomplete beyond the completion date
 594 specified in the permit or relocation agreement. The authority
 595 may initiate injunctive proceedings as provided in s. 120.69 to
 596 enforce provisions of this subsection or any rule or order
 597 issued or entered into pursuant thereto. A permit application
 598 required under this subsection by a county or municipality
 599 having jurisdiction and control of the right-of-way of any
 600 public road must be processed and acted upon in accordance with
 601 the timeframes provided in subparagraphs (7)(d)7., 8., and 9.

602 Section 8. Subsections (1) and (3) of section 337.403,
 603 Florida Statutes, are amended to read:

604 337.403 Interference caused by utility; expenses.—

605 (1) If a utility that is placed upon, under, over, or
 606 within the right-of-way limits of any public road or publicly
 607 owned rail corridor is found by the authority to be unreasonably
 608 interfering in any way with the convenient, safe, or continuous
 609 use, or the maintenance, improvement, extension, or expansion,

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610 of such public road or publicly owned rail corridor, the utility
 611 owner shall, upon 30 days' written notice to the utility or its
 612 agent by the authority, provide to the authority a reasonable
 613 utility relocation schedule to expedite the completion of the
 614 authority's construction or maintenance project identified in
 615 the notice, and initiate the work necessary to alleviate the
 616 interference within 60 days after receipt of the written notice
 617 from the authority at its own expense except as provided in
 618 paragraphs (a)-(j). The notice must specify a reasonable
 619 liquidated damage amount for each day the work remains
 620 incomplete if not ~~The work must be~~ completed within such
 621 reasonable time as stated in the notice or such time as agreed
 622 to by the authority and the utility owner.

623 (a) If the relocation of utility facilities, as referred to
 624 in s. 111 of the Federal-Aid Highway Act of 1956, Pub. L. No.
 625 84-627, is necessitated by the construction of a project on the
 626 federal-aid interstate system, including extensions thereof
 627 within urban areas, and the cost of the project is eligible and
 628 approved for reimbursement by the Federal Government to the
 629 extent of 90 percent or more under the Federal-Aid Highway Act,
 630 or any amendment thereof, then in that event the utility owning
 631 or operating such facilities shall perform any necessary work
 632 upon notice from the department, and the state shall pay the
 633 entire expense properly attributable to such work after
 634 deducting therefrom any increase in the value of a new facility
 635 and any salvage value derived from an old facility.

636 (b) When a joint agreement between the department and the
 637 utility is executed for utility work to be accomplished as part
 638 of a contract for construction of a transportation facility, the

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639 department may participate in those utility work costs that
 640 exceed the department's official estimate of the cost of the
 641 work by more than 10 percent. The amount of such participation
 642 is limited to the difference between the official estimate of
 643 all the work in the joint agreement plus 10 percent and the
 644 amount awarded for this work in the construction contract for
 645 such work. The department may not participate in any utility
 646 work costs that occur as a result of changes or additions during
 647 the course of the contract.

648 (c) When an agreement between the department and utility is
 649 executed for utility work to be accomplished in advance of a
 650 contract for construction of a transportation facility, the
 651 department may participate in the cost of clearing and grubbing
 652 necessary to perform such work.

653 (d) If the utility facility was initially installed to
 654 exclusively serve the authority or its tenants, or both, the
 655 authority shall bear the costs of the utility work. However, the
 656 authority is not responsible for the cost of utility work
 657 related to any subsequent additions to that facility for the
 658 purpose of serving others. For a county or municipality, if such
 659 utility facility was installed in the right-of-way as a means to
 660 serve a county or municipal facility on a parcel of property
 661 adjacent to the right-of-way and if the intended use of the
 662 county or municipal facility is for a use other than
 663 transportation purposes, the obligation of the county or
 664 municipality to bear the costs of the utility work shall extend
 665 only to utility work on the parcel of property on which the
 666 facility of the county or municipality originally served by the
 667 utility facility is located.

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668 (e) If, under an agreement between a utility and the
 669 authority entered into after July 1, 2009, the utility conveys,
 670 subordinates, or relinquishes a compensable property right to
 671 the authority for the purpose of accommodating the acquisition
 672 or use of the right-of-way by the authority, without the
 673 agreement expressly addressing future responsibility for the
 674 cost of necessary utility work, the authority shall bear the
 675 cost of removal or relocation. This paragraph does not impair or
 676 restrict, and may not be used to interpret, the terms of any
 677 such agreement entered into before July 1, 2009.

678 (f) If the utility is an electric facility being relocated
 679 underground in order to enhance vehicular, bicycle, and
 680 pedestrian safety and in which ownership of the electric
 681 facility to be placed underground has been transferred from a
 682 private to a public utility within the past 5 years, the
 683 department shall incur all costs of the necessary utility work.

684 (g) An authority may bear the costs of utility work
 685 required to eliminate an unreasonable interference when the
 686 utility is not able to establish that it has a compensable
 687 property right in the particular property where the utility is
 688 located if:

- 689 1. The utility was physically located on the particular
 690 property before the authority acquired rights in the property;
- 691 2. The utility demonstrates that it has a compensable
 692 property right in adjacent properties along the alignment of the
 693 utility or, after due diligence, certifies that the utility does
 694 not have evidence to prove or disprove that it has a compensable
 695 property right in the particular property where the utility is
 696 located; and

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697 3. The information available to the authority does not
698 establish the relative priorities of the authority's and the
699 utility's interests in the particular property.

700 (h) If a municipally owned utility or county-owned utility
701 is located in a rural area of opportunity, as defined in s.
702 288.0656(2), and the department determines that the utility is
703 unable, and will not be able within the next 10 years, to pay
704 for the cost of utility work necessitated by a department
705 project on the State Highway System, the department may pay, in
706 whole or in part, the cost of such utility work performed by the
707 department or its contractor.

708 (i) If the relocation of utility facilities is necessitated
709 by the construction of a commuter rail service project or an
710 intercity passenger rail service project and the cost of the
711 project is eligible and approved for reimbursement by the
712 Federal Government, then in that event the utility owning or
713 operating such facilities located by permit on a department-
714 owned rail corridor shall perform any necessary utility
715 relocation work upon notice from the department, and the
716 department shall pay the expense properly attributable to such
717 utility relocation work in the same proportion as federal funds
718 are expended on the commuter rail service project or an
719 intercity passenger rail service project after deducting
720 therefrom any increase in the value of a new facility and any
721 salvage value derived from an old facility. In no event shall
722 the state be required to use state dollars for such utility
723 relocation work. This paragraph does not apply to any phase of
724 the Central Florida Commuter Rail project, known as SunRail.

725 (j) If a utility is lawfully located within an existing and

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

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726 valid utility easement granted by recorded plat, regardless of
727 whether such land was subsequently acquired by the authority by
728 dedication, transfer of fee, or otherwise, the authority must
729 bear the cost of the utility work required to eliminate an
730 unreasonable interference. The authority shall pay the entire
731 expense properly attributable to such work after deducting any
732 increase in the value of a new facility and any salvage value
733 derived from an old facility.

734 (3) Whenever a notice from the authority requires such
735 utility work and the owner thereof fails to perform the work at
736 his or her own expense within the time stated in the notice or
737 such other time as agreed to by the authority and the utility
738 owner, the authority shall proceed to cause the utility work to
739 be performed. The utility shall pay to the authority reasonable
740 costs resulting from the utility's failure or refusal to timely
741 perform the work, including payment of any liquidated damages
742 assessed by the authority ~~The expense thereby incurred shall be~~
743 ~~paid out of any money available therefor, and such expense~~
744 ~~shall, except as provided in subsection (1), be charged against~~
745 ~~the owner and levied and collected and paid into the fund from~~
746 ~~which the expense of such relocation was paid.~~

747 Section 9. Section 339.2820, Florida Statutes, is created
748 to read:

749 339.2820 Local agency program.—

750 (1) There is created within the department a local agency
751 program for the purpose of providing assistance to subrecipient
752 agencies, which include counties, municipalities,
753 intergovernmental agencies, and other eligible governmental
754 entities, to develop, design, and construct transportation

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

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755 facilities using federal funds allocated to the department from
756 federal agencies which are suballocated to local agencies. The
757 department shall update the project cost estimate in the year
758 the project is granted to the local agency and include a
759 contingency amount as part of the project cost estimate.

760 (2) The department is authorized to oversee projects funded
761 by the Federal Highway Administration.

762 (3) Local agencies shall prioritize budgeting local
763 projects through their respective M.P.O.'s or governing boards
764 so that those organizations or boards may receive reimbursement
765 for the services they provide to the public which are in
766 compliance with applicable federal laws, rules, and regulations.

767 (4) Federal-aid highway funds are available only to local
768 agencies that are certified by the department based on the
769 agencies' qualifications, experience, and ability to comply with
770 federal requirements, and their ability to undertake and
771 satisfactorily complete the work.

772 (5) Local agencies shall include in their contracts to
773 develop, design, or construct transportation facilities the
774 department's Division I General Requirements and Covenants for
775 local agencies as well as a contingency amount to cover costs
776 incurred due to unforeseen conditions.

777 Section 10. Subsection (3) of section 339.2825, Florida
778 Statutes, is amended to read:

779 339.2825 Approval of contractor-financed projects.—

780 (3) This section does not apply to a comprehensive public-
781 private partnership agreement authorized in s. 334.30(2)(a).

782 Section 11. This act shall take effect July 1, 2024.

APPEARANCE RECORD

2/8/24

Meeting Date

266

Bill Number or Topic

Deliver both copies of this form to
Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name

Megan Cannon (FL TaxWatch)

Phone

Address

106 N Bronough St

Email

Street

Tallahassee

City

FL

State

32301

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-8-24

Meeting Date

266

Bill Number (if applicable)

745354

Amendment Barcode (if applicable)

Topic Transportation

Name LAURA YOUMANS

Job Title LEGISLATIVE AFFAIRS DIRECTOR

Address 218 N. MONROE ST.

Street

Phone _____

TAL

FL

32301

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing FLORIDA JUSTICE ASSOCIATION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

This form is part of the public record for this meeting.

The Florida Senate
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 Appropriations Committee on Transportation, Tourism, and Economic Development

BILL: CS/SB 356

INTRODUCER: Commerce and Tourism Committee and Senator Avila

SUBJECT: Notaries Public

DATE: February 8, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McMillan</u>	<u>McKay</u>	<u>CM</u>	<u>Fav/CS</u>
2.	<u>Wells</u>	<u>Jerrett</u>	<u>ATD</u>	<u>Favorable</u>
3.	_____	_____	<u>FP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 356 makes the following changes with respect to notaries public:

- Requires notarial certificates to include the printed name of a person whose signature is being notarized, and printed names of all signatories, including principals and witnesses.
- Prohibits a notary public from falsely notarizing a signature of a person who is not in the presence of a notary public, either in person or online, at the time the signature is notarized.
- Creates criminal penalties for prohibited acts by notaries public, with enhanced penalties for violations pertaining to real estate transactions.

The bill requires notaries public to keep tangible journals of all notarizations performed, specifies duties related to maintaining such journals, and delineates circumstances in which other parties may have access to entries in the journals.

The bill also modifies a provision relating to a recording notification service by clerks of circuit courts, to provide that if a property appraiser receives notice from a property owner or clerk of the circuit court and reasonably determines that a recorded deed is fraudulent, the property appraiser may refuse to update the owner of record on the county's tax rolls. However, the property appraiser must make a notation in their records that a possible conveyance has been recorded.

The bill takes effect July 1, 2024.

II. Present Situation:

Notaries Public in Florida

A notary public is a public officer under the Florida Constitution,¹ and “an impartial agent of the state.”² As a public officer, notaries public are constitutionally required to give a bond (as required by law) and swear or affirm to uphold the Constitutions of the United States and Florida.³ Notaries public are appointed and commissioned by the Governor to four-year terms,⁴ and are authorized under Florida law to perform six basic duties:⁵

- Administer oaths or affirmations;⁶
- Take acknowledgments;⁷
- Solemnize marriages;⁸
- Attest to photocopies;⁹
- Verify vehicle identification numbers (VINs);¹⁰ and
- Certify the contents of a safe-deposit box.¹¹

A notary public may only exercise the foregoing duties within the physical boundaries of the State of Florida.¹² Generally, a notary public may not charge more than \$10 per notarial act and may not charge a fee for notarizing a vote-by-mail ballot.¹³

A notary public may provide an electronic signature that is unique, verifiable, under the notary public’s sole control, and attached to a document in a way revealing any subsequent alteration.¹⁴ When an electronic signature must be accompanied by a notary public seal, the requirement is met when the notary public includes his or her full name as provided in the notary public’s application for commission, the words “Notary Public State of Florida,” the expiration date of the notary public’s commission, and the notary public’s commission number.¹⁵ The seal must also be applied to all notarized paper documents using a rubber stamp containing the foregoing information.¹⁶ The rubber stamp seal must be affixed to the notarized paper document in

¹ Art. II, § 5(c), Fla. Const.

² 58 AM. JUR. 2D Notaries Public § 1.

³ See s. 117.01(3) & (7), F.S. ((3) requiring that, as part of oath, the applicant must swear he or she has read ch. 117, F.S., and knows the duties, responsibilities, limitations, and powers of a notary; (7) requiring that notaries give a bond in the amount of \$7,500 in the event the notary breaches duties, of which is to be kept on file with the Department of State). Section 117.01(1), F.S., requires a notary to be able to read, write, and understand the English language.

⁴ Section 117.01(1), F.S.

⁵ Executive Office of the Governor, State of Florida, *Governor’s Reference Manual for Notaries Public*, p. 13 (Dec. 13, 2016), available at https://www.flgov.com/wp-content/uploads/Notary_Reference_Manual_12.13.16.pdf (last visited Jan. 24, 2024).

⁶ Section 117.03, F.S.

⁷ Section 117.04, F.S.

⁸ Section 117.045, F.S.

⁹ Section 117.05(12)(a), F.S.

¹⁰ Section 319.23(3)(a)2., F.S.

¹¹ Section 655.94(1), F.S.

¹² Section 117.01(1), F.S.

¹³ Section 117.05(2), F.S.

¹⁴ Section 117.021(2), F.S.

¹⁵ Section 117.021(3), F.S.

¹⁶ Section 117.05(3), F.S.

photographically reproducible black ink. Every notary public must print, type, or stamp below his or her signature on a paper document his or her name exactly as commissioned.¹⁷

Additionally, as a public officer, a notary public is held to high standards and is subject to discipline, including suspension by the Governor and removal by the Senate, for malfeasance, misfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform official duties, or commission of a felony.¹⁸ A notary public is also subject to criminal penalties for certain unlawful uses of the notary public commission (such as notarizing his or her own signature),¹⁹ and liable to pay fees for certain civil infractions (such as notarizing a document when the signor is not in the notary public's presence).²⁰

Becoming a Notary Public in Florida

In order to be eligible to become a notary public in Florida, a person must:

- Be at least 18 years of age;
- Be a Florida resident or permanent resident alien with a recorded declaration of domicile;
- Maintain Florida residence throughout the appointment; and
- Be able to read, write, and understand the English language.²¹

To apply to be a notary public in Florida, the application form provided by the Department of State must be completed, signed, sworn, and filed along with the appropriate applications fees.²² Because the bond must be attached, the bonding agency usually submits the application in both a paper and electronic format.²³ The oath of office and notary public bond must accompany the notary public's application when filed with the Department of State.²⁴ Applicants must also provide the following as part of the application:

- Personal identification information;
- Affidavit of good character from a reference who has known the applicant for at least one year and is not a relative;
- Ten-year history of any licenses and discipline;
- Statement regarding whether the applicant has ever been convicted of a felony or had his or her civil rights restored; and
- Any other information requested by the Governor's office to confirm eligibility.²⁵

Notary's Duty to Confirm Identity

One of the notary public's primary duties is to verify the identity of the person who is signing a document. If the person is personally known to the notary public or provides "satisfactory

¹⁷ *Id.*

¹⁸ FLA. CONST., Art. IV, s. 7.

¹⁹ Section 117.05(1), F.S. (providing violation is a third degree felony). *See also* s. 117.05(3)(d), (7), and (8), F.S.; s. 117.105, F.S.; s. 117.107(9), F.S.

²⁰ Section 117.107(9), F.S. (providing violation is a civil infraction punishable by a fine of up to \$5,000).

²¹ *See supra* note 5.

²² Section 117.01(2), F.S. (requiring \$25 application fee, \$10 commission fee, and \$4 educational surcharge, except that the commission fee is waived for veterans with a 50 percent disability).

²³ *See supra* note 5 at p. 7.

²⁴ Section 117.01(2), F.S.

²⁵ *Id.*

evidence” by producing valid identification or witnesses or both verifying that the person is who he or she claims to be, the notary public may notarize the document.²⁶

Prohibited Acts

Section 117.107, F.S., specifies prohibited acts by notaries. A notary public may not:

- Use a name or initial in signing certificates other than that by which the notary public is commissioned.
- Sign notarial certificates using a facsimile signature stamp unless the notary public has a physical disability that limits or prohibits his or her ability to make a written signature and unless the notary public has first submitted written notice to the Department of State with an exemplar of the facsimile signature stamp. This does not apply to or prohibit the use of an electronic signature and seal by a notary public who is registered as an online notary public to perform an electronic or online notarization in accordance with ch. 117, F.S.
- Affix his or her signature to a blank form of affidavit or certificate of acknowledgment and deliver that form to another person with the intent that it be used as an affidavit or acknowledgment.
- Take the acknowledgment of or administer an oath to a person whom the notary public actually knows to have been adjudicated mentally incapacitated by a court of competent jurisdiction, where the acknowledgment or oath necessitates the exercise of a right that has been removed, and where the person has not been restored to capacity as a matter of record.
- Notarize a signature on a document if it appears that the person is mentally incapable of understanding the nature and effect of the document at the time of notarization.
- Take the acknowledgment of a person who does not speak or understand the English language, unless the nature and effect of the instrument to be notarized is translated into a language which the person does understand.
- Change anything in a written instrument after it has been signed by anyone.
- Amend a notarial certificate after the notarization is complete.
- Notarize a signature on a document if the person whose signature is being notarized does not appear before the notary public either by means of physical presence or by means of audio-video communication technology as authorized under part II of ch. 117, F.S., at the time the signature is notarized. Any notary public who violates this prohibition is guilty of a civil infraction, punishable by penalty not exceeding \$5,000, and such violation constitutes malfeasance and misfeasance in the conduct of official duties.
- Notarize a signature on a document if the document is incomplete or blank. However, an endorsement or assignment in blank of a negotiable or nonnegotiable note and the assignment in blank of any instrument given as security for such note is not deemed incomplete.
- Notarize a signature on a document if the person whose signature is to be notarized is the spouse, son, daughter, mother, or father of the notary public.
- Notarize a signature on a document if the notary public has a financial interest in or is a party to the underlying transaction; however, a notary public who is an employee may notarize a signature for his or her employer, and this employment does not constitute a financial interest in the transaction nor make the notary a party to the transaction as long as he or she does not

²⁶ Section 117.05(5), F.S.

receive a benefit other than his or her salary and the fee for services as a notary public authorized by law.

Recording Notification Service

In 2023, in response to an increase in fraudulent real property attempted conveyances in which a fraudster executes and records a deed purporting to convey title to or an interest in real property to himself or herself or a third party without the property owner's knowledge or consent, the Legislature enacted legislation in an attempt to minimize the potential for fraudulent real property deeds.²⁷ Pursuant to s. 28.47, F.S., on or before July 1, 2024, each clerk of the circuit court must create, maintain, and operate a free recording notification service which is open to all persons wishing to register for the service. The clerk must ensure that registration for the recording notification service is possible through an electronic registration portal. When a land record is recorded for a monitored identity, a recording notification must be sent within 24 hours after the recording to each registrant who is subscribed to receive recording notifications for that monitored identity. The notification must contain:

- Information identifying the monitored identity for which the land record was filed;
- The land record's recording date;
- The official record book and page number or instrument number assigned to the land record by the clerk;
- Instructions for electronically searching for and viewing the land record using the assigned official record book and page number or instrument number; and
- A phone number at which the clerk's office may be contacted during normal business hours with questions related to the recording notification.

There is no right or cause of action against, and no civil liability on the part of, the clerk with respect to the creation, maintenance, or operation of the recording notification service, and nothing in s. 28.47, F.S., may be construed to require the clerk to provide or allow access to a record or information which is confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution or to otherwise violate the public records laws of Florida.

Section 28.47, F.S., also applies to county property appraisers who have adopted an electronic land record notification service before July 1, 2023. The property appraiser may use a verification process for persons wishing to register for the electronic land record notification service to ensure the integrity of the process. For purposes of the property appraiser electronic land record notification service, "land record" means a deed or other document purporting to convey real property. When a land record is recorded for a monitored identity, the property appraiser must send a recording notification to each registrant who is subscribed to receive recording notifications for that monitored identity within 24 hours after the instrument has been reflected on the county tax roll.

²⁷ Chapter 2023-238, Laws of Fla.

III. Effect of Proposed Changes:

Public Notary Requirements

Section 1 amends s. 117.05, F.S., to require that when notarizing a signature, a notary public must complete a jurat or notarial certificate that must contain, among other elements, the *printed* name of the person whose signature is being notarized. The notarial certificate must also contain the printed names of all signatories, including principals and witnesses.

Section 2 amends s. 117.105, F.S., to prohibit a notary public from:

- Falsely notarizing a signature on a written or electronic document of a person who is not in the presence of the notary public, either in person or online, at the time the signature is notarized;²⁸ or,
- Falsely *or fraudulently* taking or receiving an acknowledgment of the signature on a written *or electronic document*.

A notary public who violates the above provisions commits a felony of the third degree, punishable as provided in s. 775.082, F.S., (sentencing), s. 775.083, F.S., (fines), or s. 775.084, F.S., (habitual offenders).²⁹ If the document notarized under these circumstances pertains to a real estate transaction or any other transfer of real property, the notary public commits a felony of the second degree.³⁰

Section 3 amends s. 117.107, F.S., by deleting subsection (9), which provides that a notary public may not notarize a signature on a document if the person whose signature is being notarized does not appear before the notary public either by means of physical presence or by means of audio-video communication technology at the time the signature is notarized, and specifies the penalty for a notary public who violates this provision.

The bill also specifies the criminal penalty for a notary public who commits a violation of any of the prohibited acts specified in s. 117.107, F.S. A notary public who commits a violation of s. 117.107, F.S., commits a misdemeanor of the first degree.³¹ A notary public who commits a violation of s. 117.107, F.S., with the intent to defraud commits a felony of the third degree. If the violation of s. 117.107, F.S., pertains to a real estate transaction or any other transfer of real property, the notary public commits a felony of the second degree.

²⁸ “In the presence of” and “electronic” have the same meaning as provided in s. 117.201, F.S. “In the presence of” means in the physical presence of another person; or outside of the physical presence of another person, but able to see, hear, and communicate with the person by means of audio-video communication technology. “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

²⁹ A “felony of the third degree” is punishable by a term of imprisonment not to exceed 5 years, and a fine not to exceed \$5,000.

³⁰ A “felony of the second degree” is punishable by a term of imprisonment not to exceed 15 years, and a fine not to exceed \$10,000.

³¹ A “misdemeanor of the first degree” is punishable by a term of imprisonment not to exceed 1 year, and a fine not to exceed \$1,000. *See* ss. 775.082 and 775.083, F.S.

Journal of Notarizations

Section 4 creates s. 117.109, F.S., to provide that a notary public must keep one or more tangible journals of all notarizations performed by the notary public. For each notarization, the journal entry must contain all of the following:

- The date and time of the notarization.
- The type of notarial act performed, whether an oath or acknowledgment.
- The type, the title, or a description of the electronic recording or proceeding.
- The name and address of each principal or witness involved in the transaction or proceeding.
- Evidence of identity of each principal involved in the transaction or proceeding in either of the following forms:
 - A statement that the person is personally known to the notary public; or
 - A notation of the type of government-issued identification credential the person provided to the notary public;
 - An indication that the government-issued identification credential satisfied the credential analysis; and
 - An indication that the principal satisfactorily passed the identity proofing.
- The fee, if any, charged for the notarization

The notary public must maintain a backup record of the journal, and protect from unauthorized access the journal, the backup record, and any other records the notary public receives.

The Department of State must retain jurisdiction over the journal records for a period of 10 years after the date of the notarial acts for the purpose of investigating possible notarial misconduct. A notary public must also maintain the journal for at least 10 years after the date of the notarial act.

A notary public, a guardian of an incapacitated notary public, or the personal representative of a notary public may contract with a secure repository, in accordance with any rules established under ch. 117, F.S., and delegate to the repository the notary public's duty to maintain the journal, provided that the Department of State is notified of such delegation of retention duties within 30 days thereafter, including the effective date of the delegation and the address and contact information for the repository.

If a notary public delegates to a secure repository their duty to maintain the journal, the notary public must make an entry in their journal identifying such repository and notify the Department of State. During any delegation, the secure repository must fulfill the responsibilities of the notary public to provide copies or access under s. 117.111, F.S., created by section 5 of the bill.

An omitted or incomplete entry in the journal does not invalidate the notarial act performed, but may be introduced as evidence to establish violations of ch. 117, F.S., as evidence of possible fraud, forgery, impersonation, duress, incapacity, undue influence, minority, illegality, or unconscionability; or for other evidentiary purposes.

Section 5 creates s. 117.111, F.S., to specify further requirements concerning the use of journals by notaries public. A notary public is required to:

- Keep the journal secure and under their sole control. The notary public may not allow another person to use the notary public's journal or allow another person who is providing services to a notary public to facilitate the performance of notarizations.
- Notify an appropriate law enforcement agency and the Department of State of any unauthorized use of or compromise to the security of the journal within 7 days after the discovery of the unauthorized use or compromise to security.
- Provide copies of pertinent entries in the journal upon the request of:
 - The Department of State, pursuant to a notary misconduct investigation; or
 - Any other persons or entities, pursuant to a subpoena, a court order, a law enforcement investigation, or any other lawful inspection demand.³²

Property Appraiser and Recording Notification Service

Section 6 amends s. 28.47, F.S., to provide that if a property appraiser receives notice from the property owner or clerk of the circuit court and reasonably determines that the recorded deed is fraudulent, the property appraiser may refuse to update the owner of record on the county's tax rolls. However, the property appraiser must make a notation in his or her records that a possible conveyance has been recorded.

Effective Date

The bill takes effect July 1, 2024.

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:

Section 6 of the bill, which modifies a provision relating to a recording notification service by clerks of circuit courts, to provide that if a property appraiser receives notice from a property owner or clerk of the circuit court and reasonably determines that a

³² The bill provides that these provisions may not be construed to prevent a notary public from designating a secure repository.

recorded deed is fraudulent, the property appraiser may refuse to update the owner of record on the county's tax rolls, may cause the bill to violate the single-subject requirement in Art. III, s. 6, of the Florida Constitution.³³ A legislative act violates the single-subject requirement when the provisions in the bill are not logically connected to one another, are not necessary to achieve the purpose of the legislation or “are designed to accomplish dissociated objects of legislative effort.”³⁴

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The journal of notarizations will presumably come at some cost to notaries public.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 117.05, 117.105, 117.107, and 28.47.

This bill creates the following sections of the Florida Statutes: 117.109 and 117.111.

IX. Additional Information:

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

CS by Commerce and Tourism on January 23, 2024

The committee substitute removes the requirement that notaries public must keep secure “electronic” journals of all notarizations performed, and provides that a notary public must keep one or more “tangible” journals of all notarizations performed.

³³ Art. III, § 6, Fla. Const.

³⁴ See *Heggs v. State*, 759 So. 2d 620, 626 (Fla. 2000); *State v. Petruzzelli*, 374 So. 2d 13, 15 (Fla. 1979), *State ex rel-Landis v. Thompson*, 120 Fla. 860,892-3, 16350.270, 283 (1935).

B. Amendments:

None.

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



850420

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/08/2024	.	
	.	
	.	
	.	

The Appropriations Committee on Transportation, Tourism, and Economic Development (Avila) recommended the following:

Senate Amendment (with title amendment)

Delete lines 63 - 323

and insert:

Section 1. Section 117.105, Florida Statutes, is amended to read:

117.105 False or fraudulent acknowledgments; penalties for prohibited acts ~~penalty~~.—

(1) A notary public may not do any of the following: ~~who~~

(a) Falsely or fraudulently take ~~takes~~ an acknowledgment of



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11 an instrument as a notary public. ~~or~~

12 (b) Who Falsely or fraudulently make ~~makes~~ a certificate as
13 a notary public. ~~or~~

14 (c) Who Falsely or fraudulently take or receive ~~takes or~~
15 receives an acknowledgment of the signature on a written or
16 electronic document ~~instrument is guilty of a felony of the~~
17 third degree, punishable as provided in s. 775.082, s. 775.083,
18 ~~or s. 775.084.~~

19 (2) A notary public who knowingly and willfully violates
20 subsection (1) commits a felony of the third degree, punishable
21 as provided in s. 775.082, s. 775.083, or s. 775.084. A notary
22 public who knowingly and willfully violates subsection (1)
23 commits a felony of the second degree, punishable as provided in
24 s. 775.082, s. 775.083, or s. 775.084, if the document notarized
25 pertains to a real estate transaction or any other transfer of
26 real property.

27 Section 2. Subsection (9) of section 117.107, Florida
28 Statutes, is amended, and subsection (13) is added to that
29 section, to read:

30 117.107 Prohibited acts; penalty.—

31 (9) A notary public may not notarize a signature on a
32 document if the person whose signature is being notarized does
33 not appear before the notary public either by means of physical
34 presence or by means of audio-video communication technology as
35 authorized under part II of this chapter at the time the
36 signature is notarized. ~~Any notary public who violates this~~
37 ~~subsection is guilty of a civil infraction, punishable by~~
38 ~~penalty not exceeding \$5,000, and such violation constitutes~~
39 ~~malfesance and misfesance in the conduct of official duties.~~



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40 ~~It is no defense to the civil infraction specified in this~~
41 ~~subsection that the notary public acted without intent to~~
42 ~~defraud. A notary public who violates this subsection with the~~
43 ~~intent to defraud is guilty of violating s. 117.105.~~

44 (13) A notary public who knowingly and willfully violates
45 this section commits a misdemeanor of the first degree,
46 punishable as provided in s. 775.082 or s. 775.083. A notary
47 public who knowingly and willfully violates this section with
48 the intent to defraud commits a felony of the third degree,
49 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
50 A notary public who knowingly and willfully violates this
51 section with the intent to defraud commits a felony of the
52 second degree, punishable as provided in s. 775.082, s. 775.083,
53 or s. 775.084, if the violation pertains to a real estate
54 transaction or any other transfer of real property.

55
56 ===== T I T L E A M E N D M E N T =====

57 And the title is amended as follows:

58 Delete lines 3 - 53

59 and insert:

60 117.105, F.S.; revising criminal penalties for false
61 or fraudulent acknowledgments; amending s. 117.107,
62 F.S.; deleting a civil penalty relating to a provision
63 that prohibits a notary public from notarizing a
64 signature on a document of a person who is not, at the
65 time of the notarial act, physically present or
66 present by means of audio-video communication
67 technology; providing criminal penalties;

By the Committee on Commerce and Tourism; and Senator Avila

577-02401-24

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1 A bill to be entitled
 2 An act relating to notaries public; amending s.
 3 117.05, F.S.; requiring that certain notarial
 4 certificates contain the printed names of specified
 5 individuals; amending s. 117.105, F.S.; prohibiting a
 6 notary public from falsely notarizing the signature of
 7 a person who is not in that notary public's presence,
 8 either in person or online; defining terms; providing
 9 criminal penalties; making technical changes; amending
 10 s. 117.107, F.S.; deleting a provision that prohibits
 11 a notary public from notarizing a signature on a
 12 document of a person who is not, at the time of the
 13 notarial act, physically present or present by means
 14 of audio-video communication technology and that
 15 provides civil penalties; providing criminal
 16 penalties; creating s. 117.109, F.S.; requiring a
 17 notary public to keep at least one tangible journal;
 18 requiring a journal entry for each notarization;
 19 providing requirements for such entries; requiring the
 20 notary public to take reasonable steps to maintain a
 21 backup record and to protect the journal, the backup
 22 record, and other records from unauthorized access;
 23 requiring the Department of State to retain
 24 jurisdiction over the journal records for a specified
 25 timeframe for a certain purpose; requiring the notary
 26 public to maintain the journal for a specified
 27 timeframe; authorizing the notary public or specified
 28 individuals on his or her behalf to contract with a
 29 secure repository to maintain the journal; providing

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30 that such repository must fulfill specified duties of
 31 the notary public with respect to the journal;
 32 requiring the notary public to send, within a
 33 specified timeframe, a certain notification to the
 34 department of such delegation of retention duties;
 35 requiring the notary public to make an entry
 36 identifying the repository and providing notice to the
 37 department; requiring the secure repository to fulfill
 38 certain responsibilities of the notary public during
 39 any delegation; providing that an omitted or
 40 incomplete entry in the journal does not invalidate
 41 the notarial act, but may be used for specified
 42 evidentiary purposes; creating s. 117.111, F.S.;
 43 requiring a notary public to keep the journal secure
 44 and notify, within a specified timeframe, the
 45 appropriate law enforcement agency and the department
 46 of any unauthorized use of or compromise to the
 47 security of the journal; prohibiting the notary public
 48 from allowing another person to use the notary
 49 public's journal or from allowing another person who
 50 is providing services to a notary public to facilitate
 51 the performance of notarizations; requiring the notary
 52 public to provide copies of pertinent entries upon the
 53 request of specified entities; providing construction;
 54 amending s. 28.47, F.S.; authorizing a property
 55 appraiser to refuse to update an owner of record on
 56 the county's tax rolls under specified circumstances;
 57 requiring the property appraiser to make a certain
 58 notation in the records in the event such refusal is

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59 made; providing an effective date.
60
61 Be It Enacted by the Legislature of the State of Florida:
62
63 Section 1. Paragraph (e) of subsection (4) and subsection
64 (13) of section 117.05, Florida Statutes, are amended to read:
65 117.05 Use of notary commission; unlawful use; notary fee;
66 seal; duties; employer liability; name change; advertising;
67 photocopies; penalties.-
68 (4) When notarizing a signature, a notary public shall
69 complete a jurat or notarial certificate in substantially the
70 same form as those found in subsection (13). The jurat or
71 certificate of acknowledgment shall contain the following
72 elements:
73 (e) The printed name of the person whose signature is being
74 notarized. It is presumed, absent such specific notation by the
75 notary public, that notarization is to all signatures.
76 (13) The following notarial certificates are sufficient for
77 the purposes indicated, if completed with the information
78 required by this chapter. The specification of forms under this
79 subsection does not preclude the use of other forms. However,
80 the notarial certificate must contain the printed names of all
81 signatories, including principals and witnesses.
82 (a) For an oath or affirmation:
83
84 STATE OF FLORIDA
85 COUNTY OF
86
87 Sworn to (or affirmed) and subscribed before me by means of

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88 physical presence or online notarization, this ... day of
89, ..(year)..., by ...(name of person making
90 statement)....
91
92 ...(Signature of Notary Public - State of Florida)...
93 ...(Print, Type, or Stamp Commissioned Name of Notary Public)...
94 Personally Known..... OR Produced Identification.....
95 Type of Identification Produced.....
96
97 (b) For an acknowledgment in an individual capacity:
98
99 STATE OF FLORIDA
100 COUNTY OF
101
102 The foregoing instrument was acknowledged before me by means of
103 physical presence or online notarization, this ... day of
104, ..(year)..., by ...(name of person acknowledging)....
105
106 ...(Signature of Notary Public - State of Florida)...
107 ...(Print, Type, or Stamp Commissioned Name of Notary Public)...
108 Personally Known..... OR Produced Identification.....
109 Type of Identification Produced.....
110
111 (c) For an acknowledgment in a representative capacity:
112
113 STATE OF FLORIDA
114 COUNTY OF
115
116 The foregoing instrument was acknowledged before me by means of

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117 physical presence or online notarization, this ... day of
118 , ... (year) ... , by ... (name of person) ... as ... (type of
119 authority, . . . e.g. officer, trustee, attorney in fact) ... for
120 ... (name of party on behalf of whom instrument was executed) ...

121
122 ... (Signature of Notary Public - State of Florida) ...
123 ... (Print, Type, or Stamp Commissioned Name of Notary Public) ...
124 Personally Known OR Produced Identification
125 Type of Identification Produced

126
127 Section 2. Section 117.105, Florida Statutes, is amended to
128 read:

129 117.105 False or fraudulent acknowledgments; penalties for
130 prohibited acts ~~penalty~~.-

131 (1) A notary public may not do any of the following: ~~who~~
132 (a) Falsely notarize a signature on a written or electronic
133 document of a person who is not in the presence of the notary
134 public, either in person or online, at the time the signature is
135 notarized. For the purposes of this paragraph, the terms "in the
136 presence of" and "electronic" have the same meaning as provided
137 in s. 117.201.

138 (b) Falsely or fraudulently take ~~takes~~ an acknowledgment of
139 an instrument as a notary public, ~~or~~

140 (c) ~~Who~~ Falsely or fraudulently make ~~makes~~ a certificate as
141 a notary public, ~~or~~

142 (d) ~~Who~~ Falsely or fraudulently take or receive ~~takes or~~
143 ~~receives~~ an acknowledgment of the signature on a written or
144 electronic document ~~instrument is guilty of a felony of the~~
145 ~~third degree, punishable as provided in s. 775.082, s. 775.083,~~

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146 ~~or s. 775.084.~~

147 (2) A notary public who violates subsection (1) commits a
148 felony of the third degree, punishable as provided in s.
149 775.082, s. 775.083, or s. 775.084. If the document notarized
150 under these circumstances pertains to a real estate transaction
151 or any other transfer of real property, the notary public
152 commits a felony of the second degree, punishable as provided in
153 s. 775.082, s. 775.083, or s. 775.084.

154 Section 3. Section 117.107, Florida Statutes, is amended to
155 read:

156 117.107 Prohibited acts; penalty.-

157 (1) A notary public may not use a name or initial in
158 signing certificates other than that by which the notary public
159 is commissioned.

160 (2) A notary public may not sign notarial certificates
161 using a facsimile signature stamp unless the notary public has a
162 physical disability that limits or prohibits his or her ability
163 to make a written signature and unless the notary public has
164 first submitted written notice to the Department of State with
165 an exemplar of the facsimile signature stamp. This subsection
166 does not apply to or prohibit the use of an electronic signature
167 and seal by a notary public who is registered as an online
168 notary public to perform an electronic or online notarization in
169 accordance with this chapter.

170 (3) A notary public may not affix his or her signature to a
171 blank form of affidavit or certificate of acknowledgment and
172 deliver that form to another person with the intent that it be
173 used as an affidavit or acknowledgment.

174 (4) A notary public may not take the acknowledgment of or

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175 administer an oath to a person whom the notary public actually
 176 knows to have been adjudicated mentally incapacitated by a court
 177 of competent jurisdiction, where the acknowledgment or oath
 178 necessitates the exercise of a right that has been removed
 179 pursuant to s. 744.3215(2) or (3), and where the person has not
 180 been restored to capacity as a matter of record.

181 (5) A notary public may not notarize a signature on a
 182 document if it appears that the person is mentally incapable of
 183 understanding the nature and effect of the document at the time
 184 of notarization.

185 (6) A notary public may not take the acknowledgment of a
 186 person who does not speak or understand the English language,
 187 unless the nature and effect of the instrument to be notarized
 188 is translated into a language which the person does understand.

189 (7) A notary public may not change anything in a written
 190 instrument after it has been signed by anyone.

191 (8) A notary public may not amend a notarial certificate
 192 after the notarization is complete.

193 (9) ~~A notary public may not notarize a signature on a~~
 194 ~~document if the person whose signature is being notarized does~~
 195 ~~not appear before the notary public either by means of physical~~
 196 ~~presence or by means of audio-video communication technology as~~
 197 ~~authorized under part II of this chapter at the time the~~
 198 ~~signature is notarized. Any notary public who violates this~~
 199 ~~subsection is guilty of a civil infraction, punishable by~~
 200 ~~penalty not exceeding \$5,000, and such violation constitutes~~
 201 ~~malfeasance and misfeasance in the conduct of official duties.~~
 202 ~~It is no defense to the civil infraction specified in this~~
 203 ~~subsection that the notary public acted without intent to~~

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204 ~~defraud. A notary public who violates this subsection with the~~
 205 ~~intent to defraud is guilty of violating s. 117.105.~~

206 ~~(10)~~ A notary public may not notarize a signature on a
 207 document if the document is incomplete or blank. However, an
 208 endorsement or assignment in blank of a negotiable or
 209 nonnegotiable note and the assignment in blank of any instrument
 210 given as security for such note is not deemed incomplete.

211 (10)~~(11)~~ A notary public may not notarize a signature on a
 212 document if the person whose signature is to be notarized is the
 213 spouse, son, daughter, mother, or father of the notary public.

214 (11)~~(12)~~ A notary public may not notarize a signature on a
 215 document if the notary public has a financial interest in or is
 216 a party to the underlying transaction; however, a notary public
 217 who is an employee may notarize a signature for his or her
 218 employer, and this employment does not constitute a financial
 219 interest in the transaction nor make the notary a party to the
 220 transaction under this subsection as long as he or she does not
 221 receive a benefit other than his or her salary and the fee for
 222 services as a notary public authorized by law. For purposes of
 223 this subsection, a notary public who is an attorney does not
 224 have a financial interest in and is not a party to the
 225 underlying transaction evidenced by a notarized document if he
 226 or she notarizes a signature on that document for a client for
 227 whom he or she serves as an attorney of record and he or she has
 228 no interest in the document other than the fee paid to him or
 229 her for legal services and the fee authorized by law for
 230 services as a notary public.

231 (12) A notary public who commits a violation of this
 232 section commits a misdemeanor of the first degree, punishable as

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233 provided in s. 775.082 or s. 775.083. A notary public who
 234 commits a violation of this section with the intent to defraud
 235 commits a felony of the third degree, punishable as provided in
 236 s. 775.082, s. 775.083, or s. 775.084. If the violation of this
 237 section pertains to a real estate transaction or any other
 238 transfer of real property, the notary public commits a felony of
 239 the second degree, punishable as provided in s. 775.082, s.
 240 775.083, or s. 775.084.

241 Section 4. Section 117.109, Florida Statutes, is created to
 242 read:

243 117.109 Journal of notarizations.—

244 (1) A notary public shall keep one or more tangible
 245 journals of all notarizations performed by the notary public.
 246 For each notarization, the journal entry must contain all of the
 247 following:

248 (a) The date and time of the notarization.

249 (b) The type of notarial act performed, whether an oath or
 250 acknowledgment.

251 (c) The type, the title, or a description of the electronic
 252 recording or proceeding.

253 (d) The name and address of each principal or witness
 254 involved in the transaction or proceeding.

255 (e) Evidence of identity of each principal involved in the
 256 transaction or proceeding in either of the following forms:

257 1. A statement that the person is personally known to the
 258 notary public; or

259 2.a. A notation of the type of government-issued
 260 identification credential the person provided to the notary
 261 public;

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262 b. An indication that the government-issued identification
 263 credential satisfied the credential analysis; and

264 c. An indication that the principal satisfactorily passed
 265 the identity proofing.

266 (f) The fee, if any, charged for the notarization.

267 (2) The notary public shall take reasonable steps to:

268 (a) Maintain a backup record of the journal required by
 269 subsection (1).

270 (b) Protect from unauthorized access the journal, the
 271 backup record, and any other records the notary public receives.

272 (3) The Department of State shall retain jurisdiction over
 273 the journal records for a period of 10 years after the date of
 274 the notarial acts for the purpose of investigating possible
 275 notarial misconduct.

276 (a) A notary public shall maintain the journal required
 277 under subsection (1) for at least 10 years after the date of the
 278 notarial act.

279 (b) A notary public, a guardian of an incapacitated notary
 280 public, or the personal representative of a notary public may
 281 contract with a secure repository, in accordance with any rules
 282 established under this chapter, and delegate to the repository
 283 the notary public's duty to maintain the journal, provided that
 284 the department is notified of such delegation of retention
 285 duties within 30 days thereafter, including the effective date
 286 of the delegation and the address and contact information for
 287 the repository.

288 (c) If a notary public delegates to a secure repository his
 289 or her duty to maintain the journal required under this section,
 290 the notary public must make an entry in his or her journal

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291 identifying such repository and notify the department as
 292 required in this subsection. During any delegation under this
 293 subsection, the secure repository shall fulfill the
 294 responsibilities of the notary public to provide copies or
 295 access under s. 117.111.

296 (4) An omitted or incomplete entry in the journal does not
 297 invalidate the notarial act performed, but may be introduced as
 298 evidence to establish violations of this chapter; as evidence of
 299 possible fraud, forgery, impersonation, duress, incapacity,
 300 undue influence, minority, illegality, or unconscionability; or
 301 for other evidentiary purposes.

302 Section 5. Section 117.111, Florida Statutes, is created to
 303 read:

304 117.111 Use of journal.—

305 (1) A notary public shall do all of the following:

306 (a) Keep the journal maintained pursuant to s. 117.109
 307 secure and under his or her sole control. The notary public may
 308 not allow another person to use the notary public's journal or
 309 allow another person who is providing services to a notary
 310 public to facilitate the performance of notarizations.

311 (b) Notify an appropriate law enforcement agency and the
 312 Department of State of any unauthorized use of or compromise to
 313 the security of the journal within 7 days after the discovery of
 314 the unauthorized use or compromise to security.

315 (2) A notary public shall provide copies of pertinent
 316 entries in the journal upon the request of any of the following:

317 (a) The department, pursuant to a notary misconduct
 318 investigation.

319 (b) Any other persons or entities, pursuant to a subpoena,

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320 a court order, a law enforcement investigation, or any other
 321 lawful inspection demand.

322 (3) This section may not be construed to prevent a notary
 323 public from designating a secure repository under s. 117.109.

324 Section 6. Subsection (6) of section 28.47, Florida
 325 Statutes, is amended to read:

326 28.47 Recording notification service.—

327 (6) This section also applies to county property appraisers
 328 who have adopted an electronic land record notification service
 329 before July 1, 2023.

330 (a)1. The property appraiser may use a verification process
 331 for persons wishing to register for the electronic land record
 332 notification service to ensure the integrity of the process.

333 2. If the property appraiser receives notice from the
 334 property owner or clerk of the circuit court and reasonably
 335 determines that the recorded deed is fraudulent, the property
 336 appraiser may refuse to update the owner of record on the
 337 county's tax rolls. However, the property appraiser shall make a
 338 notation in his or her records that a possible conveyance has
 339 been recorded.

340 (b) For purposes of this subsection only, and
 341 notwithstanding paragraph (1)(a) and subsection (3):

342 1. "Land record" means a deed or other document purporting
 343 to convey real property.

344 2. When a land record is recorded for a monitored identity,
 345 the property appraiser must send a recording notification to
 346 each registrant who is subscribed to receive recording
 347 notifications for that monitored identity within 24 hours after
 348 the instrument being reflected on the county tax roll.

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349

Section 7. This act shall take effect July 1, 2024.



SENATOR Bryan Avila
39th District

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Government Oversight and Accountability, Chair
Appropriations
Appropriations Committee on Education
Appropriations Committee of Health and Human
Services
Education Pre-K 12
Ethics and Elections
Health Policy
Select Committee on Resiliency
Joint Select Committee on Collective Bargaining

January 25, 2024

Honorable Senator Ed Hooper
Committee on Transportation, Tourism, and Economic Development

Honorable Chair Hooper:

I respectfully request CS/SB 356 Notaries Public be placed on the next committee agenda.

CS/SB 356 Notaries Public; Requires that certain notarial certificates contain the printed names of specified individuals. It prohibits a notary public from falsely notarizing the signature of a person who is not in that notary public's presence, either in person or online; deleting a provision that prohibits a notary public from notarizing a signature on a document of a person who is not, at the time of the notarial act, physically present or present by means of audio-video communication technology and that provides civil penalties; requiring a notary public to keep at least one tangible journal; requiring the Department of State to retain jurisdiction over the journal records for a specified timeframe for a certain purpose.

Sincerely,

A handwritten signature in blue ink that reads "Bryan Avila".

Senator Bryan Avila
Florida Senate, District 39

CC: Charlotte Jerrett, Staff Director
Brooke Conlan, Committee Administrative Assistant
Caroline Dixon, Legislative Assistant

REPLY TO:

- 10001 Northwest 87th Avenue, Hialeah Gardens, Florida 33016 (305) 364-3073
- 326 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5039

Senate's Website: www.flsenate.gov

Kathleen Passidomo
President of the Senate

Dennis Baxley
President Pro Tempore

APPEARANCE RECORD

2/8/24

Meeting Date

SB 356 - Notaries

Bill Number or Topic

Approp. Transport, Tourism, Ec. Dev.

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name AARP - Karen Murillo

Phone 850-567-0414

Address 215 S. Monroe St.
Street

Email kmurillo@aarp.org

Tallahassee
City

FL
State

32301
Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf flsenate.gov](#)

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Committee on Transportation, Tourism, and Economic Development

BILL: SB 512

INTRODUCER: Senator Bradley

SUBJECT: Specialty License Plates/United Service Organizations

DATE: February 8, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Shutes</u>	<u>Vickers</u>	<u>TR</u>	<u>Favorable</u>
2.	<u>Wells</u>	<u>Jerrett</u>	<u>ATD</u>	<u>Favorable</u>
3.	_____	_____	<u>FP</u>	_____

I. Summary:

SB 512 authorizes the Department of Highway Safety and Motor Vehicles (DHSMV) to create a new specialty license plate for the United Service Organizations. The annual use fee for the plate is \$25.

Proceeds of the sale of the United Service Organizations (USO) specialty license plate will be distributed to USO Florida, Inc. The organization may use up to ten percent of proceeds to promote and market the plate. The remaining funds must be distributed equally among its ten locations in Florida to be used to promote the USO's mission of supporting members of the United States Armed Forces and their families through its programs, services, and events.

The DHSMV estimates programming and implementation of the plate will cost \$7,680. See Section V., Fiscal Impact Statement.

The bill takes effect October 1, 2024.

II. Present Situation:

United Services Organizations

USO Florida, Inc. is a Florida not-for-profit corporation registered with the Florida Department of State.¹ The organization's website includes the following mission statement: "The USO strengthens America's military service members by keeping them connected to family, home and country, throughout their service to the nation."²

¹ Florida Department of State: Division of Corporations, *United Service Organizations, Inc.* Sunbiz.org, Document number F02000006193 (December 8, 2023).

² *Id.*

USO was created in 1941 and has been the nation's leading organization to serve the members of military and their families, throughout their time in uniform.³ Today the USO operates in over 250 locations around the world providing programs and services to deployed military service members and their families. These programs and services include:⁴

- Providing centers with free internet access or free calling cards to deployed service members in combat zones so they can reach out to their families;
- Delivering care packages to deployed service members;
- Organizing trademark USO entertainment tours for service members;
- Providing support to injured service members; and
- Providing support to the families of fallen service members.

Specialty License Plates

As of December 2023, there are 144 specialty license plates authorized by the Legislature. Of these plates, 109 are available for immediate purchase and 31 are in the presale process.⁵ Specialty license plates are available to an owner or lessee of a motor vehicle who is willing to pay an annual use fee, ranging from \$15 to \$25, paid in addition to required license taxes and service fees.⁶ The annual use fees are distributed to organizations in support of a particular cause or charity signified on the plate's design and designated in statute.⁷

In order to establish a specialty license plate and after the plate is approved by law, s. 320.08053, F.S., requires the following actions within certain timelines:

- Within 60 days, the organization must submit an art design for the plate, in a medium prescribed by the DHSMV;
- Within 120 days, the DHSMV must establish a method to issue presale vouchers for the specialty license plate; and
- Within 24 months after the presale vouchers are established, the organization must obtain a minimum of 3,000 voucher sales before manufacturing of the plate may begin.⁸

If the minimum sales requirement has not been met by the end of the 24-month presale period, then the DHSMV will discontinue the plate and issuance of presale vouchers. Upon discontinuation, a purchaser of a presale voucher may use the annual use fee as a credit towards any other specialty license plate or apply for a refund with the DHSMV.⁹

³ United Service Organizations, *About Us*, [The Organization - United Service Organizations \(uso.org\)](https://www.uso.org) (last visited December 8, 2023).

⁴ See USO, *Frequently Asked Questions - What programs and services does the USO offer?*, <https://www.uso.org/faq> (last visited January 11, 2024).

⁵ DHSMV Presentation to the Senate Transportation Committee, *Specialty License Plates* (January 24, 2023), slideshow available at https://www.flsenate.gov/Committees/Show/TR/MeetingPacket/5615/10046_MeetingPacket_5615_3.pdf (last visited October 10, 2023).

⁶ Section 320.08056(3)(d), F.S., provides that except if specifically provided in s. 320.08056(4), the annual use fee for a specialty license plate is \$25.

⁷ Section 320.08058, F.S.

⁸ Chapter 2022-189, Laws of Fla., extended the presale requirement by an additional 24 months for an approved specialty license plate organization that, as of June 15, 2022, is in the presale period but had not recorded at least 3,000 voucher sales.

⁹ Section 320.08053(2)(b), F.S.

New specialty license plates that have been approved by law but are awaiting issuance will be issued in the order they appear in s. 320.08058, F.S., provided that presale requirements have been met. If the next listed specialty license plate has not met the presale requirement, the DHSMV will proceed in the order provided in s. 320.08058, F.S., to identify the next qualified specialty license plate that has met the presale requirement.¹⁰

If the Legislature has approved 135 or more specialty license plates, the DHSMV may not make any new specialty license plates available for design or issuance until a sufficient number of plates are discontinued so that the number of plates being issued does not exceed 135.¹¹

Use of Specialty License Plate Fees

The annual use fees collected by an organization and any interest earned from the fees may be expended only for use in this state unless the annual use fee is derived from the sale of specified United States Armed Forces and veterans-related specialty plates.¹² Additionally, organizations must adhere to certain accountability requirements, including an annual audit or attestation document affirming that funds received have been spent in accordance with applicable statutes.¹³

The annual use fees collected by an organization and the interest earned from those fees may not be used for commercial or for-profit activities, or general or administrative expenses, unless authorized by s. 320.08058, F.S.¹⁴ Additionally, the annual use fees and interest earned from those fees may not be used for the purpose of marketing to, or lobbying, entertaining, or rewarding, any employee of a governmental agency that is responsible for the sale and distribution of specialty license plates, or any elected member or employee of the Legislature.¹⁵

Discontinuance of Specialty Plates

Prior to June 30, 2023, the DHSMV was required to discontinue the issuance of an approved specialty license plate if the number of valid registrations falls below 1,000 plates for at least 12 consecutive months. A warning letter was mailed to the sponsoring organization following the first month in which the total number of valid specialty license plate registrations fell below 1,000 plates. Collegiate plates for Florida universities were exempt from the minimum specialty license plate requirement.¹⁶ In addition, the DHSMV was authorized to discontinue any specialty license plate if the organization ceased to exist, stopped providing services that are funded from the annual use fee proceeds, or pursuant to an organizational recipient's request.¹⁷

However, effective July 1, 2023, the requirement increased so that the DHSMV must discontinue the issuance of an approved specialty license plate if the number of valid registrations falls below

¹⁰ Section 320.08053(3)(a), F.S.

¹¹ Section 320.08053(3)(b), F.S.

¹² Section 320.08056(10)(a), F.S.

¹³ Section 320.08062, F.S.; Such fees may be used to pay for the cost of this required audit or report. See s. 320.08056(10)(a), F.S.

¹⁴ Section 320.08056(10)(a), F.S.

¹⁵ Section 320.08056(11), F.S.

¹⁶ Section 320.08056(8)(a), F.S.

¹⁷ Section 320.08056(8)(b), F.S.

3,000 or in the case of an out-of-state college or university license plate, 4,000, for at least 12 consecutive months. The DHSMV must mail a warning letter to the sponsoring organization following the first month in which the total number of valid specialty plate registrations is below 3,000, or in the case of an out-of-state college or university license plate, 4,000. This does not apply to in-state collegiate license plates established under s. 320.08058(3), F.S., license plates of institutions in and entities of the State University System, specialty license plates that have statutory eligibility limitations for purchase, specialty license plates for which annual use fees are distributed by a foundation for student and teacher leadership programs and teacher recruitment and retention, or Florida professional sports team license plates established under s. 320.08058(9), F.S.¹⁸

III. Effect of Proposed Changes:

The bill amends s. 320.08058, F.S., to authorize DHSMV to create a new specialty license plate for the USO. The annual use fee for the plate is \$25. The plate must bear the colors and design approved by the department, with the word “Florida” at the top of the plate and the words “USO” at the bottom of the plate.

Proceeds from the sale of the plate will be distributed to USO Florida, Inc. The organization may use up to 10 percent of the fees for the administration, promotion, and marketing of the plate. The remaining fees must be used by the USO Florida, Inc., to support members of the United States Armed forces and their families through their various programs, services, and events.

The plate will be added to the DHSMV presale voucher process, but will not be produced unless the presale requirement of 3,000 vouchers is met and the 135 plate cap has not been reached.

The bill takes effect October 1, 2024.

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.

¹⁸ Chapter 2020-181, s. 7, Laws of Fla.

E. Other Constitutional Issues:

None Identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

If the specialty license plate is produced, the United Service Organizations will receive annual use fees associated with sales of the plate.

C. Government Sector Impact:

The DHSMV estimates programming and implementation of the plate will cost \$7,680.¹⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 320.08058 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.

¹⁹ DHSMV, *2024 Legislative Bill Analysis: SB 512* (December 13, 2023) at p. 5.

By Senator Bradley

6-00663A-24

2024512__

A bill to be entitled

An act relating to specialty license plates; amending s. 320.08058, F.S.; directing the Department of Highway Safety and Motor Vehicles to develop a United Service Organizations (USO) license plate; providing for distribution and use of fees collected from the sale of the plate; providing an effective date.

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

Section 1. Subsection (127) is added to section 320.08058, Florida Statutes, to read:

320.08058 Specialty license plates.—

(127) UNITED SERVICE ORGANIZATIONS (USO) LICENSE PLATES.—

(a) The department shall develop a United Service Organizations (USO) license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the acronym "USO" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to USO Florida, Inc., a nonprofit corporation under s. 501(c)(3) of the Internal Revenue Code, which may use up to 10 percent of the fees for administrative costs and marketing of the plate. USO Florida, Inc., shall distribute the remainder of the fees equally among its ten locations in this state to be used to promote the USO's mission of supporting members of the United States Armed Forces and their families through its various programs, services, and events.

Page 1 of 2

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

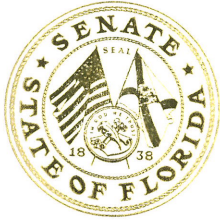
6-00663A-24

2024512__

Section 2. This act shall take effect October 1, 2024.

Page 2 of 2

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Committee on Criminal
and Civil Justice, *Chair*
Criminal Justice, *Vice Chair*
Appropriations
Children, Families, and Elder Affairs
Community Affairs
Regulated Industries

SELECT COMMITTEE:

Select Committee on Resiliency

SENATOR JENNIFER BRADLEY

6th District

January 17, 2024

Senator Ed Hooper, Chairman
Senate Appropriations Committee on Transportation, Tourism, and Economic Development
406 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Hooper:

I respectfully request that Senate Bill 512 be placed on the committee's agenda at your earliest convenience. This bill relates to specialty license plates/united service organizations.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Jennifer Bradley".

Jennifer Bradley

cc: Charlotte Jerrett, Staff Director
Brooke Conlan, Administrative Assistant

REPLY TO:

- 1845 East West Parkway, Suite 5, Fleming Island, Florida 32003 (904) 278-2085
- 124 Northwest Madison Street, Lake City, Florida 32055 (386) 719-2708
- 408 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5006

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

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 Appropriations Committee on Transportation, Tourism, and Economic Development

BILL: CS/CS/SB 716

INTRODUCER: Appropriations Committee on Transportation, Tourism, and Economic Development, Governmental Oversight, and Accountability Committee and Senators Rodriguez and Stewart

SUBJECT: Florida Women’s Historical Marker Initiative

DATE: February 12, 2024 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Limonas-Borja</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
2.	<u>Wells</u>	<u>Jerrett</u>	<u>ATD</u>	<u>Fav/CS</u>
3.	_____	_____	<u>FP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 716 establishes the Florida Women’s Historical Marker Initiative (Initiative) within the Division of Historical Resources (Division). The purpose of the Initiative is to recognize the contributions of 100 women with the placement of historical markers by the Florida Historical Markers Program (Program). The Program shall place 10 markers each year.

The bill establishes the Florida Women’s Historical Marker Selection Committee (Committee) to provide recommendations to the Secretary of State (Secretary) regarding the women who will be recognized by the Initiative. The Committee must recommend at least 25 women per fiscal year. The Committee will consist of 11 members appointed by the Secretary of State. The members of the Committee shall be appointed to 2-year terms. The Committee is required to conduct its own research on the women to recognize and solicit input from the general public. The Committee will expire no later than June 30, 2028, or 30 days after the Secretary has selected the 100 women to be recognized.

The bill sets the following criteria for women to be recognized for the markers:

- Must have been born in, resided in, or been employed in this state;
- Must have significantly contributed to the state of Florida, her county, or her specific community; and

- The contribution or achievement for which a woman is being recognized must have occurred more than 30 years before such recognition.

There must be at least one woman recognized from each of the state's counties.

The bill provides an appropriation to the Department of State for the implementation of the bill. The bill takes effect July 1, 2024.

II. Present Situation:

Department of State

The Department of State (DOS), created in s. 20.10, F.S., is composed of six divisions: Elections, Historical Resources, Corporations, Library and Information Services, Arts and Culture, and Administration. The head of the DOS is the Secretary of State (Secretary). The Secretary is appointed by and serves at the pleasure of the Governor, and is confirmed by the Senate. The Secretary performs functions conferred by the State Constitution upon the custodian of state records.¹ The Secretary also serves as the state protocol officer and, in consultation with the Governor and other governmental officials, develops, maintains, publishes, and distributes the state protocol manual.²

Florida Division of Historical Resources

The DOS's Division of Historical Resources (Division) is responsible for preserving and promoting Florida's historical, archaeological, and folk culture resources. The Division Director's Office oversees a Historic Preservation Grants program to help preserve and maintain Florida's historic buildings and archaeological sites and coordinates outreach programs. The Division Director also serves as the State Historic Preservation Officer, acting as the liaison with the national historic preservation program conducted by the National Park Service.³

The Division is comprised of the following Bureaus:

- Bureau of Historic Preservation;
- Bureau of Historical Museums; and
- Bureau of Archeological Research.⁴

Florida Historical Marker Program

The Florida Historical Marker Program is designed to raise public awareness of Florida's rich cultural history and to enhance the enjoyment of our historic sites by citizens and tourists. These markers tell stories of the places and people who created Florida, by identifying the churches, schools, archaeological sites, battlefields, and homes that represent Florida's past.⁵ The official

¹ Section 20.10(1), F.S.

² Section 15.01(1), F.S.

³ Florida Department of State, Florida Division of Historical Resources, *About*, <https://dos.myflorida.com/historical/about/> (last visited Jan. 14, 2024).

⁴ *Id.*

⁵ Florida Department of State, Florida Division of Historical Resources, *Historical Markers*, <https://dos.fl.gov/historical/preservation/historical-markers/> (last visited Jan. 16, 2024).

Florida historic markers are markers awarded, approved, or administered by the Division.⁶ The Division makes the following distinctions:

- A “Florida Heritage Landmark” is a marker that recognizes resources for a region of the state or statewide that are usually more than fifty years old and are of exceptional significance in the areas of architecture, archaeology and history where the properties largely and visibly retain the distinctive physical characteristics that were present during the historical period for which the property is being recognized.⁷
- A “Florida Heritage” marker is a marker that identifies people, events and places, including buildings, structures, objects and archaeological sites that do not meet the criteria for Florida Heritage Landmark designation but are still of local, regional, or statewide historic significance relating to Florida history, culture, and ethnic heritage.⁸
- A “Special Marker” is a marker which the Division will establish to guide the public to places of historic or cultural interest and to facilitate the identification and interpretation of various topics, including at a minimum, historic and scenic trails, byways, greenways, and anniversaries or other occasions of special significance to the history and culture of Florida.⁹

The Division is responsible for the administration of all aspects of the Florida Historic Marker Program, including the application process, selection and designation of properties, persons or events to be marked, and the placement and maintenance of the markers.¹⁰ There are approximately 1,200 markers throughout the state currently.¹¹ While the current list of Florida Historical Markers has all the approved and created markers, some have yet to be installed or have been removed without notice to the Bureau of Historic Preservation.¹²

Executive Branch Entities

Chapter 20, F.S., authorizes the creation of different entities within the executive branch to assist agencies in performing their duties more efficiently and effectively. These entities include commissions, committees or task forces, coordinating councils, and advisory councils. These entities are statutorily defined:

- “Commission,” unless otherwise required by the State Constitution, means a body created by specific statutory enactment within a department, the office of the Governor, or the Executive Office of the Governor and exercising limited quasi-legislative or quasi-judicial powers, or both, independently of the head of the department or the Governor.¹³
- “Committee” or “task force” means an *advisory body* created without specific statutory enactment for a time not to exceed 1 year or created by specific statutory enactment for a time not to exceed 3 years and appointed to study a specific problem and recommend a

⁶ Rule 1A-48.002(3), F.A.C.

⁷ Rule 1A-48.002(3)(a), F.A.C.

⁸ Rule 1A-48.002(3)(b), F.A.C.

⁹ Rule 1A-48.002(3)(d), F.A.C.

¹⁰ Rule 1A-48.003(1), F.A.C.

¹¹ Florida Department of State, *Florida Historical Marker List*, <https://apps.flheritage.com/markers/> (Jan. 16, 2023).

¹² Email from Jeremy Heiker, Florida Historical Marker Coordinator, Department of State, to Gabriela Limones-Borja, Legislative Analyst, Senate Committee on Governmental Oversight and Accountability (Jan. 16, 2024, 4:15 EST) (on file with the Senate Committee on Governmental Oversight and Accountability).

¹³ Section 20.03(4), F.S.

solution or policy alternative with respect to that problem. Its existence terminates upon the completion of its assignment.¹⁴

- “Coordinating Council” means an interdepartmental advisory body created by law to coordinate programs and activities for which one department has primary responsibility but in which one or more other departments have an interest.¹⁵
- “Council” or “advisory council” means an *advisory body* created by specific statutory enactment and appointed to function on a continuing basis for the study of the problems arising in a specified functional or program area of state government and to provide recommendations and policy alternatives.¹⁶

III. Effect of Proposed Changes:

Section 1 provides that this act may be cited as the “Florida Women’s Historical Marker Initiative.”

Section 2 creates s. 267.0744, F.S., to establish the Florida Women’s Historical Marker Initiative (Initiative) within the Division of Historical Resources (Division). The purpose of this Initiative is to recognize the contributions of 100 women, living or deceased, to the history of this state by placing new historical markers. The Florida Historical Marker Program is required to place a total of 100 markers, with 10 placed each year. The first 10 markers must be placed by December 31, 2025 and the final marker placed by December 31, 2034.

The bill also creates the Florida Women’s Historical Marker Selection Committee (Committee), an advisory committee as defined in s. 20.03(5), F.S. The goal of the Committee is to provide guidance to the Secretary of State (Secretary) regarding the women who should be recognized by the Committee. The Committee is required to recommend at least 25 women for recognition each fiscal year. The Secretary is required to select 100 women from the recommendations of the Committee.

The Committee shall be composed of 11 members, all of which will be appointed by the Secretary. The membership of the committee must consist the following:

- Two noted Florida historians;
- One member from the Florida Commission of the Status of Women;
- One member of the Division of Historical Resources;
- One member of the State Historical Marker Council; and
- Six members from the general public.

The members will be appointed to 2-year terms and shall operate in a manner consistent with s. 20.052, F.S. The bill requires the Committee to conduct its own research on the women to be recognized, and solicit input from the general public. The Committee shall expire no later than June 30, 2028 or 30 days after the Secretary has selected the 100 women to be recognized.

The bill sets the following criteria for women to be recognized for the markers:

¹⁴ Section 20.03(5), F.S.

¹⁵ Section 20.03(6), F.S.

¹⁶ Section 20.03(7), F.S.

- Must have been born in, resided in, or been employed in this state;
- Must have significantly contributed to the state of Florida, her county, or her specific community; and
- The contribution or achievement for which a woman is being recognized must have occurred more than 30 years before such recognition.

The bill requires that there be at least one woman from each of the state's counties recognized.

Section 3 authorizes one full-time equivalent position and appropriates \$128,067 from the General Revenue Fund to the Department of State to implement and administer the Initiative.

Section 4 provides that the bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill provides an appropriation of \$123,000 in recurring funds and \$5,067 in nonrecurring funds from the General Revenue Fund for the 2024-2025 fiscal year to the Department of State to administer the Initiative. The bill also authorizes one full-time equivalent position.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 267.0744 of the Florida Statutes.

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

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

CS by Appropriations Committee on Transportation, Tourism, and Economic Development on February 8, 2024:

The committee substitute clarifies that the committee will be named the “Florida Women’s Historical Selection Committee.” The CS also authorizes one full time position and provides an appropriation of \$123,000 in recurring funds and \$5,067 in nonrecurring funds from the General Revenue Fund to allow the Department of state to implement the bill.

CS by Governmental Oversight and Accountability on January 22, 2024:

- Creates a new section within the Florida Historical Resources Act;
- Specifies that the committee is advisory in nature and that the Secretary of State will make the final decision on the women who will be recognized by the initiative;
- Requires the committee to recommend at least 25 women per fiscal year;
- Specifies that the Secretary of State will make the appointments to the committee;
- Specifies that the members will be appointed to 2-year terms; and
- Provides that the committee shall expire no later than June 30, 2028, or 30 days after the Secretary of State has the 100 selections.

B. Amendments:

None.



298200

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/08/2024	.	
	.	
	.	
	.	

The Appropriations Committee on Transportation, Tourism, and Economic Development (Rodriguez) recommended the following:

Senate Amendment (with title amendment)

Delete lines 51 - 86
and insert:

(3) (a) The Florida Women's Historical Marker Selection Committee, an advisory committee as defined in s. 20.03(5), is created within the division. The purpose of the committee is to provide guidance and recommendations to the Secretary of State regarding the women who have made significant historical contributions to this state and who should be recognized by the



11 initiative.

12 (b) The committee must recommend at least 25 women for
13 recognition each fiscal year.

14 (c) From the women recommended by the committee, the
15 Secretary of State shall select 100 women to be recognized under
16 this initiative.

17 (4) (a) The committee shall be composed of 11 members
18 appointed by the Secretary of State. The committee shall consist
19 of:

20 1. Two noted Florida historians.

21 2. One member of the Florida Commission on the Status of
22 Women.

23 3. One member of the Division of Historical Resources.

24 4. One member of the State Historical Marker Council.

25 5. Six members of the general public.

26 (b) The members shall be appointed for 2-year terms, except
27 for an appointment to fill an unexpired term, in which event the
28 appointments shall be for the remainder of the unexpired term
29 only. Except as otherwise provided in this section, the
30 committee shall operate in a manner consistent with s. 20.052.

31 (c) Notwithstanding the provisions of s. 20.03 limiting the
32 duration of a committee to 3 years, the committee shall expire
33 no later than June 30, 2028, or 30 days after the Secretary of
34 State has selected 100 women under this section.

35 (d) In recommending women to be recognized by the
36 initiative, the committee shall conduct its own research and
37 solicit input from the general public.

38 (5) (a) For a woman to be recommended by the Florida Women's
39 Historical Marker Committee, she must have been born in, resided



298200

40 in, or been employed in this state and must have significantly
41 contributed to the State of Florida or her county or specific
42 community within this state.

43

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

45 And the title is amended as follows:

46 Delete line 10

47 and insert:

48 period; establishing the Florida Women's Historical
49 Marker



296090

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/08/2024	.	
	.	
	.	
	.	

The Appropriations Committee on Transportation, Tourism, and Economic Development (Rodriguez) recommended the following:

Senate Amendment (with title amendment)

Between lines 94 and 95
insert:

Section 3. For the 2024-2025 fiscal year, one full-time equivalent position with associated salary rate of 40,352 is authorized, and the sum of \$123,000 in recurring funds and \$5,067 in nonrecurring funds from the General Revenue Fund is appropriated to the Department of State, to implement and administer the Florida Women's Historical Marker Initiative as



296090

11 created by this act.

12

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

14 And the title is amended as follows:

15 Between lines 15 and 16

16 insert:

17 authorizing a position and providing an appropriation;

By the Committee on Governmental Oversight and Accountability;
and Senator Rodriguez

585-02363-24

2024716c1

1 A bill to be entitled
2 An act relating to the Florida Women's Historical
3 Marker Initiative; providing a short title; creating
4 s. 267.0744, F.S.; establishing the Florida Women's
5 Historical Marker Initiative within the Division of
6 Historical Resources of the Department of State;
7 providing the purpose of the initiative; requiring the
8 Florida Historical Marker Program to place a certain
9 number of historical markers over a certain time
10 period; establishing the Women's Historical Marker
11 Selection Committee; providing for duties, membership
12 and expiration of the committee; requiring the
13 committee to conduct its own research and solicit
14 public input in recommending women to be recognized;
15 providing criteria for recognition by the initiative;
16 providing an effective date.

17
18 WHEREAS, the significant contributions of Florida women are
19 noticeably absent from the more than 1,200 historical markers in
20 Florida which honor historic places, people, and events, with
21 fewer than 20 women recognized, and
22 WHEREAS, Florida is home to world-renowned women
23 scientists, writers, educators, pilots, oceanographers,
24 designers, conservationists, and athletes, most of whom have not
25 been honored with a historical marker, and
26 WHEREAS, inspired by the achievements of the women who have
27 gone before them, the women and girls of Florida, through the
28 Florida Women's Historical Marker Initiative, will see
29 themselves reflected in the state's history and gain

Page 1 of 4

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

585-02363-24

2024716c1

30 encouragement in the development and fulfillment of their own
31 aspirations, NOW, THEREFORE,
32
33 Be It Enacted by the Legislature of the State of Florida:
34
35 Section 1. This act may be cited as the "Florida Women's
36 Historical Marker Initiative."
37 Section 2. Section 267.0744, Florida Statutes, is created
38 to read:
39 267.0744 Florida Women's Historical Marker Initiative.-
40 (1) The Florida Women's Historical Marker Initiative is
41 established within the division. The purpose of the initiative
42 is to recognize the contributions of 100 women, living or
43 deceased, to the history of this state with the placement of
44 historical markers by the Florida Historical Marker Program.
45 (2) The Florida Historical Marker Program shall place 100
46 historical markers, recognizing one woman for each marker,
47 throughout the state within the next 10 years, with 10 markers
48 placed each year. The first 10 markers must be placed by
49 December 31, 2025. The final marker must be placed by December
50 31, 2034.
51 (3) (a) The Women's Historical Marker Selection Committee,
52 an advisory committee as defined in s. 20.03(5) is created
53 within the division. The purpose of the committee is to provide
54 guidance and recommendations to the Secretary of State regarding
55 the women who should be recognized by the initiative.
56 (b) The committee must recommend at least 25 women for
57 recognition each fiscal year.
58 (c) From the women recommended by the committee, the

Page 2 of 4

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

585-02363-24

2024716c1

59 Secretary of State shall select 100 women to be recognized under
60 this initiative.

61 (4) (a) The committee shall be composed of 11 members
62 appointed by the Secretary of State. The committee shall consist
63 of:

64 1. Two noted Florida historians.

65 2. One member of the Florida Commission on the Status of
66 Women.

67 3. One member of the Division of Historical Resources.

68 4. One member of the State Historical Marker Council.

69 5. Six members of the general public.

70 (b) The members shall be appointed for 2-year terms, except
71 for an appointment to fill an unexpired term, in which event the
72 appointments shall be for the remainder of the unexpired term
73 only. Except as otherwise provided in this section, the
74 committee shall operate in a manner consistent with s. 20.052.

75 (c) Notwithstanding the provisions of s. 20.03 limiting the
76 duration of a committee to 3 years, the committee shall expire
77 no later than June 30, 2028, or 30 days after the Secretary of
78 State has selected 100 women under this section.

79 (d) In recommending women to be recognized by the
80 initiative, the committee shall conduct its own research and
81 solicit input from the general public.

82 (5) (a) For a woman to be recommended by the Women's
83 Historical Marker Committee, she must have been born in, resided
84 in, or been employed in this state and must have significantly
85 contributed to the State of Florida, her county, or her specific
86 community.

87 (b) A woman recognized for a specific contribution or

Page 3 of 4

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

585-02363-24

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88 achievement may be living, but such contribution or achievement
89 must have occurred more than 30 years before such recognition. A
90 woman may be recognized for her lifetime achievement, but such
91 woman must have been deceased for at least 30 years before such
92 recognition.

93 (c) At least one woman from each of the state's 67 counties
94 must be recognized.

95 Section 3. This act shall take effect July 1, 2024.

Page 4 of 4

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



The Florida Senate

Committee Agenda Request

To: Senator Ed Hooper, Chair
Appropriations Committee on Transportation, Tourism, and Economic
Development

Subject: Committee Agenda Request

Date: January 23, 2024

I respectfully request that **CS/SB #716**, relating to Florida Women's Historical Marker Initiative, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in cursive script, appearing to read "Ana Maria Rodriguez".

Senator Ana Maria Rodriguez
Florida Senate, District 40

The Florida Senate

APPEARANCE RECORD

2-8-24

Meeting Date

716

Bill Number or Topic

Appropriation - Transportation

Committee

Deliver both copies of this form to Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

Barbara Devane

Phone

850-251-4280

Address

625 E. Broadway St

Email

barbadevane1@yahood.com

Street

Tallahassee

City

FL 32308

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

FL NOW

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. 511.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf](#) [flsenate.gov](#)

This form is part of the public record for this meeting.

110

S-001 (08/10/2021)

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 Appropriations Committee on Transportation, Tourism, and Economic Development

BILL: CS/SB 736

INTRODUCER: Appropriations Committee on Transportation, Tourism, and Economic Development, and Senator Trumbull

SUBJECT: Services Provided by the Department of Highway Safety and Motor Vehicles or Its Agents

DATE: February 12, 2024 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Shutes	Vickers	TR	Favorable
2.	Wells	Jerrett	ATD	Fav/CS
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 736 makes changes to various services and programs administered by the Department of Highway Safety and Motor Vehicles (DHSMV) and its agents. Specifically, the bill:

- Revises a requirement for a rightful heir to transfer ownership of a motor vehicle or mobile home if the previous owner died testate;
- Clarifies that no additional fee can be charged by the DHSMV or a tax collector for the reissuance of a certificate of title that is lost in transit and is not delivered;
- Allows permanent motor vehicle registration decals for rental trucks that weigh under 15,000 pounds;
- Authorizes the DHSMV to issue reduced dimension license plates for trailers;
- Provides that a disabled veteran who qualifies for a free “DV” license plate may choose a military or specialty license plate he or she qualifies for in lieu of the “DV” license plate;
- Adds the following two cases wherein DHSMV may design, issue, and regulate the use of temporary tags:
 - The existing owner of a vehicle has submitted an application to transfer a valid out-of-state title that is subject to a lien; and
 - An active-duty military service member who has a valid Florida driver license provides evidence satisfactory to the department that he or she is deployed outside this state;

- Removes the requirement to provide a written, notarized request for the purchase of a temporary tag and provides requirements for renewal of a temporary tag.

This bill has an indeterminate, negative fiscal impact on DHSMV. See Section V., Fiscal Impact Statement.

This bill takes effect July 1, 2024

II. Present Situation:

County tax collectors are the Department of Highway Safety and Motor Vehicles' (DHSMV) authorized agents for titling and registering motor vehicles, motor homes, and vessels.

Transfer of Ownership - Certificate of Title

Florida law states that in the case of transfer of ownership of a motor vehicle or mobile home by operation of law, such as inheritance, the DHSMV must receive satisfactory proof of ownership and right of possession to such motor vehicle or mobile home, and payment of the required certificate of title application fee, before the DHSMV can issue the applicant a certificate of title.¹

If the previous owner died testate, the application must be accompanied by:²

- A certified copy of the will, if probated, and an affidavit that the estate is solvent with sufficient assets to pay all just claims; or
- A sworn copy of the will, if the will is not being probated, and an affidavit that the estate is not indebted.

Lost Certificates of Titles

Under current law, if a certificate of title is lost or destroyed, the owner of the motor vehicle or mobile home, or the holder of a lien, must apply to the DHSMV for a duplicate copy.³ Upon receiving an application signed and sworn to by the applicant, and accompanied by the required fee,⁴ the DHSMV must issue a duplicate copy of the certificate of title.⁵

If an original, duplicate, or corrected certificate of title issued by the DHSMV is lost in transit and is not delivered to the addressee, the owner or holder must, within 180 days of the date of issuance of the title, apply to the DHSMV for the reissuance of the certificate of title without an additional fee.⁶ Florida law provides that tax collectors can handle certificate of title applications and collect the associated fees.⁷ However, the information technology system used by tax

¹ Section 319.28(1)(a), F.S.

² Section 319.28(1)(b), F.S.

³ Section 319.29(1), F.S.

⁴ The fee for a duplicate title is generally \$75.25. See Section 319.32(1) and (2), F.S., and DHSMV, *Fees - Motor Vehicle Title Fees*, <https://www.flhsmv.gov/fees/> (last visited March 26, 2023).

⁵ Section 319.29(1), F.S.

⁶ Section 319.29(3), F.S.

⁷ Section 319.32(2)(b), F.S.

collectors to process title transactions currently lacks the functionality to issue a no fee replacement.

Permanent Registration Decals for Small Rental Trucks

Florida law provides that registration license plates must be issued for a 10-year period. At the end of the 10-year period, upon renewal, the plate must be replaced. With the issuance of a license plate, a validation sticker is issued with the owner's birth month, license plate number, and the year of expiration or the appropriate renewal period if the owner is not a natural person. The license plate and validation sticker are issued based on the applicant's appropriate renewal period.⁸

License plates with validation stickers subject to the registration period are valid for not more than 12 months and expire at midnight on the last day of the registration period. A license plate with a validation sticker subject to the extended registration period is valid for not more than 24 months and expires at midnight on the last day of the extended registration period.⁹

Currently rental cars have the ability to permanently register vehicles, provided they pay the appropriate annual license taxes and fees.¹⁰

License Plates with Reduced Dimensions

In lieu of a standard license plate, the DHSMV may deem a plate with reduced dimensions necessary to accommodate motorcycles, mopeds, or similar smaller vehicles.¹¹ All other requirements, including the type of metal, validation stickers, identification letters and numerals, and imprints for specific plates, are the same regardless of registration license plate size.¹²

Disabled Veteran "DV" License Plates

Section 320.084, F.S., provides that a disabled veteran is eligible for one free "DV" license plate if he or she has been a resident of this state for the preceding five years or has established a domicile in this state, has been honorably discharged from the United States Armed Forces, and provides proof that he or she:

- Has a vehicle initially acquired through financial assistance by the United States Department of Veterans Affairs (VA) or its predecessor specifically for the purchase of an automobile;
- Has been determined by the VA or its predecessor to have a service-related one hundred percent disability rating for compensation; or
- Has been determined to have a service connected disability rating of one hundred percent and receives disability retirement pay from any branch of the United States Armed Forces.

⁸ Section 320.06(1)(b)1., F.S.

⁹ Section 320.06(1)(c), F.S.

¹⁰ Section 320.06(1)(b), F.S.

¹¹ Section 320.06(3)(a), F.S.

¹² *Id.*

The license number on each plate issued to a disabled veteran must be identified by the letter designation “DV.”¹³ The design of the special disabled veteran plate is red, white, and blue, and resembles the United States flag.¹⁴ As of January 2023, there were 97,994 active Florida “DV” license plates, the most of any military license plate.¹⁵

Upon issuance of each new permanent “DV” license plate, an initial validation sticker with an expiration not exceeding 27 months, is issued without cost to the applicant.¹⁶ The applicant does not have to pay the associated service charges for each initial application or renewal of registration.¹⁷ Registration must be renewed annually or biennially, and at that time the applicant must submit a certified statement affirming their continued eligibility for the special “DV” license plate.¹⁸

Any vehicle displaying a “DV” license plate that is transporting the person to whom the plate was issued is authorized to park in a designated accessible parking space.¹⁹ A state agency, county, municipality, or any agency thereof, may not enact any fee for parking on the public streets or highways or in any metered parking space from the driver of a vehicle that displays the “DV” license plate when the vehicle is transporting the person who has the disability or who the plate was issued to.²⁰ Additionally, the governing body of a publicly owned or publicly operated airport must grant free parking to a vehicle displaying a “DV” license plate.²¹ These rights are afforded by the state and are not necessarily universally accepted as parking permits and license plates designated with the International Symbol of Accessibility.²²

Special Military License Plates

Florida offers Special Military License Plates, which have specific eligibility requirements that must be met upon application and required payment of the license tax for the vehicle, if applicable, before the plate can be issued.²³ Section 320.089, F.S., authorizes the majority of these special military plates, which include several plates for veterans, plates for National Guard members and former Prisoners of War, and plates for military members who have been awarded specific honors such as combat badges and medals. General revenue generated from the sale of military plates issued under s. 320.089, F.S., are distributed to Florida Department of Veterans’ Affairs trust funds to be used as follows:

¹³ Section 320.084(3), F.S.

¹⁴ See DHSMV, *Florida Military License Plates*, HSMV 80003, available at https://www.flhsmv.gov/pdf/specialtyplates/military_brochure.pdf at 2. (last visited December 19, 2023).

¹⁵ *Id.* at p. 6.

¹⁶ Section 320.084(4)(a), F.S.

¹⁷ Section 320.084(4)(b), F.S.

¹⁸ Section 320.084(4)(c), F.S.

¹⁹ Sections 553.5041(1) and 316.1955(1), F.S.

²⁰ Section 316.1964(1), F.S. However, a fee may be charged when such parking facility or lot is being used in connection with an event at a convention center, cruise-port terminal, sports stadium, sports arena, coliseum, or auditorium. See s. 316.1964(3), F.S.

²¹ Section 316.1964(7), F.S.

²² See U.S. Access Board, *Guide to the ADA Accessibility Standards: Guidance on the International Symbol of Accessibility* (March 27, 2017), <https://www.access-board.gov/ada/guides/guidance-on-the-isa/> (last visited December 19, 2023).

²³ See ss. 320.0845, 320.0846, 320.089, 320.0891, 320.0892, 320.0893, F.S. A full-listing of the military plates offered by DHSMV are available at https://www.flhsmv.gov/pdf/specialtyplates/military_brochure.pdf *supra*, note 91.

- The first \$100,000 are to be used for the common benefit of the residents of Florida Veterans' Nursing Homes.²⁴
- Any additional revenue is to be used to support program operations that benefit veterans or the operation, maintenance, or construction of domiciliary and nursing homes for veterans.²⁵
- Except for the revenue from the "Woman Veteran" license plate, which is to be used solely for creating and implementing programs to benefit women veterans.²⁶

Specialty License Plates

As of December 2023, there are 144 specialty license plates authorized by the Legislature. Of these plates, 109 are available for immediate purchase and 31 are in the presale process.²⁷ Specialty license plates are available to an owner or lessee of a motor vehicle who is willing to pay an annual use fee, ranging from \$15 to \$25, paid in addition to required license taxes and service fees.²⁸ The annual use fees are distributed to organizations in support of a particular cause or charity signified on the plate's design and designated in statute.²⁹

Temporary Tags

Section 320.131, F.S., authorizes the DHSMV to sell temporary tags to their agents where a need is met by the consumer. The fee for the temporary tag is \$2, and from that \$1 from each tag sold is deposited into the Brain and Spinal Cord Injury Program Trust Fund. The remaining proceeds are deposited into the Highway Safety Operating Trust Fund. Agents of the DHSMV are permitted to sell the temporary tags for \$2 each and service charges are authorized, regardless of quantity sold. Requests for temporary tags must be in written, notarized form. Unless provided otherwise, temporary tags are valid for 30 days, and no more than two shall be issued to the same person for the same vehicle.

III. Effect of Proposed Changes:

The bill amends s. 319.28, F.S., to provide, that if the previous owner died *testate* and the application for a certificate of title is made by, and accompanied by an affidavit attested by, a Florida-licensed attorney in good standing with the Florida Bar who is representing the previous owner's estate, such affidavit establishes a presumption of ownership, absent information received on the contrary, and right of possession to the motor vehicle or mobile home. The affidavit must set forth the rightful heir or heirs, and the attorney must attest to their lawful entitlement to the rights of ownership and possession of the motor vehicle or mobile home. In this case, the application for certificate of title does not have to be accompanied by a copy of the will or other testamentary instrument.

²⁴ Section 320.089(1)(c), F.S.

²⁵ *Id.*

²⁶ Section 320.089(1)(d), F.S.

²⁷ DHSMV Presentation to the Senate Transportation Committee, *Specialty License Plates* (January 24, 2023), slideshow available at https://www.flsenate.gov/Committees/Show/TR/MeetingPacket/5615/10046_MeetingPacket_5615_3.pdf (last visited October 10, 2023).

²⁸ Section 320.08056(3)(d), F.S., provides that except if specifically provided in s. 320.08056(4), the annual use fee for a specialty license plate is \$25.

²⁹ Section 320.08058, F.S.

The bill amends s. 319.29, F.S., to clarify that the DHSMV *or a tax collector* may reissue a certificate of title without an additional fee when the certificate of title is lost in transit and not delivered.

The bill amends s. 320.06, F.S., to allow a person to permanently register rental trucks, under 15,000 pounds, in the same manner as rental cars. Such rental trucks will be required to pay the appropriate annual license taxes and fees.

The bill also amends s. 320.06, F.S., to clarify that the DHSMV may deem a reduced dimension license plate (as is currently issued for motorcycles and mopeds) necessary for a trailer. The department will need to determine size/type qualifications and program the necessary changes in technology systems.

The bill amends s. 320.084, F.S., to allow a disabled veteran who qualifies for the “DV” license plate to select a special military license plate for which he or she is eligible or specialty license plate in lieu of the free “DV” license plate. The applicant must pay all of the applicable fees related to such plate.

Additionally, the bill provides that an applicant who selects another plate in lieu of the “DV” plate will not be afforded the same protections and rights of the “DV” plate relating to disabled parking accessibility and free parking for vehicles displaying the “DV” plate.

The bill adds the following two cases wherein DHSMV may design, issue, and regulate the use of temporary tags:

- The existing owner of a vehicle has submitted an application to transfer a valid out-of-state title that is subject to a lien.
- An active-duty military service member who has a valid Florida driver license provides evidence satisfactory to the DHSMV that he or she is deployed outside this state.

Further, the bill provides that a temporary tag issued for the two purposes above is valid for 60 days, instead of the default of 30 days.

The bill amends s. 320.131, F.S., to remove the requirement of providing a written, notarized request when applying for a temporary tag.

The bill takes effect July 1, 2024.

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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The department estimates programming and implementation associated with the bill will require \$8,130 in FTE and contracted resources.

The bill may have an indeterminate negative fiscal impact to the DHSMV associated with the need to acquire and maintain additional inventories of reduced dimension license plates.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Effective Date - The department recommends that the effective date of the bill be delayed from July 1, 2024, to July 1, 2026.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 319.28, 319.29, 320.06, 320.084, and 320.131.

IX. Additional Information:

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

CS by Appropriations Committee on Transportation, Tourism, and Economic Development on February 8, 2024:

The committee substitute:

- Revises the provision relating to the application and affidavit requirements for the transfer of ownership of a motor vehicle or mobile home if the previous owner died testate by providing that the affidavit establishes a presumption, rather than the affidavit constituting proof, of ownership and right of possession to a motor vehicle or mobile home.
 - Allows permanent motor vehicle registration decals for rental trucks that weigh under 15,000 pounds.
 - Adds two additional cases wherein the DHSMV is authorized and empowered to design, issue, and regulate the use of temporary tags.
 - Eliminates the authorization of the DHSMV or its agents to renew an initial temporary tag.
- B. **Amendments:**
- None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/09/2024	.	
	.	
	.	
	.	

The Appropriations Committee on Transportation, Tourism, and Economic Development (Trumbull) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Present paragraphs (c) and (d) of subsection (1) of section 319.28, Florida Statutes, are redesignated as paragraphs (d) and (e), respectively, and a new paragraph (c) is added to that subsection, to read:

319.28 Transfer of ownership by operation of law.—
(1)



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11 (c) If the previous owner died testate and the application
12 for a certificate of title is made by, and accompanied by an
13 affidavit attested by, a Florida-licensed attorney in good
14 standing with The Florida Bar, such affidavit shall, for
15 purposes of paragraph (a), establish a presumption of ownership,
16 absent information received to the contrary, and right of
17 possession to the motor vehicle or mobile home, so long as the
18 affidavit sets forth the rightful heir or heirs and the attorney
19 attests in the affidavit that such heir or heirs are lawfully
20 entitled to the rights of ownership and possession of the motor
21 vehicle or mobile home. It is not necessary for the application
22 for certificate of title filed under this paragraph to be
23 accompanied by a copy of the will or other testamentary
24 instrument.

25 Section 2. Subsection (3) of section 319.29, Florida
26 Statutes, is amended to read:

27 319.29 Lost or destroyed certificates.-

28 (3) If, following the issuance of an original, duplicate,
29 or corrected certificate of title by the department, the
30 certificate is lost in transit and is not delivered to the
31 addressee, the owner of the motor vehicle or mobile home, or the
32 holder of a lien thereon, may, within 180 days of the date of
33 issuance of the title, apply to the department for reissuance of
34 the certificate of title. An ~~no~~ additional fee may not ~~shall~~ be
35 charged by the department or a tax collector, as agent for the
36 department, for reissuance under this subsection.

37 Section 3. Paragraph (b) of subsection (1) and paragraph
38 (a) of subsection (3) of section 320.06, Florida Statutes, are
39 amended to read:



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40 320.06 Registration certificates, license plates, and
41 validation stickers generally.—

42 (1)

43 (b)1. Registration license plates bearing a graphic symbol
44 and the alphanumeric system of identification shall be issued
45 for a 10-year period. At the end of the 10-year period, upon
46 renewal, the plate shall be replaced. The department shall
47 extend the scheduled license plate replacement date from a 6-
48 year period to a 10-year period. The fee for such replacement is
49 \$28, \$2.80 of which shall be paid each year before the plate is
50 replaced, to be credited toward the next \$28 replacement fee.
51 The fees shall be deposited into the Highway Safety Operating
52 Trust Fund. A credit or refund may not be given for any prior
53 years' payments of the prorated replacement fee if the plate is
54 replaced or surrendered before the end of the 10-year period,
55 except that a credit may be given if a registrant is required by
56 the department to replace a license plate under s.

57 320.08056(8) (a). With each license plate, a validation sticker
58 shall be issued showing the owner's birth month, license plate
59 number, and the year of expiration or the appropriate renewal
60 period if the owner is not a natural person. The validation
61 sticker shall be placed on the upper right corner of the license
62 plate. The license plate and validation sticker shall be issued
63 based on the applicant's appropriate renewal period. The
64 registration period is 12 months, the extended registration
65 period is 24 months, and all expirations occur based on the
66 applicant's appropriate registration period. Rental vehicles
67 taxed pursuant to s. 320.08(6) (a) and rental trucks taxed
68 pursuant to s. 320.08(3) (a), (b), and (c) and (4) (a)-(d) may



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69 elect a permanent registration period, provided payment of the
70 appropriate license taxes and fees occurs annually.

71 2. A vehicle that has an apportioned registration shall be
72 issued an annual license plate and a cab card that denote the
73 declared gross vehicle weight for each apportioned jurisdiction
74 in which the vehicle is authorized to operate. This subparagraph
75 expires June 30, 2024.

76 3. Beginning July 1, 2024, a vehicle registered in
77 accordance with the International Registration Plan must be
78 issued a license plate for a 3-year period. At the end of the 3-
79 year period, upon renewal, the license plate must be replaced.
80 Each license plate must include a validation sticker showing the
81 month of expiration. A cab card denoting the declared gross
82 vehicle weight for each apportioned jurisdiction must be issued
83 annually. The fee for an original or a renewal cab card is \$28,
84 which must be deposited into the Highway Safety Operating Trust
85 Fund. If the license plate is damaged or worn, it may be
86 replaced at no charge by applying to the department and
87 surrendering the current license plate.

88 4. In order to retain the efficient administration of the
89 taxes and fees imposed by this chapter, the 80-cent fee increase
90 in the replacement fee imposed by chapter 2009-71, Laws of
91 Florida, is negated as provided in s. 320.0804.

92 (3) (a) Registration license plates must be made of metal
93 specially treated with a retroreflection material, as specified
94 by the department. The registration license plate is designed to
95 increase nighttime visibility and legibility and must be at
96 least 6 inches wide and not less than 12 inches in length,
97 unless a plate with reduced dimensions is deemed necessary by



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98 the department to accommodate motorcycles, mopeds, ~~or~~ similar
99 smaller vehicles, or trailers. Validation stickers must also be
100 treated with a retroreflection material, must be of such size as
101 specified by the department, and must adhere to the license
102 plate. The registration license plate must be imprinted with a
103 combination of bold letters and numerals or numerals, not to
104 exceed seven digits, to identify the registration license plate
105 number. The license plate must be imprinted with the word
106 "Florida" at the top and the name of the county in which it is
107 sold, the state motto, or the words "Sunshine State" at the
108 bottom. Apportioned license plates must have the word
109 "Apportioned" at the bottom, and license plates issued for
110 vehicles taxed under s. 320.08(3)(d), (4)(m) or (n), (5)(b) or
111 (c), or (14) must have the word "Restricted" at the bottom.
112 License plates issued for vehicles taxed under s. 320.08(12)
113 must be imprinted with the word "Florida" at the top and the
114 word "Dealer" at the bottom unless the license plate is a
115 specialty license plate as authorized in s. 320.08056.
116 Manufacturer license plates issued for vehicles taxed under s.
117 320.08(12) must be imprinted with the word "Florida" at the top
118 and the word "Manufacturer" at the bottom. License plates issued
119 for vehicles taxed under s. 320.08(5)(d) or (e) must be
120 imprinted with the word "Wrecker" at the bottom. Any county may,
121 upon majority vote of the county commission, elect to have the
122 county name removed from the license plates sold in that county.
123 The state motto or the words "Sunshine State" shall be printed
124 in lieu thereof. A license plate issued for a vehicle taxed
125 under s. 320.08(6) may not be assigned a registration license
126 number, or be issued with any other distinctive character or



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127 designation, that distinguishes the motor vehicle as a for-hire
128 motor vehicle.

129 Section 4. Subsection (1) of section 320.084, Florida
130 Statutes, is amended, and subsection (6) is added to that
131 section, to read:

132 320.084 Free motor vehicle license plate to certain
133 disabled veterans.—

134 (1) One free “DV” motor vehicle license number plate shall
135 be issued by the department for use on any motor vehicle owned
136 or leased by any disabled veteran who has been a resident of
137 this state continuously for the preceding 5 years or has
138 established a domicile in this state as provided by s.
139 222.17(1), (2), or (3), and who has been honorably discharged
140 from the United States Armed Forces, upon application,
141 accompanied by proof that:

142 (a) A vehicle was initially acquired through financial
143 assistance by the United States Department of Veterans Affairs
144 or its predecessor specifically for the purchase of an
145 automobile;

146 (b) The applicant has been determined by the United States
147 Department of Veterans Affairs or its predecessor to have a
148 service-connected 100-percent disability rating for
149 compensation; or

150 (c) The applicant has been determined to have a service-
151 connected disability rating of 100 percent and is in receipt of
152 disability retirement pay from any branch of the United States
153 Armed Services.

154 (6) (a) A disabled veteran who meets the requirements of
155 subsection (1) may be issued, in lieu of the “DV” license plate,



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156 a military license plate for which he or she is eligible or a
157 specialty license plate. A disabled veteran electing a military
158 license plate or specialty license plate under this subsection
159 must pay all applicable fees related to such license plate.

160 (b) A military license plate or specialty license plate
161 elected under this subsection:

162 1. Does not provide the protections or rights afforded by
163 ss. 316.1955, 316.1964, 320.0848, 526.141, and 553.5041.

164 2. Is not eligible for the international symbol of
165 accessibility as described in s. 320.0842.

166 Section 5. Subsection (2) of section 320.131, Florida
167 Statutes, is amended, and paragraphs (m) and (n) are added to
168 subsection (1) of that section, to read:

169 320.131 Temporary tags.—

170 (1) The department is authorized and empowered to design,
171 issue, and regulate the use of temporary tags to be designated
172 "temporary tags" for use in the following cases:

173 (m) When the existing owner of a vehicle has submitted an
174 application to transfer a valid out-of-state title that is
175 subject to a lien. A temporary tag issued for this purpose shall
176 be valid for 60 days.

177 (n) When an active-duty military servicemember who has a
178 valid Florida driver license provides evidence satisfactory to
179 the department that he or she is deployed outside this state. A
180 temporary tag issued for this purpose shall be valid for 60
181 days.

182
183 Further, the department is authorized to disallow the purchase
184 of temporary tags by licensed dealers, common carriers, or



185 financial institutions in those cases where abuse has occurred.
186 (2) The department may ~~is authorized to~~ sell temporary
187 tags, in addition to those listed above, to its ~~their~~ agents and
188 where need is demonstrated by a consumer complainant. The fee
189 for a temporary tag issued under this section shall be \$2 each.
190 One dollar from each tag sold shall be deposited into the Brain
191 and Spinal Cord Injury Program Trust Fund, with the remaining
192 proceeds being deposited into the Highway Safety Operating Trust
193 Fund. Agents of the department shall sell temporary tags for \$2
194 each and shall charge the service charge authorized by s. 320.04
195 per transaction, regardless of the quantity sold. ~~Requests for~~
196 ~~purchase of temporary tags to the department or its agents shall~~
197 ~~be made, where applicable, on letterhead stationery and~~
198 ~~notarized.~~ Except as specifically provided otherwise, a
199 temporary tag issued under this section shall be valid for 30
200 days, and no more than two shall be issued to the same person
201 for the same vehicle.

202 Section 6. This act shall take effect July 1, 2024.

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

205 And the title is amended as follows:

206 Delete everything before the enacting clause
207 and insert:

208 A bill to be entitled
209 An act relating to services provided by the Department
210 of Highway Safety and Motor Vehicles or its agents;
211 amending s. 319.28, F.S.; providing that a certain
212 affidavit establishes a presumption of ownership and
213 right of possession to a motor vehicle or mobile home



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214 when the previous owner of the motor vehicle or mobile
215 home died testate; providing that the application for
216 certificate of title does not need to be accompanied
217 by a will or other testamentary instrument; amending
218 s. 319.29, F.S.; prohibiting the department or a tax
219 collector from charging a fee for reissuance of
220 certain certificates of title; amending s. 320.06,
221 F.S.; authorizing permanent registration of certain
222 rental trucks; authorizing the department to deem a
223 license plate with reduced dimensions to be necessary
224 to accommodate trailers; amending s. 320.084, F.S.;
225 authorizing certain disabled veterans to be issued a
226 military license plate or specialty license plate in
227 lieu of a "DV" license plate; requiring the veteran to
228 pay all fees associated with the license plate;
229 specifying applicable fees; providing applicability;
230 amending s. 320.131, F.S.; authorizing the department
231 to design, issue, and regulate the use of temporary
232 tags when the existing owner of a vehicle has
233 submitted an application to transfer a valid out-of-
234 state title that is subject to a lien; authorizing the
235 department to design, issue, and regulate the use of
236 temporary tags when an active-duty military
237 servicemember who has a valid Florida driver license
238 provides evidence satisfactory to the department that
239 he or she is deployed outside this state; providing
240 the period of validity of such temporary tags;
241 removing provisions requiring a written, notarized
242 request for the purchase of a temporary tag;



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243
244

conforming provisions to changes made by the act;
providing an effective date.

By Senator Trumbull

2-00706-24

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1 A bill to be entitled
 2 An act relating to services provided by the Department
 3 of Highway Safety and Motor Vehicles or its agents;
 4 amending s. 319.28, F.S.; providing that a certain
 5 affidavit constitutes proof of ownership and right of
 6 possession to a motor vehicle or mobile home the
 7 previous owner of which died testate; amending s.
 8 319.29, F.S.; prohibiting the department or a tax
 9 collector from charging a fee for reissuance of
 10 certain certificates of title; amending s. 320.06,
 11 F.S.; authorizing the department to deem a license
 12 plate with reduced dimensions to be necessary to
 13 accommodate trailers; amending s. 320.084, F.S.;
 14 authorizing certain disabled veterans to be issued a
 15 military license plate or specialty license plate in
 16 lieu of a "DV" license plate; specifying applicable
 17 fees; specifying nonapplicability of certain
 18 provisions; amending s. 320.131, F.S.; removing
 19 provisions requiring a written, notarized request for
 20 the purchase of a temporary tag; authorizing the
 21 department or its agents to renew an initial temporary
 22 tag, subject to certain provisions; providing an
 23 effective date.

24
 25 Be It Enacted by the Legislature of the State of Florida:

26
 27 Section 1. Present paragraphs (c) and (d) of subsection (1)
 28 of section 319.28, Florida Statutes, are redesignated as
 29 paragraphs (d) and (e), respectively, and a new paragraph (c) is

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30 added to that subsection, to read:

31 319.28 Transfer of ownership by operation of law.—

32 (1)

33 (c) If the previous owner died testate and the application
 34 for a certificate of title is made by, and accompanied by an
 35 affidavit attested by, a Florida-licensed attorney in good
 36 standing with The Florida Bar who is representing the previous
 37 owner's estate, such affidavit shall, for purposes of paragraph
 38 (a), constitute satisfactory proof of ownership and right of
 39 possession to the motor vehicle or mobile home, so long as the
 40 affidavit sets forth the rightful heir or heirs and the attorney
 41 attests in the affidavit that such heir or heirs are lawfully
 42 entitled to the rights of ownership and possession of the motor
 43 vehicle or mobile home. It shall not be necessary for the
 44 application for certificate of title filed under this paragraph
 45 to be accompanied by a copy of the will or other testamentary
 46 instrument.

47 Section 2. Subsection (3) of section 319.29, Florida
 48 Statutes, is amended to read:

49 319.29 Lost or destroyed certificates.—

50 (3) If, following the issuance of an original, duplicate,
 51 or corrected certificate of title by the department, the
 52 certificate is lost in transit and is not delivered to the
 53 addressee, the owner of the motor vehicle or mobile home, or the
 54 holder of a lien thereon, may, within 180 days after ~~of~~ the date
 55 of issuance of the title, apply to the department for reissuance
 56 of the certificate of title. An ~~No~~ additional fee shall not be
 57 charged by the department or a tax collector, as agent for the
 58 department, for reissuance under this subsection.

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59 Section 3. Paragraph (a) of subsection (3) of section
 60 320.06, Florida Statutes, is amended to read:
 61 320.06 Registration certificates, license plates, and
 62 validation stickers generally.—
 63 (3) (a) Registration license plates must be made of metal
 64 specially treated with a retroreflection material, as specified
 65 by the department. The registration license plate is designed to
 66 increase nighttime visibility and legibility and must be at
 67 least 6 inches wide and not less than 12 inches in length,
 68 unless a plate with reduced dimensions is deemed necessary by
 69 the department to accommodate motorcycles, mopeds, ~~or~~ similar
 70 smaller vehicles, or trailers. Validation stickers must also be
 71 treated with a retroreflection material, must be of such size as
 72 specified by the department, and must adhere to the license
 73 plate. The registration license plate must be imprinted with a
 74 combination of bold letters and numerals or numerals, not to
 75 exceed seven digits, to identify the registration license plate
 76 number. The license plate must be imprinted with the word
 77 "Florida" at the top and the name of the county in which it is
 78 sold, the state motto, or the words "Sunshine State" at the
 79 bottom. Apportioned license plates must have the word
 80 "Apportioned" at the bottom, and license plates issued for
 81 vehicles taxed under s. 320.08(3) (d), (4) (m) or (n), (5) (b) or
 82 (c), or (14) must have the word "Restricted" at the bottom.
 83 License plates issued for vehicles taxed under s. 320.08(12)
 84 must be imprinted with the word "Florida" at the top and the
 85 word "Dealer" at the bottom unless the license plate is a
 86 specialty license plate as authorized in s. 320.08056.
 87 Manufacturer license plates issued for vehicles taxed under s.

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88 320.08(12) must be imprinted with the word "Florida" at the top
 89 and the word "Manufacturer" at the bottom. License plates issued
 90 for vehicles taxed under s. 320.08(5) (d) or (e) must be
 91 imprinted with the word "Wrecker" at the bottom. Any county may,
 92 upon majority vote of the county commission, elect to have the
 93 county name removed from the license plates sold in that county.
 94 The state motto or the words "Sunshine State" shall be printed
 95 in lieu thereof. A license plate issued for a vehicle taxed
 96 under s. 320.08(6) may not be assigned a registration license
 97 number, or be issued with any other distinctive character or
 98 designation, that distinguishes the motor vehicle as a for-hire
 99 motor vehicle.
 100 Section 4. Subsection (1) of section 320.084, Florida
 101 Statutes, is amended, and subsection (6) is added to that
 102 section, to read:
 103 320.084 Free motor vehicle license plate to certain
 104 disabled veterans.—
 105 (1) One free "DV" motor vehicle license number plate shall
 106 be issued by the department for use on any motor vehicle owned
 107 or leased by any disabled veteran who has been a resident of
 108 this state continuously for the preceding 5 years or has
 109 established a domicile in this state as provided by s.
 110 222.17(1), (2), or (3), and who has been honorably discharged
 111 from the United States Armed Forces, upon application,
 112 accompanied by proof that:
 113 (a) A vehicle was initially acquired through financial
 114 assistance by the United States Department of Veterans Affairs
 115 or its predecessor specifically for the purchase of an
 116 automobile;

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117 (b) The applicant has been determined by the United States
 118 Department of Veterans Affairs or its predecessor to have a
 119 service-connected 100-percent disability rating for
 120 compensation; or

121 (c) The applicant has been determined to have a service-
 122 connected disability rating of 100 percent and is in receipt of
 123 disability retirement pay from any branch of the United States
 124 Armed Services.

125 (6) (a) A disabled veteran who meets the requirements of
 126 subsection (1) may be issued, in lieu of the "DV" license plate,
 127 a military license plate for which he or she is eligible or a
 128 specialty license plate. A disabled veteran electing a military
 129 license plate or specialty license plate under this subsection
 130 must pay all applicable fees related to such license plate,
 131 except for motor vehicle license plates issued without cost
 132 under subsections (1) and (4).

133 (b) A military license plate or specialty license plate
 134 elected under this subsection:

135 1. Does not provide the protections or rights afforded by
 136 ss. 316.1955, 316.1964, 320.0848, 526.141, and 553.5041.

137 2. Is not eligible for the international symbol of
 138 accessibility as described in s. 320.0842.

139 Section 5. Subsection (2) of section 320.131, Florida
 140 Statutes, is amended to read:

141 320.131 Temporary tags.—

142 (2) (a) The department ~~may is authorized to~~ sell temporary
 143 tags, in addition to those listed above, to its their agents and
 144 where need is demonstrated by a consumer complainant. The fee
 145 for a temporary tag issued under this section shall be \$2 each.

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146 One dollar from each tag sold shall be deposited into the Brain
 147 and Spinal Cord Injury Program Trust Fund, with the remaining
 148 proceeds being deposited into the Highway Safety Operating Trust
 149 Fund. Agents of the department shall sell temporary tags for \$2
 150 each and shall charge the service charge authorized by s. 320.04
 151 per transaction, regardless of the quantity sold. ~~Requests for~~
 152 ~~purchase of temporary tags to the department or its agents shall~~
 153 ~~be made, where applicable, on letterhead stationery and~~
 154 ~~notarized.~~ Except as specifically provided otherwise, a
 155 temporary tag issued under this section shall be valid for 30
 156 days, and no more than two shall be issued to the same person
 157 for the same vehicle.

158 (b) At the request of the applicant, the department or its
 159 agents may, in lieu of issuing a second temporary tag under
 160 paragraph (a), renew the initial temporary tag for the same
 161 period applicable to the initial issuance. Such renewal is
 162 subject to the fee, service charge, and deposit requirements
 163 provided in paragraph (a).

164 Section 6. This act shall take effect July 1, 2024.

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Commerce and Tourism, *Chair*
Appropriations Committee on Transportation, Tourism,
and Economic Development, *Vice Chair*
Appropriations Committee on Agriculture, Environment,
and General Government
Banking and Insurance
Fiscal Policy
Judiciary
Transportation

SELECT COMMITTEE:

Select Committee on Resiliency

SENATOR JAY TRUMBULL

2nd District

January 17, 2024

Re: SB 736

Dear Chair Hooper,

I am respectfully requesting that Senate Bill 736, related to Services Provided by the Department of Highway Safety and Motor Vehicles or Its Agents, be placed on the agenda for your next meeting of the Appropriations Committee on Transportation, Tourism, and Economic Development.

I appreciate your consideration of this bill. If there are any questions or concerns, please do not hesitate to call my office at (850) 487-5002.

Thank you,

A handwritten signature in black ink, appearing to read "J. Trumbull", written over a faint horizontal line.

Senator Jay Trumbull
District 2

REPLY TO:

- 840 West 11th Street, Panama City, Florida 32401 (850) 747-5454
- 320 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5002

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

2/8/24

Meeting Date

The Florida Senate

APPEARANCE RECORD

SB 736

Bill Number or Topic

828660

Amendment Barcode (if applicable)

850-222-7206

Approps on Transportation

Deliver both copies of this form to Senate professional staff conducting the meeting

Tourism

Committee

Name Tim Qualli

Phone

Address 216 S. Monroc St

Email TQUALL@YULAW.NET

Street

Tally

City

FL

State

32301

Zip

Waive in support of DE amendment

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

Florida Tax Collectors Association

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules. pdf (flsenate.gov)

This form is part of the public record for this meeting.

5-001 (08/10/2021)

APPEARANCE RECORD

736

7/8/2024

Meeting Date

Deliver both copies of this form to
Senate professional staff conducting the meeting

Bill Number or Topic

Approp-Trans & Housing

828660

Committee

Amendment Barcode (if applicable)

ANNE M. GANNON

Name

Phone 561-355-2805

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Street

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FL

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City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Committee on Transportation, Tourism, and Economic
Development

BILL: CS/SB 754

INTRODUCER: Transportation Committee and Senator DiCeglie

SUBJECT: Regulation of Commercial Motor Vehicles

DATE: February 8, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Shutes</u>	<u>Vickers</u>	<u>TR</u>	<u>Fav/CS</u>
2.	<u>Wells</u>	<u>Jerrett</u>	<u>ATD</u>	<u>Favorable</u>
3.	_____	_____	<u>FP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 754 makes various statutory revisions relating to the regulation and operation of commercial motor vehicles (CMVs). Specifically, the bill updates the date of adoption of federal regulations and rules for CMVs from December 31, 2020, to December 31, 2023, updates federal references, and removes an expired exemption for CMV operators. Additionally, the bill adopts requirements related to the federal Drug and Alcohol Clearinghouse program. States must be compliant with this program by November 18, 2024, or risk losing certain federal grant funding.

The bill will have an insignificant, negative fiscal impact the Department of Highway Safety and Motor Vehicles. See Section V., Fiscal Impact Statement.

The bill takes effect July 1, 2024.

II. Present Situation:

According to the Department of Highway Safety and Motor Vehicles (DHSMV), driving a CMV requires a higher level of knowledge, experience, skills, and physical abilities than that required

to drive a non-commercial vehicle. Since April 1, 1992, drivers have been required to have a Commercial Driver License (CDL) in order to drive CMVs.¹

Federal CMV Regulations

The primary mission of the Federal Motor Carrier Safety Administration (FMCSA), an agency within the U.S. Department of Transportation, is to prevent CMV-related fatalities and injuries.²

Section 316.003(14), F.S., defines “commercial motor vehicle” as any self-propelled or towed vehicle used on public highways in commerce to transport passengers or cargo, if such vehicle:

- Has a gross vehicle weight rating of 10,000 pounds or more;
- Is designed to transport more than 15 passengers, including the driver; or
- Is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act,³ as amended.

Section 316.302(1)(a), F.S., provides that all owners and drivers of a CMV operating on the state’s public highways while engaged in *interstate* commerce are subject to rules and regulations contained in the following parts of the Federal Motor Carrier Safety Regulations⁴:

Part	Heading
382	Controlled Substances and Alcohol Use and Testing
383	Commercial Driver’s License Standards; Requirements and Penalties
385	Safety Fitness Procedures
386	Rules of Practice for FMCSA Proceedings
390	Federal Motor Carrier Safety Regulations; General
391	Qualifications of Drivers and Longer Combination Vehicle (LCV) Driver Instructors
392	Driving of Commercial Motor Vehicles
393	Parts and Accessories Necessary for Safe Operation
395	Hours of Service Drivers
396	Inspection, Repair, and Maintenance
397	Transportation of Hazardous Materials; Driving and Parking Rules

Section 316.302(1)(b), F.S., provides that owners or drivers of CMVs engaged in *intrastate* commerce are subject to the same federal regulations, unless otherwise provided in s. 316.302, F.S., as such regulations existed on December 31, 2020.

States generally have three years to adopt such rules to remain compatible with federal regulations. States that remain incompatible after the compliance date risk losing federal grant funding.

During the most recent Annual Program Review of the DHSMV’s compliance with these regulations, the FMCSA noted that Florida law does not expressly subject the DHSMV to

¹ DHSMV, *2024 Legislative Bill Analysis: SB 754* (December 12, 2023) at p. 2.

² FMCSA, *About Us*, available at <https://www.fmcsa.dot.gov/mission/about-us> (last visited December 20, 2023).

³ 49 U.S.C. ss. 1801 et seq.

⁴ 49 C.F.R. ch III, subchapter B.

comply with the provisions of 49 CFR part 384, relating to State Compliance with Commercial Driver's License Program.⁵

Commercial Driver Licenses and the Drug and Alcohol Clearinghouse

Owners and drivers of a CMV operating on the state's public highways are subject to rules and regulations contained in the Federal Motor Carrier Safety Regulations, which includes specific regulations on controlled substances and alcohol use, testing, and reporting.⁶

The Drug and Alcohol Clearinghouse is an online database that provides employers of CMV drivers, FMCSA, State Driver Licensing Agencies, and State law enforcement personnel real-time information about drug and alcohol program violations of CMV operators.⁷ The Clearinghouse helps to identify CMV drivers who are prohibited from operating a CMV based on federal drug and alcohol program violations, and to ensure such drivers receive required drug or alcohol evaluation and treatment following a violation.⁸

Effective November 18, 2024, the FMCSA requires states use the Clearinghouse to check the status of a commercial driver license (CDL) or commercial learner permit (referred to in Florida as a commercial instructional permit, or CIP) before performing any licensing functions.⁹ This federal regulation prohibits states from issuing, renewing, upgrading, or transferring a CDL or CIP if the individual is restricted from operating a CMV due to any drug and alcohol program violations.

Additionally, the FMCSA requires states to establish procedures for "downgrading" a CDL or CIP, which means removing the privilege to operate a CMV from the driver license.¹⁰ If the state receives notification¹¹ that an individual is prohibited from operating a CMV due to federal alcohol or controlled substances rules, the state must downgrade the CDL or CIP and record such downgrade on the Commercial Driver's License Information System (CDLIS) driver record.¹²

Federal regulations also provide information on reinstatement of the CDL or CIP following completion of return-to-duty requirements, or reinstatement of the CDL or CIP and expunction of the downgrade from the CDLIS driving record for Clearinghouse error corrections.¹³

⁵ DHSMV, *supra* note 3, at 3.

⁶ Section 316.302(1), F.S. and *see* 49 C.F.R. Part 382 - Controlled Substances and Alcohol Use Testing.

⁷ FMCSA, *About the Clearinghouse - What is the FMCSA Commercial Driver's License Drug and Alcohol Clearinghouse?* <https://clearinghouse.fmcsa.dot.gov/About> (last visited December 20, 2023).

⁸ *Id.*

⁹ 49 C.F.R. s. 383.73.

¹⁰ *Id.* and 49 CFR s. 383.5(4).

¹¹ Pursuant to 49 C.F.R. s. 382.501(a).

¹² CDLIS is "a nationwide computer system that enables state driver licensing agencies...to ensure that each commercial driver has only one driver license and one complete driver record." States use this system to transmit out-of-state convictions and withdrawals, transfer CDL driver records to another state, or to respond to requests for driver status and history. See AAMVA, *Commercial Driver's License Information System (CDLIS)*, <https://www.aamva.org/technology/systems/driver-licensing-systems/cdlis> (last visited December 20, 2023).

¹³ 49 C.F.R. s. 383.73.

States are required to adopt compatible CMV driving prohibitions to remain eligible to receive Motor Carrier Assistance Program (MCSAP) grant funds.¹⁴ According to the DHSMV, Florida's current MCSAP federal grant share is \$21.4 million.¹⁵

Driver License Suspension - Informal Review Request

Florida law permits an individual to request an informal review when his or her driver license is suspended in certain instances.¹⁶ The informal review is conducted by a hearing officer designated by the DHSMV, and does not require the presence of a law enforcement officer or a witness. The review consists solely of an examination by the DHSMV of materials submitted by a law enforcement or correctional officer and the person whose license is suspended. Following the examination, a notice is sent to the individual providing the DHSMV's decision to sustain, amend, or invalidate the license suspension.

Section 322.21(9)(a), F.S., provides that for such reviews, the applicant must pay a \$25 filing fee, which is deposited into the Highway Safety Operating Trust Fund.

Section 322.31, F.S., provides that the DHSMV's final orders and rulings wherein any person is denied a license, or where a license has been canceled, suspended, or revoked, shall be reviewable as provided by the Florida Rules of Appellate Procedure only by a writ of certiorari issued by the circuit court in the county where the person resides.

An applicant for reinstatement of his or her CDL following a disqualification to operate a CMV, must pay a \$75 reinstatement fee in addition to the cost of the license.¹⁷

Florida has nearly 600,000 CDL holders subject to these regulations.¹⁸

III. Effect of Proposed Changes:

Adoption of Federal CMV Regulations

The bill amends s. 316.302, F.S., to provide that all owners and drivers of CMVs engaged in *intrastate* commerce are subject to CMV rules and regulations, unless otherwise specified, as they existed on December 31, 2023. According to the DHSMV, the FMCSA has adopted or amended six rules between December 31, 2020, and December 31, 2022, which impact the DHSMV.

¹⁴ See 86 FR 55718, *Controlled Substances and Alcohol Testing: State Driver's Licensing Agency Non-Issuance/Downgrade of Commercial Driver's License* (October 7, 2021), available at <https://www.federalregister.gov/documents/2021/10/07/2021-21928/controlled-substances-and-alcohol-testing-state-drivers-licensing-agency-non-issuancedowngrade-of> (last visited December 20, 2023).

¹⁵ Email from Jonas Marquez, Legislative Affairs Director, DHSMV, RE: SB 754 - (December 20, 2023) (on file with the Senate Committee on Transportation).

¹⁶ See ss. 322.2615(4) and (5), 322.2616(5) and (6), and 322.64(4) and (5), F.S.

¹⁷ Section 322.21(8), F.S. An original or renewal commercial driver license is \$75, except the fee is \$48 (same as a Class E driver license) for an applicant who has completed training and is applying for employment or is currently employed in a school system that requires the commercial license. Section 322.21(1)(a) and (b), F.S.

¹⁸ DHSMV, *2024 Legislative Bill Analysis: SB 754* (December 12, 2023) at p. 3.

This update results in the following changes:

- Removes a duplicative requirement that drivers prepare and submit a list of traffic violations annually to their employer;¹⁹
- Increases the area on the interior of a CMV windshield where vehicle safety technology devices may be mounted;²⁰
- Expands the definition of “vehicle safety technology” to include, “systems and items of equipment to promote driver, occupant, and roadway safety,” including “systems and devices that contain cameras, lidar, radar, and/or video”;²¹
- Permits individuals who do not satisfy certain vision standards to be physically qualified by an ophthalmologist or optometrist annually to operate a CMV;²²
- Requires rear impact guards be examined as part of the required CMV annual inspection and updates certification and labeling requirements for rear impact protection guards;²³ and
- Requires compliance with regulations related to the Drug and Alcohol Clearinghouse (this issue is described in detail below).

The bill also makes changes in the following sections related to CMVs:

- Amends s. 316.302(1)(a) and (b), F.S., to provide that all owners and drivers of CMVs are subject to the rules and regulations contained in 49 C.F.R. part 384, which requires state compliance with the federal CDL program.
- Removes s. 316.302(1)(e), F.S., which is now obsolete. The paragraph allowed a delay in compliance with the requirements of electronic logging devices and hours of service supporting documents until December 31, 2019.
- Amends s. 316.302(2)(d), F.S., to update to the appropriate federal references.
- Amends s. 322.02, F.S., to provide that the DHSMV is charged with the enforcement and administration of 49 C.F.R. parts 382-386 and 390-397.
- Clarifies in s. 322.05, F.S., that the DHSMV is prohibited from issuing a commercial license to any person who is ineligible to operate a CMV pursuant to 49 C.F.R. part 383.
- Clarifies in s. 322.31, F.S., that the right of review of CDL and CIP downgrades are to be included when there are appeals of final orders.

Drug and Alcohol Clearinghouse Requirements

The bill creates s. 322.591, F.S., which requires the DHSMV to check the Clearinghouse to ensure a driver is not prohibited from operating a motor vehicle any time a person applies for or seeks to renew, transfer, or make any other change to a CDL or CIP. Additionally, the DHSMV may not issue, renew, transfer, or revise the types of authorized vehicles that may be operated or the endorsements applicable to a CDL or CIP for any person for whom DHSMV receives notification pursuant to 49 C.F.R. s. 382.501, that the person is removed from the safety-sensitive function of operating a CMV because of conduct related to federal drug and alcohol prohibitions.

¹⁹ 87 FR 13192 (March 9, 2022).

²⁰ 49 C.F.R. s. 393.60(e)(1).

²¹ 49 C.F.R. s. 393.5.

²² 49 C.F.R. s. 391.44.

²³ 86 FR 62105 (November 9, 2021).

If the DHSMV receives such notification that a CDL or CIP holder is prohibited from operating a CMV, the DHSMV must downgrade the CDL or CIP. Section 322.01, F.S., defines “downgrade” as defined in 49 C.F.R. s. 383.5(4), which means the state removes the CDL or CIP privilege from the driver’s license. The DHSMV must complete and record the downgrade in the Commercial Driver’s License Information System (CDLIS) within 60 days following receipt of the notification. If the downgraded driver is otherwise qualified to be issued a Class E (non-commercial) driver license, the DHSMV will issue the Class E license valid for the length of the driver’s unexpired license period at no cost.

Immediately following receipt of notification that a driver is prohibited from operating a CMV, the DHSMV must:

- Immediately notify the driver that he or she is prohibited from operating a CMV;
- Provide in the notice to the driver that he or she may request an informal hearing within 20 days following receipt of the notice of the downgrade; and
- If a timely hearing request with the required filing fee (\$25) is not received, enter a final order directing the downgrade of the CDL or CIP; or
- If a hearing is requested with the required filing fee, schedule a hearing no later than 30 days after the request is received.

The informal hearing is exempt from the provisions of chapter 120, F.S., and must be conducted before a DHSMV-designated hearing officer who may conduct such hearing from any location in the state by means of communications technology.

The bill requires the federal notification indicating a driver is prohibited from operating a CMV be in the record for consideration by the hearing officer and in any proceeding pursuant to s. 322.31, F.S., relating to right of review. This notification is considered self-authenticating. The bill also provides that the basis for the federal notification received and the information in the Clearinghouse that resulted in such notification is not subject to challenge in the hearing or proceeding under s. 322.31, F.S.

If, prior to the entry of the final order to downgrade the CDL or CIP, the DHSMV receives notification that the driver is no longer prohibited from operating a CMV, the DHSMV must dismiss the action to downgrade the CDL or CIP. If, after entry of a final order that results in the downgrade of a CDL or CIP and the recording in the driver’s record that the driver is disqualified from operating a CMV, the DHSMV receives notification that the driver is no longer prohibited from operating a CMV, the DHSMV must reinstate the driver’s CDL or CIP upon reinstatement application, which requires a \$75 reinstatement fee. Once a person is erroneously identified as prohibited from driving a CMV, the FMCSA will notify the state and the state must promptly reinstate the commercial driving privilege of the affected driver and expunge the driver’s driving records accordingly.

The bill exempts the DHSMV from liability for a downgrade resulting from the discharge of the DHSMV’s duties related to newly created s. 322.591, F.S., which is the exclusive procedure for the downgrade of a CDL or CIP following notification that a driver is prohibited from operating a CMV.

Finally, the bill clarifies that the downgrade of a driver's CDL or CIP does not preclude the suspension of the driver license or disqualification from operating a CMV for driving under the influence and drug and alcohol testing refusal offenses under Florida law.

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:

This bill subjects specified individuals to *existing* fees for the DHSMV's informal review process and reinstatement of CDL and CIP driving privileges following a required license downgrade.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill requires an individual requesting an informal review of a CDL or CIP downgrade to pay the existing \$25 filing fee. Similarly, an individual requesting the reinstatement of his or her CDL or CIP following a downgrade must pay the existing \$75 fee for license reinstatement.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department estimates a fiscal impact of \$226,470 in FTE and contracted resources. The Department has requested and received grant funding to assist in the completion of this work.²⁴

The state may lose federal MCSAP grant funding if provisions of the bill related to federal CMV requirements are not adopted. This decrease can range from just under \$1 million annually for one year of incompatibility up to \$9.9 million annually if the state remained incompatible after four years of required compliance.²⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.302, 322.01, 322.02, 322.05, 322.07, 322.21, 322.31, 322.34, and 322.61.

This bill creates section 322.591 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.)

CS by Transportation on January 10, 2024:

The committee substitute provides that when the Drug and Alcohol Clearinghouse notifies a state that a driver was erroneously identified by the Clearinghouse as prohibited from driving a CMV, the Federal Motor Carrier Safety Administration will notify the state and the state must promptly reinstate the commercial driving privilege of the affected driver and expunge the driver's driving records accordingly.

It also clarifies that the right of review of commercial driver license downgrades are to be included when there are appeals of final orders.

B. Amendments:

None.

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

²⁴ DHSMV, *2024 Legislative Bill Analysis: SB 754* (December 12, 2023) at p. 8.

²⁵ Email from DHSMV, *supra* note 113.

By the Committee on Transportation; and Senator DiCeglie

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1 A bill to be entitled
 2 An act relating to regulation of commercial motor
 3 vehicles; amending s. 316.302, F.S.; revising federal
 4 regulations to which owners and operators of certain
 5 commercial motor vehicles are subject; deleting
 6 obsolete language; authorizing agents to remove
 7 vehicles or drivers from service and to give certain
 8 written notice under certain circumstances; providing
 9 penalties; amending s. 322.01, F.S.; revising
 10 definitions; defining the term "downgrade"; amending
 11 s. 322.02, F.S.; charging the Department of Highway
 12 Safety and Motor Vehicles with the administration and
 13 enforcement of certain federal regulations; amending
 14 s. 322.05, F.S.; prohibiting the department from
 15 issuing a commercial motor vehicle license to a person
 16 who is ineligible under certain federal regulations;
 17 amending s. 322.07, F.S.; revising circumstances under
 18 which the department is required to issue a temporary
 19 commercial instruction permit; amending s. 322.21,
 20 F.S.; applying a reinstatement service fee to a person
 21 whose privilege to operate a commercial vehicle has
 22 been downgraded; applying a filing fee to a person
 23 applying for or seeking to renew, transfer, or make
 24 any other change to a commercial driver license or
 25 temporary commercial instruction permit; amending s.
 26 322.31, F.S.; requiring that the final orders and
 27 rulings of the department regarding commercial driver
 28 licenses and commercial instruction permits be
 29 reviewable; creating s. 322.591, F.S.; requiring the

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30 department to obtain a person's driving record from
 31 the Commercial Driver's License Drug and Alcohol
 32 Clearinghouse; prohibiting the department from
 33 performing certain actions for a person who is
 34 prohibited from operating a commercial motor vehicle
 35 under certain federal regulations; requiring the
 36 department to downgrade a commercial driver license or
 37 temporary commercial instruction permit of a person
 38 who is prohibited from operating a commercial motor
 39 vehicle under such regulations and to record such
 40 downgrade in the Commercial Driver's License
 41 Information System; requiring the department to
 42 provide to such person certain notification and, upon
 43 request, an opportunity for an informal hearing;
 44 providing hearing requirements; requiring the
 45 department to enter a final order directing the
 46 downgrade of the person's commercial driver license or
 47 temporary commercial instruction permit under certain
 48 circumstances; providing an exception; providing that
 49 a request for a hearing tolls certain deadlines;
 50 exempting an informal hearing from certain provisions;
 51 authorizing such hearing to be conducted by means of
 52 communications technology; requiring the department to
 53 dismiss the action to downgrade the person's
 54 commercial driver license or temporary commercial
 55 instruction permit under certain circumstances;
 56 requiring the department to record the
 57 disqualification of a person from operating a
 58 commercial motor vehicle in the person's driving

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59 record upon entry of a final order to downgrade the
 60 person's commercial driver license or temporary
 61 commercial instruction permit; providing construction;
 62 requiring reinstatement of the person's commercial
 63 driver license or temporary commercial instruction
 64 permit under certain circumstances; limiting liability
 65 of the department; specifying that certain provisions
 66 are the exclusive procedure for downgrade of a
 67 commercial driver license or temporary commercial
 68 instruction permit; providing construction;
 69 authorizing issuance of a Class E driver license to a
 70 person who is prohibited from operating a commercial
 71 motor vehicle under certain circumstances; amending
 72 ss. 322.34 and 322.61, F.S.; conforming cross-
 73 references; providing an effective date.

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

75 Section 1. Subsection (1), paragraph (d) of subsection (2),
 76 and subsection (9) of section 316.302, Florida Statutes, are
 77 amended to read:

78 316.302 Commercial motor vehicles; safety regulations;
 79 transporters and shippers of hazardous materials; enforcement.—

80 (1) (a) All owners and drivers of commercial motor vehicles
 81 that are operated on the public highways of this state while
 82 engaged in interstate commerce are subject to the rules and
 83 regulations contained in 49 C.F.R. parts 382-386 ~~382, 383, 385,~~
 84 ~~386,~~ and 390-397.

85 (b) Except as otherwise provided in this section, all
 86
 87

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88 owners and drivers of commercial motor vehicles that are engaged
 89 in intrastate commerce are subject to the rules and regulations
 90 contained in 49 C.F.R. parts 382-386 ~~382, 383, 385, 386,~~ and
 91 390-397, as such rules and regulations existed on December 31,
 92 2023 ~~2020~~.

93 (c) The emergency exceptions provided by 49 C.F.R. s.
 94 392.82 also apply to communications by utility drivers and
 95 utility contractor drivers during a Level 1 activation of the
 96 State Emergency Operations Center, as provided in the Florida
 97 Comprehensive Emergency Management plan, or during a state of
 98 emergency declared by executive order or proclamation of the
 99 Governor.

100 (d) Except as provided in s. 316.228 for rear overhang
 101 lighting and flagging requirements for intrastate operations,
 102 the requirements of this section supersede all other safety
 103 requirements of this chapter for commercial motor vehicles.

104 ~~(e) A person who operates a commercial motor vehicle solely~~
 105 ~~in intrastate commerce which does not transport hazardous~~
 106 ~~materials in amounts that require placarding pursuant to 49~~
 107 ~~C.F.R. part 172 need not comply with the requirements of~~
 108 ~~electronic logging devices and hours of service supporting~~
 109 ~~documents as provided in 49 C.F.R. parts 385, 386, 390, and 395~~
 110 ~~until December 31, 2019.~~

111 (2)

112 (d) A person who operates a commercial motor vehicle solely
 113 in intrastate commerce not transporting any hazardous material
 114 in amounts that require placarding pursuant to 49 C.F.R. part
 115 172 within a 150 air-mile radius of the location where the
 116 vehicle is based need not comply with 49 C.F.R. ss. 395.8 and

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117 ~~395.11 s. 395.8~~ if the requirements of 49 C.F.R. s.
 118 395.1(e)(1)(iii) and (iv) ~~s. 395.1(e)(1)(ii), (iii)(A) and (C),~~
 119 ~~and (v)~~ are met.

120 (9) For the purpose of enforcing this section, any law
 121 enforcement officer of the Department of Highway Safety and
 122 Motor Vehicles or duly appointed agent who holds a current
 123 safety inspector certification from the Commercial Vehicle
 124 Safety Alliance may require the driver of any commercial vehicle
 125 operated on the highways of this state to stop and submit to an
 126 inspection of the vehicle or the driver's records. If the
 127 vehicle or driver is found to be operating in an unsafe
 128 condition, or if any required part or equipment is not present
 129 or is not in proper repair or adjustment, and the continued
 130 operation would present an unduly hazardous operating condition,
 131 the officer or agent may require the vehicle or the driver to be
 132 removed from service pursuant to the North American Standard
 133 Out-of-Service Criteria, until corrected. However, if continuous
 134 operation would not present an unduly hazardous operating
 135 condition, the officer or agent may give written notice
 136 requiring correction of the condition within 15 days.

137 (a) Any member of the Florida Highway Patrol or any law
 138 enforcement officer employed by a sheriff's office or municipal
 139 police department authorized to enforce the traffic laws of this
 140 state pursuant to s. 316.640 who has reason to believe that a
 141 vehicle or driver is operating in an unsafe condition may, as
 142 provided in subsection (11), enforce ~~the provisions of~~ this
 143 section.

144 (b) Any person who fails to comply with an officer's
 145 request to submit to an inspection under this subsection commits

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146 a violation of s. 843.02 if the person resists the officer
 147 without violence or a violation of s. 843.01 if the person
 148 resists the officer or agent with violence.

149 Section 2. Present subsections (16) through (48) of section
 150 322.01, Florida Statutes, are redesignated as subsections (17)
 151 through (49), respectively, a new subsection (16) is added to
 152 that section, and subsection (5) and present subsections (37)
 153 and (41) of that section are amended, to read:

154 322.01 Definitions.—As used in this chapter:

155 (5) "Cancellation" means the act of declaring a driver
 156 license void and terminated but does not include a downgrade.

157 (16) "Downgrade" has the same meaning as the term "CDL
 158 downgrade" as defined in 49 C.F.R. s. 383.5(4).

159 (38)(37) "Revocation" means the termination of a licensee's
 160 privilege to drive. The term does not include a downgrade.

161 (42)(41) "Suspension" means the temporary withdrawal of a
 162 licensee's privilege to drive a motor vehicle. The term does not
 163 include a downgrade.

164 Section 3. Subsection (2) of section 322.02, Florida
 165 Statutes, is amended to read:

166 322.02 Legislative intent; administration.—

167 (2) The Department of Highway Safety and Motor Vehicles is
 168 charged with the administration and function of enforcement of
 169 ~~the provisions of this chapter and the administration and~~
 170 enforcement of 49 C.F.R. parts 382-386 and 390-397.

171 Section 4. Present subsections (7) through (12) of section
 172 322.05, Florida Statutes, are redesignated as subsections (8)
 173 through (13), respectively, and a new subsection (7) is added to
 174 that section, to read:

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175 322.05 Persons not to be licensed.—The department may not
176 issue a license:

177 (7) To any person, as a commercial motor vehicle operator,
178 who is ineligible to operate a commercial motor vehicle pursuant
179 to 49 C.F.R. part 383.

180 Section 5. Subsection (3) of section 322.07, Florida
181 Statutes, is amended to read:

182 322.07 Instruction permits and temporary licenses.—

183 (3) Any person who, except for his or her lack of
184 instruction in operating a commercial motor vehicle, would
185 otherwise be qualified to obtain a commercial driver license
186 under this chapter, may apply for a temporary commercial
187 instruction permit. The department shall issue such a permit
188 entitling the applicant, while having the permit in his or her
189 immediate possession, to drive a commercial motor vehicle on the
190 highways, if:

191 (a) The applicant possesses a valid Florida driver license;
192 ~~and~~

193 (b) The applicant, while operating a commercial motor
194 vehicle, is accompanied by a licensed driver who is 21 years of
195 age or older, who is licensed to operate the class of vehicle
196 being operated, and who is occupying the closest seat to the
197 right of the driver; and

198 (c) The department has not been notified that, under 49
199 C.F.R. s. 382.501(a), the applicant is prohibited from operating
200 a commercial motor vehicle.

201 Section 6. Subsection (8) and paragraph (a) of subsection
202 (9) of section 322.21, Florida Statutes, are amended to read:

203 322.21 License fees; procedure for handling and collecting

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204 fees.—

205 (8) A person who applies for reinstatement following the
206 suspension or revocation of the person's driver license must pay
207 a service fee of \$45 following a suspension, and \$75 following a
208 revocation, which is in addition to the fee for a license. A
209 person who applies for reinstatement of a commercial driver
210 license following the disqualification or downgrade of the
211 person's privilege to operate a commercial motor vehicle must
212 ~~shall~~ pay a service fee of \$75, which is in addition to the fee
213 for a license. The department shall collect all of these fees at
214 the time of reinstatement. The department shall issue proper
215 receipts for such fees and shall promptly transmit all funds
216 received by it as follows:

217 (a) Of the \$45 fee received from a licensee for
218 reinstatement following a suspension:

219 1. If the reinstatement is processed by the department, the
220 department shall deposit \$15 in the General Revenue Fund and \$30
221 in the Highway Safety Operating Trust Fund.

222 2. If the reinstatement is processed by the tax collector,
223 \$15, less the general revenue service charge set forth in s.
224 215.20(1), shall be retained by the tax collector, \$15 shall be
225 deposited into the Highway Safety Operating Trust Fund, and \$15
226 shall be deposited into the General Revenue Fund.

227 (b) Of the \$75 fee received from a licensee for
228 reinstatement following a revocation, ~~or~~ disqualification, or
229 downgrade:

230 1. If the reinstatement is processed by the department, the
231 department shall deposit \$35 in the General Revenue Fund and \$40
232 in the Highway Safety Operating Trust Fund.

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233 2. If the reinstatement is processed by the tax collector,
 234 \$20, less the general revenue service charge set forth in s.
 235 215.20(1), shall be retained by the tax collector, \$20 shall be
 236 deposited into the Highway Safety Operating Trust Fund, and \$35
 237 shall be deposited into the General Revenue Fund.
 238

239 If the revocation or suspension of the driver license was for a
 240 violation of s. 316.193, or for refusal to submit to a lawful
 241 breath, blood, or urine test, an additional fee of \$130 must be
 242 charged. However, only one \$130 fee may be collected from one
 243 person convicted of violations arising out of the same incident.
 244 The department shall collect the \$130 fee and deposit the fee
 245 into the Highway Safety Operating Trust Fund at the time of
 246 reinstatement of the person's driver license, but the fee may
 247 not be collected if the suspension or revocation is overturned.
 248 If the revocation or suspension of the driver license was for a
 249 conviction for a violation of s. 817.234(8) or (9) or s.
 250 817.505, an additional fee of \$180 is imposed for each offense.
 251 The department shall collect and deposit the additional fee into
 252 the Highway Safety Operating Trust Fund at the time of
 253 reinstatement of the person's driver license.
 254 (9) An applicant:
 255 (a) Requesting a review authorized in s. 322.222, s.
 256 322.2615, s. 322.2616, s. 322.27, s. 322.591, or s. 322.64 must
 257 pay a filing fee of \$25 to be deposited into the Highway Safety
 258 Operating Trust Fund.
 259 Section 7. Section 322.31, Florida Statutes, is amended to
 260 read:
 261 322.31 Right of review.—The final orders and rulings of the

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262 department wherein any person is denied a license or has a
 263 commercial driver license or commercial instruction permit
 264 downgraded, or where such license has been canceled, suspended,
 265 or revoked, ~~must shall~~ be reviewable in the manner and within
 266 the time provided by the Florida Rules of Appellate Procedure
 267 only by a writ of certiorari issued by the circuit court in the
 268 county wherein such person shall reside, in the manner
 269 prescribed by the Florida Rules of Appellate Procedure, any
 270 provision in chapter 120 to the contrary notwithstanding.
 271 Section 8. Section 322.591, Florida Statutes, is created to
 272 read:
 273 322.591 Commercial driver license and temporary commercial
 274 instruction permit; Commercial Driver's License Drug and Alcohol
 275 Clearinghouse; prohibition on issuance of commercial driver
 276 licenses; downgrades.—Beginning November 18, 2024:
 277 (1) When a person applies for or seeks to renew, transfer,
 278 or make any other change to a commercial driver license or
 279 temporary commercial instruction permit, the department must
 280 obtain the person's driving record from the Commercial Driver's
 281 License Drug and Alcohol Clearinghouse established pursuant to
 282 49 C.F.R. part 382. The department may not issue, renew, or
 283 transfer, or revise the types of authorized vehicles that may be
 284 operated or the endorsements applicable to, a commercial driver
 285 license or temporary commercial instruction permit for any
 286 person for whom the department receives notification that,
 287 pursuant to 49 C.F.R. s. 382.501(a), the person is prohibited
 288 from operating a commercial motor vehicle.
 289 (2) The department shall downgrade the commercial driver
 290 license or temporary commercial instruction permit of a person

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291 for whom the department receives notification that, pursuant to
 292 49 C.F.R. s. 382.501(a), the person is prohibited from operating
 293 a commercial motor vehicle. Any such downgrade must be completed
 294 and recorded by the department in the Commercial Driver's
 295 License Information System within 60 days after the department's
 296 receipt of such notification.

297 (3) (a) Upon receipt of notification that, pursuant to 49
 298 C.F.R. s. 382.501(a), a person is prohibited from operating a
 299 commercial motor vehicle, the department shall immediately
 300 notify the person who is the subject of such notification that
 301 he or she is prohibited from operating a commercial motor
 302 vehicle and, upon his or her request, must afford him or her an
 303 opportunity for an informal hearing pursuant to this section.
 304 The department's notice must be provided to the person in the
 305 same manner as, and providing notice has the same effect as,
 306 notices provided pursuant to s. 322.251(1) and (2).

307 (b) An informal hearing under paragraph (a) must be
 308 requested no later than 20 days after the person receives the
 309 notice of the downgrade. If a request for a hearing is not
 310 received within 20 days after receipt of such notice, the
 311 department must enter a final order directing the downgrade of
 312 the person's commercial driver license or temporary commercial
 313 instruction permit unless the department receives notification
 314 that, pursuant to 49 C.F.R. s. 382.503(a), the person is no
 315 longer prohibited from operating a commercial motor vehicle.

316 (c) A hearing requested under paragraph (b) must be
 317 scheduled and held no later than 30 days after receipt by the
 318 department of a request for the hearing. The submission of a
 319 request for hearing under paragraph (b) tolls the deadline to

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320 file a petition for writ of certiorari pursuant to s. 322.31
 321 until after the department enters a final order after a hearing
 322 under paragraph (b).

323 (d) The informal hearing authorized by this subsection is
 324 exempt from chapter 120. Such hearing must be conducted before a
 325 hearing officer designated by the department. The hearing
 326 officer may conduct such hearing by means of communications
 327 technology.

328 (e) The notification received by the department pursuant to
 329 49 C.F.R. s. 382.501(a) must be in the record for consideration
 330 by the hearing officer and in any proceeding under s. 322.31 and
 331 is considered self-authenticating. The basis for the
 332 notification received by the department pursuant to 49 C.F.R. s.
 333 382.501(a) and the information in the Commercial Driver's
 334 License Drug and Alcohol Clearinghouse which resulted in such
 335 notification are not subject to challenge in the hearing or in
 336 any proceeding brought under s. 322.31.

337 (f) If, before the entry of a final order arising from a
 338 notification received by the department pursuant to 49 C.F.R. s.
 339 382.501(a), the department receives notification that, pursuant
 340 to 49 C.F.R. s. 382.503(a), the person is no longer prohibited
 341 from operating a commercial motor vehicle, the department must
 342 dismiss the action to downgrade the person's commercial driver
 343 license or temporary commercial instruction permit.

344 (g) Upon the entry of a final order that results in the
 345 downgrade of a person's commercial driver license or temporary
 346 commercial instruction permit, the department shall record
 347 immediately in the person's driving record that the person is
 348 disqualified from operating a commercial motor vehicle. The

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349 downgrade of a commercial driver license or temporary commercial
 350 instruction permit pursuant to a final order entered pursuant to
 351 this section and, upon the entry of a final order, the recording
 352 in the person's record that the person subject to such final
 353 order is disqualified from operating a commercial motor vehicle
 354 are not stayed during the pendency of any proceeding pursuant to
 355 s. 322.31.

356 (h) If, after the department enters a final order that
 357 results in the downgrade of a person's commercial driver license
 358 or temporary commercial instruction permit and records in the
 359 person's driving record that the person is disqualified from
 360 operating a commercial motor vehicle, the department receives:

361 1. Notification that, pursuant to 49 C.F.R. s. 382.503(a),
 362 the person is no longer prohibited from operating a commercial
 363 motor vehicle, the department must reinstate the person's
 364 commercial driver license or temporary commercial instruction
 365 permit upon application by such person.

366 2. Notification from the Federal Motor Carrier Safety
 367 Administration pursuant to 49 C.F.R. s. 383.73(q) (3) that the
 368 person was erroneously identified as being prohibited from
 369 operating a commercial motor vehicle, the department must notify
 370 the person; reinstate, without payment of the reinstatement fee
 371 required pursuant to s. 322.31, the person's commercial driver
 372 license or commercial instruction permit as expeditiously as
 373 possible; and remove any reference to the person's erroneous
 374 prohibited status from the Commercial Driver's License
 375 Information System and the person's record.

376 (i) The department is not liable for any commercial driver
 377 license or temporary commercial instruction permit downgrade

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378 resulting from the discharge of its duties.

379 (j) This section is the exclusive procedure for the
 380 downgrade of a commercial driver license or temporary commercial
 381 instruction permit following notification received by the
 382 department that, pursuant to 49 C.F.R. s. 382.501(a), a person
 383 is prohibited from operating a commercial motor vehicle.

384 (k) The downgrade of a person's commercial driver license
 385 or temporary commercial instruction permit pursuant to this
 386 section does not preclude the suspension of the driving
 387 privilege for that person pursuant to s. 322.2615 or the
 388 disqualification of that person from operating a commercial
 389 motor vehicle pursuant to s. 322.64. The driving privilege of a
 390 person whose commercial driver license or temporary commercial
 391 instruction permit has been downgraded pursuant to this section
 392 also may be suspended for a violation of s. 316.193.

393 (4) A person for whom the department receives notification
 394 that, pursuant to 49 C.F.R. s. 382.501(a), the person is
 395 prohibited from operating a commercial motor vehicle may, if
 396 otherwise qualified, be issued a Class E driver license pursuant
 397 to s. 322.251(4), valid for the length of his or her unexpired
 398 license period, at no cost.

399 Section 9. Subsection (2) of section 322.34, Florida
 400 Statutes, is amended to read:

401 322.34 Driving while license suspended, revoked, canceled,
 402 or disqualified.—

403 (2) Any person whose driver license or driving privilege
 404 has been canceled, suspended, or revoked as provided by law, or
 405 who does not have a driver license or driving privilege but is
 406 under suspension or revocation equivalent status as defined in

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407 s. 322.01(43) ~~s. 322.01(42)~~, except persons defined in s.
 408 322.264, who, knowing of such cancellation, suspension,
 409 revocation, or suspension or revocation equivalent status,
 410 drives any motor vehicle upon the highways of this state while
 411 such license or privilege is canceled, suspended, or revoked, or
 412 while under suspension or revocation equivalent status, commits:

413 (a) A misdemeanor of the second degree, punishable as
 414 provided in s. 775.082 or s. 775.083.

415 (b)1. A misdemeanor of the first degree, punishable as
 416 provided in s. 775.082 or s. 775.083, upon a second or
 417 subsequent conviction, except as provided in paragraph (c).

418 2. A person convicted of a third or subsequent conviction,
 419 except as provided in paragraph (c), must serve a minimum of 10
 420 days in jail.

421 (c) A felony of the third degree, punishable as provided in
 422 s. 775.082, s. 775.083, or s. 775.084, upon a third or
 423 subsequent conviction if the current violation of this section
 424 or the most recent prior violation of the section is related to
 425 driving while license canceled, suspended, revoked, or
 426 suspension or revocation equivalent status resulting from a
 427 violation of:

- 428 1. Driving under the influence;
- 429 2. Refusal to submit to a urine, breath-alcohol, or blood
 430 alcohol test;
- 431 3. A traffic offense causing death or serious bodily
 432 injury; or
- 433 4. Fleeing or eluding.

434
 435 The element of knowledge is satisfied if the person has been

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436 previously cited as provided in subsection (1); or the person
 437 admits to knowledge of the cancellation, suspension, or
 438 revocation, or suspension or revocation equivalent status; or
 439 the person received notice as provided in subsection (4). There
 440 shall be a rebuttable presumption that the knowledge requirement
 441 is satisfied if a judgment or order as provided in subsection
 442 (4) appears in the department's records for any case except for
 443 one involving a suspension by the department for failure to pay
 444 a traffic fine or for a financial responsibility violation.

445 Section 10. Subsection (4) of section 322.61, Florida
 446 Statutes, is amended to read:

447 322.61 Disqualification from operating a commercial motor
 448 vehicle.—

449 (4) Any person who is transporting hazardous materials as
 450 defined in s. 322.01(25) ~~s. 322.01(24)~~ shall, upon conviction of
 451 an offense specified in subsection (3), be disqualified from
 452 operating a commercial motor vehicle for a period of 3 years.
 453 The penalty provided in this subsection shall be in addition to
 454 any other applicable penalty.

455 Section 11. This act shall take effect July 1, 2024.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

2/8/24

Meeting Date

754

Bill Number or Topic

TED Approvs

Committee

Amendment Barcode (if applicable)

Name Chris Dudley

Phone 850-320-3801

Address 123 S. Adams St.

Email _____

Street

TLH

City

FL

State

32301

Zip

Speaking: For Against Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Trucking Assoc.

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. § 11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf flsenate.gov](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

CS/SB 754

2/18/24

Meeting Date

Bill Number or Topic

Deliver both copies of this form to Senate professional staff conducting the meeting

Appropriations Committee on Transportation, Tourism & Economic Development

Amendment Barcode (if applicable)

Name Megan Cannan (Florida TaxWatch) Phone (904) 599-7886

Address 106 N Bronough St Tallahassee FL 32301 Email mcannan@florida-taxwatch.org

Speaking: [] For [] Against [x] Information OR Waive Speaking: [] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

- [x] I am appearing without compensation or sponsorship. [] I am a registered lobbyist, representing: [] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Committee on Transportation, Tourism, and Economic Development

BILL: CS/CS/SB 934

INTRODUCER: Appropriations Committee on Transportation, Tourism and Economic Development, Transportation Committee, and Senator Yarborough

SUBJECT: Specialty License Plates/Cure Diabetes

DATE: February 12, 2024 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Shutes	Vickers	TR	Fav/CS
2.	Wells	Jerrett	ATD	Fav/CS
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 934 authorizes the Department of Highway Safety and Motor Vehicles (DHSMV) to create a Cure Diabetes specialty license plate. The annual use fee for the plate is \$25, which will be distributed equally between the following organizations to fund research to cure Type 1 diabetes:

- The Diabetes Research Institute Foundation;
- The JDRF International Incorporated; and
- The University of Florida Foundation, Inc., which supports the University of Florida Diabetes Institute.

The DHSMV estimates programming and implementation of the plate will cost \$7,680. See Section V., Fiscal Impact Statement.

The bill takes effect October 1, 2024.

II. Present Situation:

Diabetes Research Organizations

The Diabetes Research Institute Foundation

The Diabetes Research Institute Foundation is a Florida not for profit corporation with a mission to provide the funding necessary to cure diabetes through research. The Diabetes Research Institute is a “designated Center of Excellence at the University of Miami Miller School of Medicine, providing informative education and training programs for many types of health care professionals and industry representatives.”¹

JDRF International Incorporated

The JDRF International Incorporated (JDRF) is an international, non-profit organization dedicated to raising funds to support and promote diabetes research. JDRF “is the leading global organization funding Type 1 Diabetes (T1D) research,” with a mission of “improving lives today and tomorrow by accelerating life-changing breakthroughs to cure, prevent and treat T1D and its complications.”²

The Foundation has a Northern and Southern Florida Chapter. The local chapters serve as the hub of Foundation information and events held in the area.³

The University of Florida Foundation, Inc.

The University of Florida (UF) Foundation, Inc., which supports the UF Diabetes Institute was founded in 2015 and serves as the umbrella organization for diabetes research, treatment, and education coordinated at UF and UF Health. “Researchers and physicians affiliated with the Diabetes Institute are working to prevent, diagnose, and treat diabetes in a wide array of areas, including immunology, genetics, endocrinology, metabolism, pediatrics and social sciences.”⁴ The UF Diabetes Institute is the primary coordinating center for the JDRF Network for Pancreatic Organ Donors with Diseases.

Specialty License Plates

As of December 2023, there are 144 specialty license plates authorized by the Legislature. Of these plates, 109 are available for immediate purchase and 31 are in the presale process.⁵ Specialty license plates are available to an owner or lessee of a motor vehicle who is willing to

¹ Diabetes Research Institute Foundation, *About Us*, <https://diabetesresearch.org/about-DRI/> (last visited December 20, 2023).

² Juvenile Diabetes Research Foundation, *About Us*, https://www.jdrf.org/about/?_ga=2.216079830.1597347397.1666008274-1688791745.1661161232 (last visited December 20, 2023).

³ See JDRF Northern Florida Chapter, <https://www.jdrf.org/northernflorida/> and JDRF Southern Florida Chapter, <https://www.jdrf.org/southernflorida/> (last visited December 20, 2023).

⁴ University of Florida Diabetes Institute, *About the UF Diabetes Institute*, <https://diabetes.ufl.edu/about-us/> (last visited December 20, 2023).

⁵ DHSMV Presentation to the Senate Transportation Committee, *Specialty License Plates* (January 24, 2023), slideshow available at https://www.flsenate.gov/Committees/Show/TR/MeetingPacket/5615/10046_MeetingPacket_5615_3.pdf (last visited March 10, 2023).

pay an annual use fee, ranging from \$15 to \$25, paid in addition to required license taxes and service fees.⁶ The annual use fees are distributed to organizations in support of a particular cause or charity signified on the plate's design and designated in statute.⁷

In order to establish a specialty license plate and after the plate is approved by law, s. 320.08053, F.S., requires the following actions within certain timelines:

- Within 60 days, the organization must submit an art design for the plate, in a medium prescribed by the DHSMV;
- Within 120 days, the DHSMV must establish a method to issue presale vouchers for the specialty license plate; and
- Within 24 months after the presale vouchers are established, the organization must obtain a minimum of 3,000 voucher sales before manufacturing of the plate may begin.⁸

If the minimum sales requirement has not been met by the end of the 24-month presale period, then the DHSMV will discontinue the plate and issuance of presale vouchers. Upon discontinuation, a purchaser of a presale voucher may use the annual use fee as a credit towards any other specialty license plate or apply for a refund with the DHSMV.⁹

New specialty license plates that have been approved by law but are awaiting issuance will be issued in the order they appear in s. 320.08058, F.S., provided that presale requirements have been met. If the next listed specialty license plate has not met the presale requirement, the DHSMV will proceed in the order provided in s. 320.08058, F.S., to identify the next qualified specialty license plate that has met the presale requirement.¹⁰

If the Legislature has approved 135 or more specialty license plates, the DHSMV may not make any new specialty license plates available for design or issuance until a sufficient number of plates are discontinued so that the number of plates being issued does not exceed 135.¹¹

Use of Specialty License Plate Fees

The annual use fees collected by an organization and any interest earned from the fees may be expended only for use in this state unless the annual use fee is derived from the sale of specified United States Armed Forces and veterans-related specialty plates.¹² Additionally, organizations must adhere to certain accountability requirements, including an annual audit or attestation document affirming that funds received have been spent in accordance with applicable statutes.¹³

⁶ Section 320.08056(3)(d), F.S., provides that except if specifically provided in s. 320.08056(4), the annual use fee for a specialty license plate is \$25.

⁷ Section 320.08058, F.S.

⁸ Chapter 2022-189, Laws of Fla., extended the presale requirement by an additional 24 months for an approved specialty license plate organization that, as of June 15, 2022, is in the presale period but had not recorded at least 3,000 voucher sales.

⁹ Section 320.08053(2)(b), F.S.

¹⁰ Section 320.08053(3)(a), F.S.

¹¹ Section 320.08053(3)(b), F.S.

¹² Section 320.08056(10)(a), F.S.

¹³ Section 320.08062, F.S.; Such fees may be used to pay for the cost of this required audit or report. See s. 320.08056(10)(a), F.S.

The annual use fees collected by an organization and the interest earned from those fees may not be used for commercial or for-profit activities, or general or administrative expenses, unless authorized by s. 320.08058, F.S.¹⁴ Additionally, the annual use fees and interest earned from those fees may not be used for the purpose of marketing to, or lobbying, entertaining, or rewarding, any employee of a governmental agency that is responsible for the sale and distribution of specialty license plates, or any elected member or employee of the Legislature.¹⁵

Discontinuance of Specialty Plates

The DHSMV must discontinue the issuance of an approved specialty license plate if the number of valid registrations falls below 1,000 plates for at least 12 consecutive months. A warning letter is mailed to the sponsoring organization following the first month in which the total number of valid specialty license plate registrations is below 1,000 plates. Collegiate plates for Florida universities are exempt from the minimum specialty license plate requirement.¹⁶ In addition, the DHSMV is authorized to discontinue any specialty license plate if the organization no longer exists, stops providing services that are authorized to be funded from the annual use fee proceeds, or pursuant to an organizational recipient's request.¹⁷

However, effective July 1, 2023, the requirement increases so that the DHSMV must discontinue the issuance of an approved specialty license plate if the number of valid registrations falls below 3,000 or in the case of an out-of-state college or university license plate, 4,000, for at least 12 consecutive months. The DHSMV must mail a warning letter to the sponsoring organization following the first month in which the total number of valid specialty plate registrations is below 3,000, or in the case of an out-of-state college or university license plate, 4,000. This does not apply to in-state collegiate license plates established under s. 320.08058(3), F.S., license plates of institutions in and entities of the State University System, specialty license plates that have statutory eligibility limitations for purchase, specialty license plates for which annual use fees are distributed by a foundation for student and teacher leadership programs and teacher recruitment and retention, or Florida professional sports team license plates established under s. 320.08058(9), F.S.¹⁸

III. Effect of Proposed Changes:

The bill amends s. 320.08058, F.S., to authorize the DHSMV to create a Cure Diabetes specialty license plate. The annual use fee for the plate is \$25, which will be distributed equally to the following organizations to fund research to cure Type 1 diabetes:

- The Diabetes Research Institute Foundation;
- The JDRF International Incorporated; and
- The University of Florida Foundation, Inc., which supports the University of Florida Diabetes Institute.

¹⁴ Section 320.08056(10)(a), F.S.

¹⁵ Section 320.08056(11), F.S.

¹⁶ Section 320.08056(8)(a), F.S.

¹⁷ Section 320.08056(8)(b), F.S.

¹⁸ Chapter 2020-181, s. 7, Laws of Fla.

Each organization is authorized to use up to ten percent of proceeds from sales of the plate to market and promote the plate.

The plate must bear the colors and design approved by the department, with the word “Florida” at the top of the plate and the words “Cure Diabetes” at the bottom of the plate.

The plate will be added to the DHSMV presale voucher process, but will not be produced unless the presale requirement of 3,000 vouchers is met and the 135 plate cap has not been reached.

The bill takes effect October 1, 2024.

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 identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

If the specialty license plate is produced, the recipient organizations will receive annual use fees associated with sales of the plate.

C. Government Sector Impact:

According to previous specialty license plates fiscal impacts, the DHSMV estimates programming and implementation of the plate will cost \$7,680.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 320.08058 of the Florida Statutes.

IX. Additional Information:

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

CS by Appropriations Committee on Transportation, Tourism, and Economic Development on February 8, 2024:

The committee substitute changes the name of the second recipient of the proceeds from The Juvenile Diabetes Research Foundation to The JDRF International Incorporated.

CS by Transportation on January 23, 2024:

Clarifies the name of the organization at the University of Florida who will receive funds associated with the Cure Diabetes plate.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/08/2024	.	
	.	
	.	
	.	

The Appropriations Committee on Transportation, Tourism, and Economic Development (Yarborough) recommended the following:

Senate Amendment

Delete line 25

and insert:

2. The JDRF International Incorporated, which supports the JDRF Northern Florida Chapter; and

By the Committee on Transportation; and Senator Yarborough

596-02425-24

2024934c1

1 A bill to be entitled
 2 An act relating to specialty license plates; amending
 3 s. 320.08058, F.S.; directing the Department of
 4 Highway Safety and Motor Vehicles to develop a Cure
 5 Diabetes license plate; providing for distribution and
 6 use of fees collected from the sale of the plate;
 7 providing an effective date.
 8
 9 Be It Enacted by the Legislature of the State of Florida:
 10
 11 Section 1. Subsection (127) is added to section 320.08058,
 12 Florida Statutes, to read:
 13 320.08058 Specialty license plates.-
 14 (127) CURE DIABETES LICENSE PLATES.-
 15 (a) The department shall develop a Cure Diabetes license
 16 plate as provided in this section and s. 320.08053. The plate
 17 must bear the colors and design approved by the department. The
 18 word "Florida" must appear at the top of the plate, and the
 19 words "Cure Diabetes" must appear at the bottom of the plate.
 20 (b) The annual use fees from the sale of the plate must be
 21 distributed equally to the following organizations:
 22 1. The Diabetes Research Institute Foundation, which
 23 supports the Diabetes Research Institute at the University of
 24 Miami Miller School of Medicine;
 25 2. The Juvenile Diabetes Research Foundation; and
 26 3. The University of Florida Foundation, Inc., which
 27 supports the University of Florida Diabetes Institute.
 28 (c) Each organization may use up to 10 percent of the
 29 proceeds received by the organization to promote and market the

Page 1 of 2

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

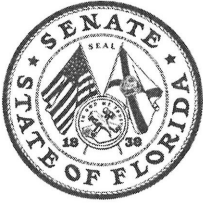
596-02425-24

2024934c1

30 plate. All remaining proceeds must be used for the purpose of
 31 funding research to cure Type 1 diabetes.
 32 Section 2. This act shall take effect October 1, 2024.

Page 2 of 2

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



The Florida Senate

Committee Agenda Request


To: Senator Ed Hooper, Chair
Appropriations Committee on Transportation, Tourism, and Economic
Development

Subject: Committee Agenda Request

Date: January 28, 2024

I respectfully request that **Senate Bill #934**, relating to Specialty License Plates/Cure Diabetes, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.



Senator Clay Yarborough
Florida Senate, District 4

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 Appropriations Committee on Transportation, Tourism, and Economic Development

BILL: CS/CS/SB 1362

INTRODUCER: Appropriations Committee on Transportation, Tourism, and Economic Development, Transportation Committee, and Senator Harrell

SUBJECT: Aviation

DATE: February 12, 2024 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Vickers</u>	<u>TR</u>	<u>Fav/CS</u>
2.	<u>Nortelus</u>	<u>Jerrett</u>	<u>ATD</u>	<u>Fav/CS</u>
3.	_____	_____	<u>FP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1362 addresses issues relating to aviation and advanced air mobility. The bill:

- Revises definitions for “aircraft” and “airport.”
- Repeals the definition of “ultralight aircraft.”
- Requires vertiports to comply with airport site approval and airport licensing or registration laws.
- Requires the Florida Department of Transportation (FDOT) to take specified steps regarding advanced air mobility, including:
 - Address certain needs in the FDOT’s statewide aviation system plan and, as appropriate, in the FDOT’s work program.
 - Designate a subject matter expert on advanced air mobility to serve as a resource to local jurisdictions.
 - Provide a guidebook and technical resources related to advanced air mobility to local jurisdictions.
 - Ensure that a political subdivision does not exercise its zoning or land use authority to grant an exclusive right to one or more vertiport owners or operators and authorize a political subdivision to use its authority to promote reasonable access to advanced air mobility operators at public use vertiports.
 - Conduct a review of airport hazard zone regulations and making recommendations to the Legislature.
- Reenacts various provisions to incorporate changes made by the bill.

The bill has an indeterminate, negative fiscal impact to the FDOT. See Section V., Fiscal Impact Statement.

The bill takes effect July 1, 2024.

II. Present Situation:

Advanced Air Mobility

The National Aeronautics and Space Administration (NASA) defines the term “Advanced Air Mobility” (AAM) to mean “an air transportation system that moves people and cargo between places previously not served or underserved by aviation – local, regional, intraregional, urban – using revolutionary new aircraft that are only just now becoming possible.”¹

AAM is a derivative of Urban Air Mobility (UAM), which focuses on transporting cargo and passengers at low altitudes within urban and suburban areas. AAM builds upon UAM by expanding its range and potential use cases.²

Numerous uses for AAM are being explored, including air taxi, air cargo, and public services. Air taxi uses feature passenger transportation within and around urban and regional areas, including routes connecting city centers to airports or to neighboring city centers. Air cargo uses feature cargo transportation supporting the middle-mile of logistics, generally seen as from the cargo port to the distribution center. Public service uses, such as search and rescue, disaster relief, and air ambulance operations are all likely early use cases for electric vertical take-off and landing (eVTOL) aircraft.³

Federal Guidance

In 2022, the Federal Aviation Administration (FAA) issued Engineering Brief 105, providing interim, but limited, guidance on vertiport design until the FAA publishes full Advisory Circular on the topic.⁴ Use of this design guidance is required for federally obligated airports and recommended for all other vertiport development. The engineering brief provides guidance for landing dimensions, visual aids, approach surfaces, and electric charging infrastructure, among other details, but is limited to aircraft no longer or wider than 50 feet with a pilot-on-board operating in visual meteorological conditions. The FAA’s vertiport guidance is expected to evolve into a performance-based design standard as it moves forward with a full Advisory Circular, which expected in the mid-2020s.⁵

¹ Florida Department of Transportation (FDOT), *Advanced Air Mobility*, <https://www.fdot.gov/aviation/advanced-air-mobility> (last visited January 8, 2024).

² FDOT Advanced Air Mobility Working Group, *Report and Recommendations*, August 2023, p.2. <https://www.fdot.gov/aviation/advanced-air-mobility> (last visited January 12, 2024).

³ *Id.* at 2.

⁴ Available at <https://www.faa.gov/sites/faa.gov/files/eb-105-vertiports.pdf> (last visited January 12, 2024).

⁵ *Id.*

Title 14 CFR Part 77, relating to the safe, efficient use, and preservation of navigable airspace, establishes standards and notification requirements for objects affecting navigable airspace. This notification serves as the basis for:

- Evaluating the effect of the construction or alteration on operating procedures;
- Determining the potential hazardous effect of the proposed construction on air navigation;
- Identifying mitigating measures to enhance safe air navigation; and
- Charting of new objects.

Notification allows the FAA to identify potential aeronautical hazards in advance thus preventing or minimizing the adverse impacts to the safe and efficient use of navigable airspace.⁶

Florida Department of Transportation's AAM Working Group

In 2022, the Florida Department of Transportation (FDOT) established an AAM Working Group consisting of representatives of from the FAA, original equipment manufacturers, airports, local governments, the FDOT, and other industry stakeholders.⁷ The working group developed various recommendations regarding AAM, included in those recommendations are:

- Designate an AAM subject matter expert within the FDOT.
- Review airport hazard regulations and update those regulations as appropriate.
- Incorporate AAM into state transportation planning documents.
- Lead a statewide education campaign for local decision makers and a public awareness campaign for the general public.

Florida Airport Licensing Law

Sections 330.27 through 330.39, F.S., contain the Florida Airport Licensing Law.⁸ For purposes of the Florida Airport Licensing Law, the term:

- “Aircraft” means a powered or unpowered machine or device capable of atmospheric flight, except a parachute or other such device used primarily as safety equipment.⁹
- “Airport” means an area of land or water used for, or intended to be used for, landing and takeoff of aircraft, including appurtenant areas, buildings, facilities, or rights-of-way necessary to facilitate such use or intended use.¹⁰
- “Ultralight aircraft” means any aircraft meeting the criteria established by part 103 of the Federal Aviation Regulations.¹¹

⁶ Federal Aviation Administration (FAA), *Notification of Proposed Construction or Alteration on Airport Part 77*, available at <https://www.faa.gov/airports/central/engineering/part77#:~:text=Federal%20Regulation%20Title%2014%20Part%2077%20establishes%20standards,effect%20of%20the%20proposed%20construction%20on%20air%20navigation> (last visited February 8, 2024).

⁷ *Supra* note 2 at 1.

⁸ Section 330.39, F.S.

⁹ Section 330.27(1), F.S.

¹⁰ Section 330.27(2), F.S.

¹¹ Section 330.27(8), F.S.

Airport Site Approval

Except as exempted by law,¹² the owner or lessee of a proposed airport must, before site acquisition or construction or establishment of the proposed airport, obtain FDOT's approval of the airport site. FDOT must grant the site approval if it is satisfied:

- That the site has adequate area allocated for the proposed airport.
- That the proposed airport will conform to licensing or registration requirements and will comply with the applicable local government land development regulations or zoning requirements.
- That all affected airports, local governments, and property owners have been notified and any submitted comments have been adequately considered.
- That safe air-traffic patterns can be established for the proposed airport with all existing airports and approved airport sites in its vicinity.¹³

For public airports,¹⁴ FDOT may only grant site approval after inspection of the proposed airport site.¹⁵ For private airports¹⁶ or temporary airports,¹⁷ FDOT may only grant site approval after it receives the documentation it deems necessary to satisfy the conditions above.¹⁸

Airport Licensing or Registration

Except as provided, the owner or lessee of an airport must have a public airport license, private airport registration, or temporary airport registration before operating aircraft to or from the airport.¹⁹ A license for a public airport is granted after final inspection finds the airport in compliance with all licensure requirements.²⁰

For private airports obtaining an airport registration, upon granting site approval, FDOT must provide controlled electronic access to the state aviation facility data system to permit the applicant to complete the registration process. Registration is completed upon self-certification by the registrant of operational and configuration data deemed necessary by FDOT.²¹

¹² Exemptions from airport license and registration include airports owned by the United States, certain ultralight aircraft landing areas, certain helistops, and certain airports used for the aerial application or spraying of crops. *See* s. 330.30(3), F.S.

¹³ Section 330.30(1)(a), F.S.

¹⁴ Section 330.27(6), F.S., defines the term "public airport" to mean an airport, publicly or privately owned, which is open for use by the public.

¹⁵ Section 339.30(2)(c), F.S.

¹⁶ Section 330.27(5), F.S., defines the term "private airport" to mean an airport, publicly or privately owned, which is not open or available for use by the public, but may be made available to others by invitation of the owner or manager.

¹⁷ Section 330.27(7), F.S., defines the term "temporary airport" to mean an airport at which flight operations are conducted under visual flight rules established by the Federal Aviation Administration and which is used for less than 30 consecutive days with no more than 10 operations per day.

¹⁸ Section 330.30(2)(c) and (d), F.S.

¹⁹ Section 330.30(2)(a), F.S.

²⁰ Section 330.30(2)(a)1, F.S.

²¹ Section 330.30(2)(a)2., F.S.

For public airports,²² FDOT may only grant site approval after inspection of the proposed airport site.²³ For private airports,²⁴ FDOT may only grant site approval after it receives the documentation it deems necessary to satisfy the conditions above.²⁵

Airport Licenses and Registration

Except as provided, the owner or lessee of an airport must have a public airport license, private airport registration, or temporary airport registration before operating aircraft to or from the airport.²⁶ A license for a public airport is granted after final inspection finds the airport in compliance with all licensure requirements.²⁷

For private airports obtaining a registration, upon granting site approval, FDOT must provide controlled electronic access to the state aviation facility data system to permit the applicant to complete the registration process. Registration is completed upon self-certification by the registrant of operational and configuration data deemed necessary by FDOT.²⁸

Currently, Florida law does not address vertiports or advanced air mobility.

III. Effect of Proposed Changes:

Definitions

The bill amends various definitions to provide better clarity and specificity. For example, the bill amends the definition of the term “aircraft” to include, but not be limited to, an airplane, autogyro, glider, gyrodyne, helicopter, lift and cruise, multicopter, paramotor, powered lift, seaplane, tiltrotor, ultralight, and vectored thrust.

The bill also amends the definition of term “airport” to include, but not be limited to, an airpark, airport, gliderport, heliport, helistop, seaplane base, ultralight flightpark, vertiport, and vertistop.

The bill repeals the statutory definition of the term “ultralight aircraft”, which is unnecessary since the term is defined in federal law.

Vertiports

The bill provides that on or after July 1, 2024, the owner or lessee of a proposed vertiport must comply with statutory requirements for airport site approval and with airport licensing or registration requirements. In conjunction with granting site approval, the FDOT must conduct a

²² Section 330.27(6), F.S., defines the term “public airport” to mean an airport, publicly or privately owned, which is open for use by the public.

²³ Section 339.30(2)(c), F.S.

²⁴ Section 330.27(5), F.S., defines the term “private airport” to mean an airport, publicly or privately owned, which is not open or available for use by the public, but may be made available to others by invitation of the owner or manager.

²⁵ Section 330.30(2)(c) and (d), F.S.

²⁶ Section 330.30(2)(a), F.S.

²⁷ Section 330.30(2)(a)1, F.S.

²⁸ Section 330.30(2)(a)2., F.S.

final physical inspection of the vertiport to ensure compliance with all requirements for airport licensure or registration.

Advanced Air Mobility

The bill creates s. 332.15, F.S., relating to advanced air mobility. The bill requires the FDOT, within the resources provided pursuant to ch. 216, F.S., relating to planning and budgeting, to:

- Address the needs for vertiports, AAM, and other advances in aviation technology in the statewide aviation system plan and, as appropriate, in the FDOT’s work program.
- Designate a subject matter expert on AAM within the FDOT to serve as a resource for local jurisdictions navigating advances in aviation technology, including electric powered-lift aircraft and electric aviation.
- Lead a statewide education campaign for local officials to provide education on the benefits of AAM to support the efforts to make the state a leader in aviation technology.
- Provide local jurisdictions with a guidebook and technical resources to support uniform planning and zoning language across the state related to AAM and other advances in aviation technology.
- Ensure that a political subdivision of the state does not exercise its zoning or land use authority to grant or permit an exclusive right to one or more vertiport owners or operators and authorize a political subdivision to use its authority to promote reasonable access to advanced air mobility operators at public use vertiports within the jurisdiction of the subdivision.
- Conduct a review of airport hazard zone regulations and, as needed, make recommendations to the Legislature proposing any changes to regulations as a result of the review.

Reenacted Statutes

The bill reenacts portions of s. 365.172, F.S., relating to emergency communications, s. 379.2295, F.S., relating to airport activities within a federally approved wildlife hazard management area, and s. 493.6101, F.S., relating to the definition of “repossession,” and s. 493.6403, F.S., relating to classes of licenses for repossession services to incorporate amendments to definitions made by the bill.

Effective Date

The bill takes effect July 1, 2024.

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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The AAM industry may see a positive fiscal impact associated with including AAM in the state's aviation planning.

C. Government Sector Impact:

There may be an indeterminate negative fiscal impact to the FDOT associated with various tasks required by the bill, which can likely be absorbed with existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 330.27 and 330.30.

This bill creates section 332.15 of the Florida Statutes.

This bill reenacts portions of the following sections of the Florida Statutes: 365.172, 379.2293, 493.6101 and 493.6103.

IX. Additional Information:

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

CS by Appropriations Committee on Transportation, Tourism, and Economic Development on February 8, 2024:

The committee substitute:

- Amends the definitions of “aircraft” and “airport.”
- Deletes the definition of “ultralight aircraft.”
- Requires owners of proposed vertiports to comply with specified statutes in obtaining sight approval and an airport license or registration.
- Requires FDOT to conduct a final inspection of vertiports.
- Requires FDOT to ensure that a political subdivision does not exercise its zoning and land use authority to grant or permit an exclusive right to one or more vertiport owners or operators and authorize a political subdivision to use its authority to promote reasonable access to advanced air mobility operators at public-use vertiports.
- Reenacts various statutes to conform to changes made by amendment.
- Made other technical changes.

CS by Transportation on January 23, 2023:

The committee substitute clarifies that vertiports, electric aviation charging, and other advances in aviation technology must be included in the statewide aviation system plan and, as applicable, in the FDOT’s work program.

A. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/08/2024	.	
	.	
	.	
	.	

The Appropriations Committee on Transportation, Tourism, and Economic Development (Harrell) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsections (1), (2), and (8) of section 330.27, Florida Statutes, are amended to read:

330.27 Definitions, when used in ss. 330.29-330.39.—

(1) "Aircraft" means a powered or unpowered machine or device capable of atmospheric flight, including, but not limited to, an airplane, autogyro, glider, gyrodyne, helicopter, lift



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11 and cruise, multicopter, paramotor, powered lift, seaplane,
12 tiltrotor, ultralight, and vectored thrust. The term does not
13 include ~~except~~ a parachute or other such device used primarily
14 as safety equipment.

15 (2) "Airport" means an area of land or water used for, or
16 intended to be used for, ~~landing and takeoff of~~ aircraft
17 operations, which may include any ~~including~~ appurtenant areas,
18 buildings, facilities, or rights-of-way necessary to facilitate
19 such use or intended use. The term includes, but is not limited
20 to, an airpark, airport, gliderport, heliport, helistop,
21 seaplane base, ultralight flightpark, vertiport, and vertistop.

22 ~~(8) "Ultralight aircraft" means any aircraft meeting the~~
23 ~~criteria established by part 103 of the Federal Aviation~~
24 ~~Regulations.~~

25 Section 2. Present subsections (3) and (4) of section
26 330.30, Florida Statutes, are redesignated as subsections (4)
27 and (5), respectively, a new subsection (3) is added to that
28 section, and paragraph (a) of subsection (1), paragraph (a) of
29 subsection (2), and present subsection (4) of that section are
30 amended, to read:

31 330.30 Approval of airport sites; registration and
32 licensure of airports.—

33 (1) SITE APPROVALS; REQUIREMENTS, EFFECTIVE PERIOD,
34 REVOCATION.—

35 (a) Except as provided in subsection (4) ~~(3)~~, the owner or
36 lessee of a proposed airport shall, before site acquisition or
37 construction or establishment of the proposed airport, obtain
38 approval of the airport site from the department. Applications
39 for approval of a site shall be made in a form and manner



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40 prescribed by the department. The department shall grant the
41 site approval if it is satisfied:

42 1. That the site has adequate area allocated for the
43 airport as proposed.

44 2. That the proposed airport will conform to licensing or
45 registration requirements and will comply with the applicable
46 local government land development regulations or zoning
47 requirements.

48 3. That all affected airports, local governments, and
49 property owners have been notified and any comments submitted by
50 them have been given adequate consideration.

51 4. That safe air-traffic patterns can be established for
52 the proposed airport with all existing airports and approved
53 airport sites in its vicinity.

54 (2) LICENSES AND REGISTRATIONS; REQUIREMENTS,
55 RENEWAL, REVOCATION.—

56 (a) Except as provided in subsection (4) ~~(3)~~, the owner or
57 lessee of an airport in this state shall have a public airport
58 license, private airport registration, or temporary airport
59 registration before the operation of aircraft to or from the
60 airport. Application for a license or registration shall be made
61 in a form and manner prescribed by the department.

62 1. For a public airport, upon granting site approval, the
63 department shall issue a license after a final airport
64 inspection finds the airport to be in compliance with all
65 requirements for the license. The license may be subject to any
66 reasonable conditions the department deems necessary to protect
67 the public health, safety, or welfare.

68 2. For a private airport, upon granting site approval, the



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69 department shall provide controlled electronic access to the
70 state aviation facility data system to permit the applicant to
71 complete the registration process. Registration shall be
72 completed upon self-certification by the registrant of
73 operational and configuration data deemed necessary by the
74 department.

75 3. For a temporary airport, the department must publish
76 notice of receipt of a completed registration application in the
77 next available publication of the Florida Administrative
78 Register and may not approve a registration application less
79 than 14 days after the date of publication of the notice. The
80 department must approve or deny a registration application
81 within 30 days after receipt of a completed application and must
82 issue the temporary airport registration concurrent with the
83 airport site approval. A completed registration application that
84 is not approved or denied within 30 days after the department
85 receives the completed application is considered approved and
86 shall be issued, subject to such reasonable conditions as are
87 authorized by law. An applicant seeking to claim registration by
88 default under this subparagraph must notify the agency clerk of
89 the department, in writing, of the intent to rely upon the
90 default registration provision of this subparagraph and may not
91 take any action based upon the default registration until after
92 receipt of such notice by the agency clerk.

93 (3) VERTIPOINTS.—On or after July 1, 2024, the owner or
94 lessee of a proposed vertiport must comply with subsection (1)
95 in obtaining site approval and with subsection (2) in obtaining
96 an airport license or registration. In conjunction with the
97 granting of site approval, the department must conduct a final



98 physical inspection of the vertiport to ensure compliance with
99 all requirements for airport licensure or registration.

100 (5) ~~(4)~~ EXCEPTIONS.—Private airports with 10 or more based
101 aircraft may request to be inspected and licensed by the
102 department. Private airports licensed according to this
103 subsection shall be considered private airports as defined in s.
104 330.27 ~~s. 330.27(5)~~ in all other respects.

105 Section 3. Section 332.15, Florida Statutes, is created to
106 read:

107 332.15 Advanced air mobility.—The Department of
108 Transportation shall, within the resources provided pursuant to
109 chapter 216:

110 (1) Address the need for vertiports, advanced air mobility,
111 and other advances in aviation technology in the statewide
112 aviation system plan as required under s. 332.006(1) and, as
113 appropriate, in the department's work program.

114 (2) Designate a subject matter expert on advanced air
115 mobility within the department to serve as a resource for local
116 jurisdictions navigating advances in aviation technology.

117 (3) Lead a statewide education campaign for local officials
118 to provide education on the benefits of advanced air mobility
119 and advances in aviation technology and to support the efforts
120 to make this state a leader in aviation technology.

121 (4) Provide local jurisdictions with a guidebook and
122 technical resources to support uniform planning and zoning
123 language across this state related to advanced air mobility and
124 other advances in aviation technology.

125 (5) Ensure that a political subdivision of the state does
126 not exercise its zoning and land use authority to grant or



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127 permit an exclusive right to one or more vertiport owners or
128 operators and authorize a political subdivision to use its
129 authority to promote reasonable access to advanced air mobility
130 operators at public use vertiports within the jurisdiction of
131 the subdivision.

132 (6) Conduct a review of airport hazard zone regulations
133 and, as needed, make recommendations to the Legislature
134 proposing any changes to regulations as a result of the review.

135 Section 4. For the purpose of incorporating the amendment
136 made by this act to section 330.27, Florida Statutes, in a
137 reference thereto, subsection (13) of section 365.172, Florida
138 Statutes, is reenacted to read:

139 365.172 Emergency communications.—

140 (13) FACILITATING EMERGENCY COMMUNICATIONS SERVICE
141 IMPLEMENTATION.—To balance the public need for reliable
142 emergency communications services through reliable wireless
143 systems and the public interest served by governmental zoning
144 and land development regulations and notwithstanding any other
145 law or local ordinance to the contrary, the following standards
146 shall apply to a local government's actions, as a regulatory
147 body, in the regulation of the placement, construction, or
148 modification of a wireless communications facility. This
149 subsection may not, however, be construed to waive or alter the
150 provisions of s. 286.011 or s. 286.0115. For the purposes of
151 this subsection only, "local government" shall mean any
152 municipality or county and any agency of a municipality or
153 county only. The term "local government" does not, however,
154 include any airport, as defined by s. 330.27(2), even if it is
155 owned or controlled by or through a municipality, county, or



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156 agency of a municipality or county. Further, notwithstanding
157 anything in this section to the contrary, this subsection does
158 not apply to or control a local government's actions as a
159 property or structure owner in the use of any property or
160 structure owned by such entity for the placement, construction,
161 or modification of wireless communications facilities. In the
162 use of property or structures owned by the local government,
163 however, a local government may not use its regulatory authority
164 so as to avoid compliance with, or in a manner that does not
165 advance, the provisions of this subsection.

166 (a) Colocation among wireless providers is encouraged by
167 the state.

168 1.a. Colocations on towers, including nonconforming towers,
169 that meet the requirements in sub-sub-subparagraphs (I), (II),
170 and (III), are subject to only building permit review, which may
171 include a review for compliance with this subparagraph. Such
172 colocations are not subject to any design or placement
173 requirements of the local government's land development
174 regulations in effect at the time of the colocation that are
175 more restrictive than those in effect at the time of the initial
176 antennae placement approval, to any other portion of the land
177 development regulations, or to public hearing review. This sub-
178 subparagraph may not preclude a public hearing for any appeal of
179 the decision on the colocation application.

180 (I) The colocation does not increase the height of the
181 tower to which the antennae are to be attached, measured to the
182 highest point of any part of the tower or any existing antenna
183 attached to the tower;

184 (II) The colocation does not increase the ground space



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185 area, commonly known as the compound, approved in the site plan
186 for equipment enclosures and ancillary facilities; and

187 (III) The colocation consists of antennae, equipment
188 enclosures, and ancillary facilities that are of a design and
189 configuration consistent with all applicable regulations,
190 restrictions, or conditions, if any, applied to the initial
191 antennae placed on the tower and to its accompanying equipment
192 enclosures and ancillary facilities and, if applicable, applied
193 to the tower supporting the antennae. Such regulations may
194 include the design and aesthetic requirements, but not
195 procedural requirements, other than those authorized by this
196 section, of the local government's land development regulations
197 in effect at the time the initial antennae placement was
198 approved.

199 b. Except for a historic building, structure, site, object,
200 or district, or a tower included in sub-subparagraph a.,
201 colocations on all other existing structures that meet the
202 requirements in sub-sub-subparagraphs (I)-(IV) shall be subject
203 to no more than building permit review, and an administrative
204 review for compliance with this subparagraph. Such colocations
205 are not subject to any portion of the local government's land
206 development regulations not addressed herein, or to public
207 hearing review. This sub-subparagraph may not preclude a public
208 hearing for any appeal of the decision on the colocation
209 application.

210 (I) The colocation does not increase the height of the
211 existing structure to which the antennae are to be attached,
212 measured to the highest point of any part of the structure or
213 any existing antenna attached to the structure;



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214 (II) The colocation does not increase the ground space
215 area, otherwise known as the compound, if any, approved in the
216 site plan for equipment enclosures and ancillary facilities;

217 (III) The colocation consists of antennae, equipment
218 enclosures, and ancillary facilities that are of a design and
219 configuration consistent with any applicable structural or
220 aesthetic design requirements and any requirements for location
221 on the structure, but not prohibitions or restrictions on the
222 placement of additional colocations on the existing structure or
223 procedural requirements, other than those authorized by this
224 section, of the local government's land development regulations
225 in effect at the time of the colocation application; and

226 (IV) The colocation consists of antennae, equipment
227 enclosures, and ancillary facilities that are of a design and
228 configuration consistent with all applicable restrictions or
229 conditions, if any, that do not conflict with sub-sub-
230 subparagraph (III) and were applied to the initial antennae
231 placed on the structure and to its accompanying equipment
232 enclosures and ancillary facilities and, if applicable, applied
233 to the structure supporting the antennae.

234 c. Regulations, restrictions, conditions, or permits of the
235 local government, acting in its regulatory capacity, that limit
236 the number of colocations or require review processes
237 inconsistent with this subsection do not apply to colocations
238 addressed in this subparagraph.

239 d. If only a portion of the colocation does not meet the
240 requirements of this subparagraph, such as an increase in the
241 height of the proposed antennae over the existing structure
242 height or a proposal to expand the ground space approved in the



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243 site plan for the equipment enclosure, where all other portions
244 of the colocation meet the requirements of this subparagraph,
245 that portion of the colocation only may be reviewed under the
246 local government's regulations applicable to an initial
247 placement of that portion of the facility, including, but not
248 limited to, its land development regulations, and within the
249 review timeframes of subparagraph (d)2., and the rest of the
250 colocation shall be reviewed in accordance with this
251 subparagraph. A colocation proposal under this subparagraph that
252 increases the ground space area, otherwise known as the
253 compound, approved in the original site plan for equipment
254 enclosures and ancillary facilities by no more than a cumulative
255 amount of 400 square feet or 50 percent of the original compound
256 size, whichever is greater, shall, however, require no more than
257 administrative review for compliance with the local government's
258 regulations, including, but not limited to, land development
259 regulations review, and building permit review, with no public
260 hearing review. This sub-subparagraph does not preclude a public
261 hearing for any appeal of the decision on the colocation
262 application.

263 2. If a colocation does not meet the requirements of
264 subparagraph 1., the local government may review the application
265 under the local government's regulations, including, but not
266 limited to, land development regulations, applicable to the
267 placement of initial antennae and their accompanying equipment
268 enclosure and ancillary facilities.

269 3. If a colocation meets the requirements of subparagraph
270 1., the colocation may not be considered a modification to an
271 existing structure or an impermissible modification of a



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272 nonconforming structure.

273 4. The owner of the existing tower on which the proposed
274 antennae are to be colocated shall remain responsible for
275 compliance with any applicable condition or requirement of a
276 permit or agreement, or any applicable condition or requirement
277 of the land development regulations to which the existing tower
278 had to comply at the time the tower was permitted, including any
279 aesthetic requirements, provided the condition or requirement is
280 not inconsistent with this paragraph.

281 5. An existing tower, including a nonconforming tower, may
282 be structurally modified in order to permit colocation or may be
283 replaced through no more than administrative review and building
284 permit review, and is not subject to public hearing review, if
285 the overall height of the tower is not increased and, if a
286 replacement, the replacement tower is a monopole tower or, if
287 the existing tower is a camouflaged tower, the replacement tower
288 is a like-camouflaged tower. This subparagraph may not preclude
289 a public hearing for any appeal of the decision on the
290 application.

291 (b)1. A local government's land development and
292 construction regulations for wireless communications facilities
293 and the local government's review of an application for the
294 placement, construction, or modification of a wireless
295 communications facility shall only address land development or
296 zoning issues. In such local government regulations or review,
297 the local government may not require information on or evaluate
298 a wireless provider's business decisions about its service,
299 customer demand for its service, or quality of its service to or
300 from a particular area or site, unless the wireless provider



301 voluntarily offers this information to the local government. In
302 such local government regulations or review, a local government
303 may not require information on or evaluate the wireless
304 provider's designed service unless the information or materials
305 are directly related to an identified land development or zoning
306 issue or unless the wireless provider voluntarily offers the
307 information. Information or materials directly related to an
308 identified land development or zoning issue may include, but are
309 not limited to, evidence that no existing structure can
310 reasonably be used for the antennae placement instead of the
311 construction of a new tower, that residential areas cannot be
312 served from outside the residential area, as addressed in
313 subparagraph 3., or that the proposed height of a new tower or
314 initial antennae placement or a proposed height increase of a
315 modified tower, replacement tower, or colocation is necessary to
316 provide the provider's designed service. Nothing in this
317 paragraph shall limit the local government from reviewing any
318 applicable land development or zoning issue addressed in its
319 adopted regulations that does not conflict with this section,
320 including, but not limited to, aesthetics, landscaping, land
321 use-based location priorities, structural design, and setbacks.

322 2. Any setback or distance separation required of a tower
323 may not exceed the minimum distance necessary, as determined by
324 the local government, to satisfy the structural safety or
325 aesthetic concerns that are to be protected by the setback or
326 distance separation.

327 3. A local government may exclude the placement of wireless
328 communications facilities in a residential area or residential
329 zoning district but only in a manner that does not constitute an



330 actual or effective prohibition of the provider's service in
331 that residential area or zoning district. If a wireless provider
332 demonstrates to the satisfaction of the local government that
333 the provider cannot reasonably provide its service to the
334 residential area or zone from outside the residential area or
335 zone, the municipality or county and provider shall cooperate to
336 determine an appropriate location for a wireless communications
337 facility of an appropriate design within the residential area or
338 zone. The local government may require that the wireless
339 provider reimburse the reasonable costs incurred by the local
340 government for this cooperative determination. An application
341 for such cooperative determination may not be considered an
342 application under paragraph (d).

343 4. A local government may impose a reasonable fee on
344 applications to place, construct, or modify a wireless
345 communications facility only if a similar fee is imposed on
346 applicants seeking other similar types of zoning, land use, or
347 building permit review. A local government may impose fees for
348 the review of applications for wireless communications
349 facilities by consultants or experts who conduct code compliance
350 review for the local government but any fee is limited to
351 specifically identified reasonable expenses incurred in the
352 review. A local government may impose reasonable surety
353 requirements to ensure the removal of wireless communications
354 facilities that are no longer being used.

355 5. A local government may impose design requirements, such
356 as requirements for designing towers to support colocation or
357 aesthetic requirements, except as otherwise limited in this
358 section, but may not impose or require information on compliance



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359 with building code type standards for the construction or
360 modification of wireless communications facilities beyond those
361 adopted by the local government under chapter 553 and that apply
362 to all similar types of construction.

363 (c) Local governments may not require wireless providers to
364 provide evidence of a wireless communications facility's
365 compliance with federal regulations, except evidence of
366 compliance with applicable Federal Aviation Administration
367 requirements under 14 C.F.R. part 77, as amended, and evidence
368 of proper Federal Communications Commission licensure, or other
369 evidence of Federal Communications Commission authorized
370 spectrum use, but may request the Federal Communications
371 Commission to provide information as to a wireless provider's
372 compliance with federal regulations, as authorized by federal
373 law.

374 (d)1. A local government shall grant or deny each properly
375 completed application for a colocation under subparagraph (a)1.
376 based on the application's compliance with the local
377 government's applicable regulations, as provided for in
378 subparagraph (a)1. and consistent with this subsection, and
379 within the normal timeframe for a similar building permit review
380 but in no case later than 45 business days after the date the
381 application is determined to be properly completed in accordance
382 with this paragraph.

383 2. A local government shall grant or deny each properly
384 completed application for any other wireless communications
385 facility based on the application's compliance with the local
386 government's applicable regulations, including but not limited
387 to land development regulations, consistent with this subsection



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388 and within the normal timeframe for a similar type review but in
389 no case later than 90 business days after the date the
390 application is determined to be properly completed in accordance
391 with this paragraph.

392 3.a. An application is deemed submitted or resubmitted on
393 the date the application is received by the local government. If
394 the local government does not notify the applicant in writing
395 that the application is not completed in compliance with the
396 local government's regulations within 20 business days after the
397 date the application is initially submitted or additional
398 information resubmitted, the application is deemed, for
399 administrative purposes only, to be properly completed and
400 properly submitted. However, the determination may not be deemed
401 as an approval of the application. If the application is not
402 completed in compliance with the local government's regulations,
403 the local government shall so notify the applicant in writing
404 and the notification must indicate with specificity any
405 deficiencies in the required documents or deficiencies in the
406 content of the required documents which, if cured, make the
407 application properly completed. Upon resubmission of information
408 to cure the stated deficiencies, the local government shall
409 notify the applicant, in writing, within the normal timeframes
410 of review, but in no case longer than 20 business days after the
411 additional information is submitted, of any remaining
412 deficiencies that must be cured. Deficiencies in document type
413 or content not specified by the local government do not make the
414 application incomplete. Notwithstanding this sub-subparagraph,
415 if a specified deficiency is not properly cured when the
416 applicant resubmits its application to comply with the notice of



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417 deficiencies, the local government may continue to request the
418 information until such time as the specified deficiency is
419 cured. The local government may establish reasonable timeframes
420 within which the required information to cure the application
421 deficiency is to be provided or the application will be
422 considered withdrawn or closed.

423 b. If the local government fails to grant or deny a
424 properly completed application for a wireless communications
425 facility within the timeframes set forth in this paragraph, the
426 application shall be deemed automatically approved and the
427 applicant may proceed with placement of the facilities without
428 interference or penalty. The timeframes specified in
429 subparagraph 2. may be extended only to the extent that the
430 application has not been granted or denied because the local
431 government's procedures generally applicable to all other
432 similar types of applications require action by the governing
433 body and such action has not taken place within the timeframes
434 specified in subparagraph 2. Under such circumstances, the local
435 government must act to either grant or deny the application at
436 its next regularly scheduled meeting or, otherwise, the
437 application is deemed to be automatically approved.

438 c. To be effective, a waiver of the timeframes set forth in
439 this paragraph must be voluntarily agreed to by the applicant
440 and the local government. A local government may request, but
441 not require, a waiver of the timeframes by the applicant, except
442 that, with respect to a specific application, a one-time waiver
443 may be required in the case of a declared local, state, or
444 federal emergency that directly affects the administration of
445 all permitting activities of the local government.



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446 (e) The replacement of or modification to a wireless
447 communications facility, except a tower, that results in a
448 wireless communications facility not readily discernibly
449 different in size, type, and appearance when viewed from ground
450 level from surrounding properties, and the replacement or
451 modification of equipment that is not visible from surrounding
452 properties, all as reasonably determined by the local
453 government, are subject to no more than applicable building
454 permit review.

455 (f) Any other law to the contrary notwithstanding, the
456 Department of Management Services shall negotiate, in the name
457 of the state, leases for wireless communications facilities that
458 provide access to state government-owned property not acquired
459 for transportation purposes, and the Department of
460 Transportation shall negotiate, in the name of the state, leases
461 for wireless communications facilities that provide access to
462 property acquired for state rights-of-way. On property acquired
463 for transportation purposes, leases shall be granted in
464 accordance with s. 337.251. On other state government-owned
465 property, leases shall be granted on a space available, first-
466 come, first-served basis. Payments required by state government
467 under a lease must be reasonable and must reflect the market
468 rate for the use of the state government-owned property. The
469 Department of Management Services and the Department of
470 Transportation are authorized to adopt rules for the terms and
471 conditions and granting of any such leases.

472 (g) If any person adversely affected by any action, or
473 failure to act, or regulation, or requirement of a local
474 government in the review or regulation of the wireless



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475 communication facilities files an appeal or brings an
476 appropriate action in a court or venue of competent
477 jurisdiction, following the exhaustion of all administrative
478 remedies, the matter shall be considered on an expedited basis.

479 Section 5. For the purpose of incorporating the amendment
480 made by this act to section 330.27, Florida Statutes, in a
481 reference thereto, subsection (2) of section 379.2293, Florida
482 Statutes, is reenacted to read:

483 379.2293 Airport activities within the scope of a federally
484 approved wildlife hazard management plan or a federal or state
485 permit or other authorization for depredation or harassment.—

486 (2) An airport authority or other entity owning or
487 operating an airport, as defined in s. 330.27(2), is not subject
488 to any administrative or civil penalty, restriction, or other
489 sanction with respect to any authorized action taken in a non-
490 negligent manner for the purpose of protecting human life or
491 aircraft safety from wildlife hazards.

492 Section 6. For the purpose of incorporating the amendment
493 made by this act to section 330.27, Florida Statutes, in a
494 reference thereto, subsection (22) of section 493.6101, Florida
495 Statutes, is reenacted to read:

496 493.6101 Definitions.—

497 (22) "Repossession" means the recovery of a motor vehicle
498 as defined under s. 320.01(1), a mobile home as defined in s.
499 320.01(2), a motorboat as defined under s. 327.02, an aircraft
500 as defined in s. 330.27(1), a personal watercraft as defined in
501 s. 327.02, an all-terrain vehicle as defined in s. 316.2074,
502 farm equipment as defined under s. 686.402, or industrial
503 equipment, by an individual who is authorized by the legal



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504 owner, lienholder, or lessor to recover, or to collect money
505 payment in lieu of recovery of, that which has been sold or
506 leased under a security agreement that contains a repossession
507 clause. As used in this subsection, the term "industrial
508 equipment" includes, but is not limited to, tractors, road
509 rollers, cranes, forklifts, backhoes, and bulldozers. The term
510 "industrial equipment" also includes other vehicles that are
511 propelled by power other than muscular power and that are used
512 in the manufacture of goods or used in the provision of
513 services. A repossession is complete when a licensed recovery
514 agent is in control, custody, and possession of such repossessed
515 property. Property that is being repossessed shall be considered
516 to be in the control, custody, and possession of a recovery
517 agent if the property being repossessed is secured in
518 preparation for transport from the site of the recovery by means
519 of being attached to or placed on the towing or other transport
520 vehicle or if the property being repossessed is being operated
521 or about to be operated by an employee of the recovery agency.

522 Section 7. For the purpose of incorporating the amendment
523 made by this act to section 330.27, Florida Statutes, in a
524 reference thereto, paragraph (c) of subsection (1) of section
525 493.6403, Florida Statutes, is reenacted to read:

526 493.6403 License requirements.—

527 (1) In addition to the license requirements set forth in
528 this chapter, each individual or agency shall comply with the
529 following additional requirements:

530 (c) An applicant for a Class "E" license shall have at
531 least 1 year of lawfully gained, verifiable, full-time
532 experience in one, or a combination of more than one, of the



954964

533 following:

534 1. Repossession of motor vehicles as defined in s.
535 320.01(1), mobile homes as defined in s. 320.01(2), motorboats
536 as defined in s. 327.02, aircraft as defined in s. 330.27(1),
537 personal watercraft as defined in s. 327.02, all-terrain
538 vehicles as defined in s. 316.2074, farm equipment as defined
539 under s. 686.402, or industrial equipment as defined in s.
540 493.6101(22).

541 2. Work as a Class "EE" licensed intern.

542 Section 8. This act shall take effect July 1, 2024.

543

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

545 And the title is amended as follows:

546 Delete everything before the enacting clause

547 and insert:

548 A bill to be entitled
549 An act relating to aviation; amending s. 330.27, F.S.;
550 revising definitions; amending s. 330.30, F.S.;
551 beginning on a specified date, requiring the owner or
552 lessee of a proposed vertiport to comply with a
553 specified provision in obtaining certain approval and
554 license or registration; requiring the Department of
555 Transportation to conduct a final physical inspection
556 of the vertiport to ensure compliance with specified
557 requirements; conforming a cross-reference; creating
558 s. 332.15, F.S.; providing duties of the department,
559 within specified resources, with respect to
560 vertiports, advanced air mobility, and other advances
561 in aviation technology; reenacting ss. 365.172(13),



954964

562 379.2293(2), 493.6101(22), and 493.6403(1)(c), F.S.,
563 relating to emergency communications, airport
564 activities within the scope of a federally approved
565 wildlife hazard management plan or a federal or state
566 permit or other authorization for depredation or
567 harassment, definitions, and license requirements,
568 respectively, to incorporate the amendment made to s.
569 330.27, F.S., in references thereto; providing an
570 effective date.



144092

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/08/2024	.	
	.	
	.	
	.	

The Appropriations Committee on Transportation, Tourism, and Economic Development (Harrell) recommended the following:

1 **Senate Amendment to Amendment (954964) (with title**
2 **amendment)**

3
4 Between lines 134 and 135
5 insert:

6 Section 4. Paragraphs (a), (b), and (c) of subsection (2)
7 of section 333.03, Florida Statutes, are amended to read:

8 333.03 Requirement to adopt airport zoning regulations.—
9 (2) In the manner provided in subsection (1), political



144092

10 subdivisions shall adopt, administer, and enforce airport land
11 use compatibility zoning regulations. At a minimum, airport land
12 use compatibility zoning regulations must address ~~shall, at a~~
13 ~~minimum, consider~~ the following:

14 (a) The prohibition of new landfills and the restriction of
15 existing landfills within the following areas:

16 1. Within 10,000 feet from the nearest point of any runway
17 used or planned to be used by turbine aircraft.

18 2. Within 5,000 feet from the nearest point of any runway
19 used by only nonturbine aircraft.

20 3. Outside the perimeters defined in subparagraphs 1. and
21 2., but still within the lateral limits of the civil airport
22 imaginary surfaces defined in 14 C.F.R. s. 77.19. Case-by-case
23 review of such landfills is advised.

24 (b) When ~~where~~ any landfill is located and constructed in a
25 manner that attracts or sustains hazardous bird movements from
26 feeding, water, or roosting areas into, or across, the runways
27 or approach and departure patterns of aircraft. The landfill
28 operator must incorporate bird management techniques or other
29 practices to minimize bird hazards to airborne aircraft.

30 (c) When ~~where~~ an airport authority or other governing body
31 operating a public-use airport has conducted a noise study in
32 accordance with 14 C.F.R. part 150, or when ~~where~~ a public-use
33 airport owner has established noise contours pursuant to another
34 public study accepted by the Federal Aviation Administration,
35 the prohibition of incompatible uses, as established in the
36 noise study in 14 C.F.R. part 150, Appendix A or as a part of an
37 alternative Federal Aviation Administration-accepted public
38 study, within the noise contours established by any of these



144092

39 studies, except if such uses are specifically contemplated by
40 such study with appropriate mitigation or similar techniques
41 described in the study.

42
43 ===== T I T L E A M E N D M E N T =====

44 And the title is amended as follows:

45 Delete line 561

46 and insert:

47 in aviation technology; amending s. 333.03, F.S.;
48 revising requirements for the adoption of airport land
49 use compatibility zoning regulations; reenacting ss.
50 365.172(13),

By the Committee on Transportation; and Senator Harrell

596-02415-24

20241362c1

A bill to be entitled

An act relating to aviation; amending s. 332.004, F.S.; revising and providing definitions; amending s. 332.006, F.S.; revising requirements for the statewide aviation system plan developed by the Department of Transportation; conforming a cross-reference; creating s. 332.0071, F.S.; providing duties of the department, subject to funding, with respect to vertiports, electric aviation, and other advances in aviation technology; amending ss. 196.012, 206.46, 212.08, 332.003, 334.01, 334.27, and 339.08, F.S.; conforming cross-references and provisions to changes made by the act; providing an effective date.

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

Section 1. Section 332.004, Florida Statutes, is amended to read:

332.004 Definitions of terms used in ss. 332.003-332.0071 ~~ss. 332.003-332.007.~~—As used in ss. 332.003-332.0071 ~~ss. 332.003-332.007~~, the term:

(1) "Airport" means any area of land or water, or any manmade object or facility located therein, which is used, or intended for public use, for the landing and takeoff of aircraft, and any appurtenant areas which are used, or intended for public use, for airport buildings or other airport facilities or rights-of-way.

(2) "Airport hazard" means any structure or object of natural growth located on or in the vicinity of a public-use

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airport, or any use of land near such airport, which obstructs or causes an obstruction to the airspace required for the flight of aircraft in landing or taking off at such airport or is otherwise hazardous to landing or taking off at such airport.

(3) "Airport master planning" means the development, for planning purposes, of information and guidance to determine the extent, type, and nature of development needed at a specific airport.

(4) "Airport or aviation development project" or "development project" means any activity associated with the design, construction, purchase, improvement, or repair of a public-use airport or portion thereof, including, but not limited to: the purchase of equipment; the acquisition of land, including land required as a condition of a federal, state, or local permit or agreement for environmental mitigation; off-airport noise mitigation projects; the removal, lowering, relocation, marking, and lighting of airport hazards; the installation of navigation aids used by aircraft in landing at or taking off from a public airport; the installation of safety equipment required by rule or regulation for certification of the airport under s. 612 of the Federal Aviation Act of 1958, and amendments thereto; ~~and~~ the improvement of access to the airport by road or rail system which is on airport property and which is consistent, to the maximum extent feasible, with the approved local government comprehensive plan of the units of local government in which the airport is located; the design, construction, purchase, or improvement of a vertiport; and the design, construction, or purchase of equipment needed for aircraft charging.

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59 (5) "Airport or aviation discretionary capacity improvement
60 projects" or "discretionary capacity improvement projects" means
61 capacity improvements which are consistent, to the maximum
62 extent feasible, with the approved local government
63 comprehensive plans of the units of local government in which
64 the airport is located, and which enhance intercontinental
65 capacity at airports which:

66 (a) Are international airports with United States Bureau of
67 Customs and Border Protection;

68 (b) Had one or more regularly scheduled intercontinental
69 flights during the previous calendar year or have an agreement
70 in writing for installation of one or more regularly scheduled
71 intercontinental flights upon the commitment of funds for
72 stipulated airport capital improvements; and

73 (c) Have available or planned public ground transportation
74 between the airport and other major transportation facilities.

75 (6) "Aviation system planning" means the development of
76 comprehensive aviation plans designed to achieve and facilitate
77 the establishment of a statewide, integrated aviation system in
78 order to meet the current and future aviation needs of this
79 state.

80 (7) "Eligible agency" means a political subdivision of the
81 state or an authority which owns or seeks to develop a public-
82 use airport.

83 (8) "Federal aid" means funds made available from the
84 Federal Government for the accomplishment of airport or aviation
85 development projects.

86 (9) "Florida airport system" means all existing public-use
87 airports that are owned and operated within the state and those

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88 public-use airports which will be developed and made operational
89 in the future.

90 (10) "Landing area" means that area used or intended to be
91 used for the landing, takeoff, or surface maneuvering of an
92 aircraft.

93 (11) "Planning agency" means any agency authorized by the
94 laws of the state or by a political subdivision to engage in
95 area planning for the areas in which assistance under this act
96 is contemplated.

97 (12) "Powered-lift aircraft" means a heavier-than-air
98 aircraft capable of vertical takeoff, vertical landing, and low-
99 speed flight which depends principally on engine-driven lift
100 devices or engine thrust for lift during such flight regimes and
101 on nonrotating airfoils for lift during horizontal flight.

102 (13) "Project" means a project for the accomplishment of
103 airport or aviation development or airport master planning.

104 (14)-(13) "Project cost" means any cost involved in
105 accomplishing a project.

106 (15)-(14) "Public-use airport" means any publicly owned
107 airport which is used or to be used for public purposes.

108 (16)-(15) "Sponsor" means any eligible agency which, either
109 individually or jointly with one or more eligible agencies,
110 submits to the department an application for financial
111 assistance for an airport development project in accordance with
112 this act.

113 (17) "Vertiport" means an area of land or water or a
114 structure used or intended to be used as a landing facility,
115 similar to an airport or a mass transit facility, with charging
116 stations for aircraft, restrooms, and accessibility in

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117 compliance with the Americans with Disabilities Act, for the
 118 transport of goods or passenger service and for the landing or
 119 takeoff of powered-lift aircraft capable of vertical takeoff and
 120 landing.

121 Section 2. Subsections (1) and (6) of section 332.006,
 122 Florida Statutes, are amended to read:

123 332.006 Duties and responsibilities of the Department of
 124 Transportation.—The Department of Transportation shall, within
 125 the resources provided pursuant to chapter 216:

126 (1) Provide coordination and assistance for the development
 127 of a viable aviation system in this state. To support the
 128 system, a statewide aviation system plan shall be developed and
 129 periodically updated which summarizes 5-year, 10-year, and 20-
 130 year airport and aviation needs within the state. The statewide
 131 aviation system plan shall be consistent with the goals of the
 132 Florida Transportation Plan developed pursuant to s. 339.155.
 133 The statewide aviation system plan must also address the need
 134 for vertiports, electric aviation charging, and other advances
 135 in aviation technology. The statewide aviation system plan does
 136 ~~shall~~ not preempt local airport master plans adopted in
 137 compliance with federal and state requirements.

138 (6) Administer department participation in the program of
 139 aviation and airport grants as provided for in ss. 332.003-
 140 332.0071 ~~ss. 332.003-332.007~~.

141 Section 3. Section 332.0071, Florida Statutes, is created
 142 to read:

143 332.0071 Vertiport and electric aviation planning.—The
 144 Department of Transportation shall, within the resources
 145 provided pursuant to chapter 216:

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146 (1) Address the need for vertiports, electric aviation
 147 charging, and the needs of other advances in aviation technology
 148 in the statewide aviation system plan as required under s.
 149 332.006(1) and, as appropriate, in the department's work
 150 program.

151 (2) Designate a subject matter expert on advanced air
 152 mobility (AAM) within the department to serve as a resource for
 153 local jurisdictions navigating advances in aviation technology,
 154 including electric powered-lift aircraft and electric aviation.

155 (3) Lead a statewide education campaign for local officials
 156 to provide education on the benefits of electric powered-lift
 157 aircraft and advances in aviation technology and to support the
 158 efforts to make this state a leader in aviation technology.

159 (4) Provide local jurisdictions with a guidebook and
 160 technical resources to support uniform planning and zoning
 161 language across the state related to powered-lift aircraft,
 162 electric aviation, and other advances in aviation technology.

163 (5) Conduct a review of airport hazard zone regulations
 164 and, as needed, make recommendations to the Legislature
 165 proposing any changes to regulations as a result of the review.

166 Section 4. Subsection (6) of section 196.012, Florida
 167 Statutes, is amended to read:

168 196.012 Definitions.—For the purpose of this chapter, the
 169 following terms are defined as follows, except where the context
 170 clearly indicates otherwise:

171 (6) Governmental, municipal, or public purpose or function
 172 shall be deemed to be served or performed when the lessee under
 173 any leasehold interest created in property of the United States,
 174 the state or any of its political subdivisions, or any

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175 municipality, agency, special district, authority, or other
 176 public body corporate of the state is demonstrated to perform a
 177 function or serve a governmental purpose which could properly be
 178 performed or served by an appropriate governmental unit or which
 179 is demonstrated to perform a function or serve a purpose which
 180 would otherwise be a valid subject for the allocation of public
 181 funds. For purposes of the preceding sentence, an activity
 182 undertaken by a lessee which is permitted under the terms of its
 183 lease of real property designated as an aviation area on an
 184 airport layout plan which has been approved by the Federal
 185 Aviation Administration and which real property is used for the
 186 administration, operation, business offices and activities
 187 related specifically thereto in connection with the conduct of
 188 an aircraft full service fixed base operation which provides
 189 goods and services to the general aviation public in the
 190 promotion of air commerce shall be deemed an activity which
 191 serves a governmental, municipal, or public purpose or function.
 192 Any activity undertaken by a lessee which is permitted under the
 193 terms of its lease of real property designated as a public-use
 194 ~~public~~ airport as defined in s. 332.004 ~~s. 332.004(14)~~ by
 195 municipalities, agencies, special districts, authorities, or
 196 other public bodies corporate and public bodies politic of the
 197 state, a spaceport as defined in s. 331.303, or which is located
 198 in a deepwater port identified in s. 403.021(9)(b) and owned by
 199 one of the foregoing governmental units, subject to a leasehold
 200 or other possessory interest of a nongovernmental lessee that is
 201 deemed to perform an aviation, airport, aerospace, maritime, or
 202 port purpose or operation shall be deemed an activity that
 203 serves a governmental, municipal, or public purpose. The use by

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204 a lessee, licensee, or management company of real property or a
 205 portion thereof as a convention center, visitor center, sports
 206 facility with permanent seating, concert hall, arena, stadium,
 207 park, or beach is deemed a use that serves a governmental,
 208 municipal, or public purpose or function when access to the
 209 property is open to the general public with or without a charge
 210 for admission. If property deeded to a municipality by the
 211 United States is subject to a requirement that the Federal
 212 Government, through a schedule established by the Secretary of
 213 the Interior, determine that the property is being maintained
 214 for public historic preservation, park, or recreational purposes
 215 and if those conditions are not met the property will revert
 216 back to the Federal Government, then such property shall be
 217 deemed to serve a municipal or public purpose. The term
 218 "governmental purpose" also includes a direct use of property on
 219 federal lands in connection with the Federal Government's Space
 220 Exploration Program or spaceport activities as defined in s.
 221 212.02(22). Real property and tangible personal property owned
 222 by the Federal Government or Space Florida and used for defense
 223 and space exploration purposes or which is put to a use in
 224 support thereof shall be deemed to perform an essential national
 225 governmental purpose and shall be exempt. "Owned by the lessee"
 226 as used in this chapter does not include personal property,
 227 buildings, or other real property improvements used for the
 228 administration, operation, business offices and activities
 229 related specifically thereto in connection with the conduct of
 230 an aircraft full service fixed based operation which provides
 231 goods and services to the general aviation public in the
 232 promotion of air commerce provided that the real property is

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233 designated as an aviation area on an airport layout plan
 234 approved by the Federal Aviation Administration. For purposes of
 235 determination of "ownership," buildings and other real property
 236 improvements which will revert to the airport authority or other
 237 governmental unit upon expiration of the term of the lease shall
 238 be deemed "owned" by the governmental unit and not the lessee.
 239 Providing two-way telecommunications services to the public for
 240 hire by the use of a telecommunications facility, as defined in
 241 s. 364.02(14), and for which a certificate is required under
 242 chapter 364 does not constitute an exempt use for purposes of s.
 243 196.199, unless the telecommunications services are provided by
 244 the operator of a public-use airport, as defined in s. 332.004,
 245 for the operator's provision of telecommunications services for
 246 the airport or its tenants, concessionaires, or licensees, or
 247 unless the telecommunications services are provided by a public
 248 hospital.

249 Section 5. Subsection (3) of section 206.46, Florida
 250 Statutes, is amended to read:

251 206.46 State Transportation Trust Fund.—

252 (3) Each fiscal year, a minimum of 15 percent of all state
 253 revenues deposited into the State Transportation Trust Fund
 254 shall be committed annually by the department for public
 255 transportation projects in accordance with chapter 311, ss.
 256 332.003-332.0071 ~~ss. 332.003-332.007~~, chapter 341, and chapter
 257 343.

258 Section 6. Paragraph (zz) of subsection (7) of section
 259 212.08, Florida Statutes, is amended to read:

260 212.08 Sales, rental, use, consumption, distribution, and
 261 storage tax; specified exemptions.—The sale at retail, the

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262 rental, the use, the consumption, the distribution, and the
 263 storage to be used or consumed in this state of the following
 264 are hereby specifically exempt from the tax imposed by this
 265 chapter.

266 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
 267 entity by this chapter do not inure to any transaction that is
 268 otherwise taxable under this chapter when payment is made by a
 269 representative or employee of the entity by any means,
 270 including, but not limited to, cash, check, or credit card, even
 271 when that representative or employee is subsequently reimbursed
 272 by the entity. In addition, exemptions provided to any entity by
 273 this subsection do not inure to any transaction that is
 274 otherwise taxable under this chapter unless the entity has
 275 obtained a sales tax exemption certificate from the department
 276 or the entity obtains or provides other documentation as
 277 required by the department. Eligible purchases or leases made
 278 with such a certificate must be in strict compliance with this
 279 subsection and departmental rules, and any person who makes an
 280 exempt purchase with a certificate that is not in strict
 281 compliance with this subsection and the rules is liable for and
 282 shall pay the tax. The department may adopt rules to administer
 283 this subsection.

284 (zz) *People-mover systems*.—People-mover systems, and parts
 285 thereof, which are purchased or manufactured by contractors
 286 employed either directly by or as agents for the United States
 287 Government, the state, a county, a municipality, a political
 288 subdivision of the state, or the public operator of a public-use
 289 airport as defined by s. 332.004 ~~s. 332.004(14)~~ are exempt from
 290 the tax imposed by this chapter when the systems or parts go

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291 into or become part of publicly owned facilities. In the case of
 292 contractors who manufacture and install such systems and parts,
 293 this exemption extends to the purchase of component parts and
 294 all other manufacturing and fabrication costs. The department
 295 may provide a form to be used by contractors to provide to
 296 suppliers of people-mover systems or parts to certify the
 297 contractors' eligibility for the exemption provided under this
 298 paragraph. As used in this paragraph, "people-mover systems"
 299 includes wheeled passenger vehicles and related control and
 300 power distribution systems that are part of a transportation
 301 system for use by the general public, regardless of whether such
 302 vehicles are operator-controlled or driverless, self-propelled
 303 or propelled by external power and control systems, or conducted
 304 on roads, rails, guidebeams, or other permanent structures that
 305 are an integral part of such transportation system. "Related
 306 control and power distribution systems" includes any electrical
 307 or electronic control or signaling equipment, but does not
 308 include the embedded wiring, conduits, or cabling used to
 309 transmit electrical or electronic signals among such control
 310 equipment, power distribution equipment, signaling equipment,
 311 and wheeled vehicles.

312 Section 7. Section 332.003, Florida Statutes, is amended to
 313 read:

314 332.003 Florida Airport Development and Assistance Act;
 315 short title.—Sections 332.003-332.0071 ~~332.003-332.007~~ may be
 316 cited as the "Florida Airport Development and Assistance Act."

317 Section 8. Section 334.01, Florida Statutes, is amended to
 318 read:

319 334.01 Florida Transportation Code; short title.—Chapters

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320 334-339, 341, 348, and 349 and ss. 332.003-332.0071 ~~ss. 332.003-~~
 321 ~~332.007~~, 351.35, 351.36, 351.37, and 861.011 may be cited as the
 322 "Florida Transportation Code."

323 Section 9. Subsection (1) of section 334.27, Florida
 324 Statutes, is amended to read:

325 334.27 Governmental transportation entities; property
 326 acquired for transportation purposes; limitation on soil or
 327 groundwater contamination liability.—

328 (1) For the purposes of this section, the term
 329 "governmental transportation entity" means the department; an
 330 authority created pursuant to chapter 343, chapter 348, or
 331 chapter 349; airports as defined in s. 332.004 ~~s. 332.004(14)~~; a
 332 port enumerated in s. 311.09(1); a county; or a municipality.

333 Section 10. Paragraph (d) of subsection (1) of section
 334 339.08, Florida Statutes, is amended to read:

335 339.08 Use of moneys in State Transportation Trust Fund.—

336 (1) The department shall expend moneys in the State
 337 Transportation Trust Fund accruing to the department, in
 338 accordance with its annual budget. The use of such moneys shall
 339 be restricted to the following purposes:

340 (d) To pay the cost of public transportation projects in
 341 accordance with chapter 341 and ss. 332.003-332.0071 ~~ss.~~
 342 ~~332.003-332.007~~.

343 Section 11. This act shall take effect July 1, 2024.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Committee on Health and Human Services, *Chair*
Environment and Natural Resources, *Vice Chair*
Appropriations
Appropriations Committee on Education
Education Postsecondary
Health Policy
Judiciary

SELECT COMMITTEE:

Select Committee on Resiliency

SENATOR GAYLE HARRELL

31st District

January 23, 2024

Senator Hooper
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

Chair Hooper,

I respectfully request that SB 1362 – Vertiports be placed on the next available agenda for the Appropriations Committee on Transportation, Tourist and Economic Development.

Should you have any questions or concerns, please feel free to contact my office. Thank you in advance for your consideration.

Thank you,

A handwritten signature in blue ink that reads "Gayle".

Senator Gayle Harrell
Senate District 25

Cc: Charlotte Jerrett, Staff Director
Brooke Conlan, Committee Administrative Assistant

REPLY TO:

- ☐ 215 SW Federal Highway, Suite 203, Stuart, Florida 34994 (772) 221-4019 FAX: (888) 263-7895
- ☐ 414 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5031

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

APPEARANCE RECORD

2/8/24

Meeting Date

1302

Bill Number or Topic

TED Appropriations

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

DARREY STARKY

Phone

850 224 1000

Address

106 E Colgo Ave #1110

Email

dperk@ymail.com

Street

TRT

City

FL

State

32301

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Volocopter

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. § 11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf/flsenate.gov](#)

This form is part of the public record for this meeting.

The Florida Senate

APPEARANCE RECORD

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2/8/24

Meeting Date

1362

Bill Number or Topic

Approp TT + ED

Committee

Amendment Barcode (if applicable)

Name

Cynthia Henderson

Phone

850 559 0855

Address

300 W Pensacola St

Email

cyhenderson@me.com

Street

Tall

City

FL

State

32301

Zip

Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without compensation or sponsorship.



I am a registered lobbyist, representing:

Supernal



I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. § 11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

The Florida Senate

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2/8/24

Meeting Date

1362

Bill Number or Topic

954 964

Amendment Barcode (if applicable)

Committee

Name Jared Rosenstein

Phone 786-247-8716

Address 124 W Jefferson St

Email Jared@CCFLA.com

Street

Tallahassee FL

City

State

Zip

Speaking:

For



Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.



I am a registered lobbyist, representing:

Ferrovial

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. 511.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf](#) [flsenate.gov](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

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2/8/24

Meeting Date

1362

Bill Number or Topic

TED Appropriations

Committee

954904

Amendment Barcode (if applicable)

Name JEFFREY STARBUCK

Phone 850 224 1660

Address 100 E College Ave #110

Email jeffstarbuck@gmail.com

Street

TH

FL

32301

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

VOLOCOPTER 12 Gmb

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Committee on Transportation, Tourism, and Economic Development

BILL: CS/SB 1420

INTRODUCER: Commerce and Tourism Committee and Senator Burgess

SUBJECT: Department of Commerce

DATE: February 8, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Renner</u>	<u>McKay</u>	<u>CM</u>	<u>Fav/CS</u>
2.	<u>Nortelus</u>	<u>Jerrett</u>	<u>ATD</u>	<u>Favorable</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1420 makes the following changes that impact the Department of Commerce (DCM):

- Provides that if the local government doesn't hold a second public hearing and adopt a comprehensive plan amendment within 180 days after the DCM provides comments, the amendment is deemed withdrawn; and provides that comprehensive plan amendments are deemed withdrawn if the local government fails to transmit the comprehensive plan amendment to the DCM within 10 working days after the final adoption hearing.
- Deletes an outdated requirement that the Florida Sports Foundation must continue amateur sports programs previously conducted by the Florida Governor's Council on Physical Fitness and Amateur Sports.
- Extends the repayment period of the Local Government Emergency Revolving Bridge Loan Program from 5 to 10 years and directs the DCM to amend existing loans executed before Feb. 1, 2024, in order to increase the loan term to a total of 10 years from the original date of execution.
- Requires the DCM to establish a direct-support organization (DSO); renames the Florida Defense Support Task Force; provides for organizational composition; revises the mission of the DSO; requires the DSO to operate under a contract with the DCM; revises the due date for the annual report; and provides a repeal date of October 1, 2029.
- Revises the term "businesses" to include healthcare facilities and allied health care opportunities, and revises the funding priority purposes to provide that health care facilities, in addition to hospitals, operated by nonprofit or local government entities that provide

opportunities in health care, are eligible for the funding under the Incumbent Worker Training Program.

- Specifies that board members of the Workforce Innovation and Opportunity Act are voting members of the state workforce development board.
- Specifies that a homeowner's association's proposed revived declaration of covenants and articles of incorporation and bylaws must be submitted to the DCM within 60 days after obtaining valid written consent from a majority of the affected parcel owners, or within 60 days after the date the documents are approved by affected parcel owners by a vote at a meeting.

Except as otherwise expressly provided in the bill, which takes effect upon the bill becoming a law, the bill takes effect July 1, 2024.

II. Present Situation:

Due to the disparate issues in the bill, for ease of organization and readability, the Present Situation for each issue is discussed below in conjunction with the Effect of Proposed Changes

III. Effect of Proposed Changes:

Comprehensive Plans (Section 2)

Present Situation

The Community Planning Act provides counties and municipalities with the power to plan for future development by adopting comprehensive plans.¹ Each county and municipality must maintain a comprehensive plan to guide future development.²

All development, both public and private, and all development orders approved by local governments must be consistent with the local government's comprehensive plan.³ A comprehensive plan is intended to provide for the future use of land, which contemplates a gradual and ordered growth, and establishes a long-range maximum limit on the possible intensity of land use. Development that does not conform to the comprehensive plan may not be approved by a local government unless the local government amends its comprehensive plan first. The state land planning agency that administers these provisions is the DCM.⁴

A locality's comprehensive plan lays out the locations for future public facilities, including roads, water and sewer facilities, neighborhoods, parks, schools, and commercial and industrial developments. A comprehensive plan is made up of 10 required elements, each laying out regulations for a different facet of development.⁵

The 10 required elements consider and address capital improvements; future land use plan; transportation; general sanitary sewer, solid waste, drainage, potable water, and natural

¹ Section 163.3167(1), F.S.

² Section 163.3167(2), F.S.

³ Section 163.3194(3), F.S.

⁴ Section 163.3221(14), F.S.

⁵ Section 163.3177(3) and (6), F.S.

groundwater aquifer recharge; conservation; recreation and open space; housing; coastal management; intergovernmental coordination; and property rights. Other plans and programs may be added as optional elements to a comprehensive plan.⁶

A comprehensive plan is implemented through the adoption of land development regulations⁷ that are consistent with the plan, and which contain specific and detailed provisions necessary to implement the plan.⁸ Such regulations must, among other prescriptions, regulate the subdivision of land and the use of land for the land use categories in the land use element of the comprehensive plan.⁹

State law requires a proposed comprehensive plan amendment to receive 3 public hearings, the first held by the local planning board.¹⁰ The local commission (city or county) must then hold an initial public hearing regarding the proposed amendment and subsequently transmit it to several statutorily identified reviewing agencies, including the DCM, the relevant Regional Planning Council (RPC), and adjacent local governments that request to participate in the review process.¹¹

The state and regional agencies review the proposed amendment for impacts related to their statutory purview. The RPC reviews the amendment specifically for “extrajurisdictional impacts that would be inconsistent with the comprehensive plan of any affected local government within the region” as well as adverse effects on regional resources or facilities.¹² Upon receipt of the reports from the various agencies, the local government holds a second public hearing at which the governing body votes to approve the amendment or not. If the local government fails, within 180 days after receipt of agency comments, to hold the second public hearing, the amendments are deemed withdrawn unless extended by agreement.¹³ If the amendment receives a favorable vote, it is transmitted within 10 days to the DCM, and any other agency or local government that provided comments, for final review.¹⁴ The DCM then has either 31 days or 45 days (depending on the review process to which the amendment is subject) to determine whether the proposed comprehensive plan amendment is in compliance with all relevant laws and agency rules.¹⁵

Effect of Proposed Changes

The bill amends s. 163.3184(3)(c), F.S., to provide that if the local government doesn’t hold a second public hearing and adopt a comprehensive plan amendment within 180 days after the DCM provides comments, the amendment is deemed withdrawn.

⁶ *Id.*

⁷ “Land development regulations” means ordinances enacted by governing bodies for the regulation of any aspect of development and includes any local government zoning, rezoning, subdivision, building construction, or sign regulations or any other regulations controlling the development of land, except that this definition does not apply in s. 163.3213, F.S. (governing the administrative review of land development regulations). *See* s. 163.3164(26), F.S.

⁸ Section 163.3202(2), F.S.

⁹ *Id.*

¹⁰ Sections 163.3174(4)(a), and 163.3184, F.S.

¹¹ Section 163.3184(3)(b), F.S.

¹² Section 163.3184(3)(b)3.a., F.S.

¹³ Section 163.3184(3)(c), F.S.

¹⁴ Section 163.3184(4)(e)2., F.S.

¹⁵ Sections 163.3184(3)(c)4., and 163.3184(4)(e)4., F.S.

The bill amends s. 163.3184(4), F.S., to provide that if the local government fails to transmit the comprehensive plan amendment to the DCM within 10 working days after the final adoption hearing, the amendment is deemed withdrawn.

Local Government Emergency Revolving Bridge Loan Program (Section 3 and 11)

Present Situation

The Local Government Emergency Revolving Bridge Loan provides financial assistance to local governments impacted by federally declared disasters. The purpose of the loan program is to assist these local governments in maintaining operations by bridging the gap between the time that the declared disaster occurred and the time that additional funding sources or revenues are secured to provide them with financial assistance.¹⁶

The loans are interest-free with the loan amount determined based upon demonstrated need. The term of the loan is up to 5 years.¹⁷ To be eligible, a local government must be a county or a municipality located in an area designated in the Federal Emergency Management Agency disaster declaration. The local government must show that it may suffer or has suffered substantial loss of its tax or other revenues as a result of the disaster and demonstrate a need for financial assistance to enable it to continue to perform its government operations.¹⁸

The program expires July 1, 2038 and a loan may not be awarded after June 30, 2038. Upon expiration, all unencumbered funds and loan repayments made on or after July 1, 2038, must be transferred to the General Revenue fund.¹⁹

Effect of Proposed Changes

The bill amends s. 288.066, F.S., to extend the repayment period of the program from 5 to 10 years. Effective upon becoming a law, the bill directs the DCM to amend any existing loans executed before Feb. 1, 2024, in order to increase the loan term to a total of 10 years from the original date of execution.

Florida Sports Foundation (Section 4)

Present Situation

The Florida Sports Foundation is a 501(c)(3) non-profit corporation, serving as the official sports promotion and development organization for the State of Florida. It is charged with the promotion and development of professional, amateur, and recreational sports, physical fitness opportunities, and assisting communities and host organizations in attracting major and minor sports events to help produce a thriving Florida sports industry and environment.²⁰ Under its duty to promote amateur sports and physical fitness, the Florida Sports Foundation must continue the

¹⁶ Section 288.066(1), F.S.

¹⁷ Section 288.066(3), F.S.

¹⁸ Section 288.066(2), F.S.

¹⁹ Section 288.066(9), F.S.

²⁰ Section 288.1229, F.S.

successful amateur sports programs previously conducted by the Florida Governor's Council on Physical Fitness and Amateur Sports.²¹

Effect of Proposed Changes

The bill amends s. 288.1229, F.S., to delete an outdated requirement that the Florida Sports Foundation must continue amateur sports programs previously conducted by the Florida Governor's Council on Physical Fitness and Amateur Sports.

Florida Defense Support Task Force (Section 7)

Present Situation

In 2011,²² the Legislature created the Florida Defense Support Task Force (Task Force) with the mission to make recommendations to preserve and protect military installations to support the state's position in research and development related to or arising out of military missions and contracting, and to improve the state's military-friendly environment for servicemembers, military dependents, military retirees, and businesses that bring military and base-related jobs to the state.²³

The task force is comprised of the Governor, or his or her designee, and 12 members comprised of four members appointed by the Governor, President of the Senate, and Speaker of the House of Representatives, respectively. Task Force members represent defense-related industries or communities that host military bases and installations.²⁴ With the exception of Legislative members, Task Force members serve for a term of four years. Vacancies are to be filled for the remainder of the unexpired term in the same manner as the initial appointment. Legislative members serve until the expiration of their legislative term and may be reappointed once. All members are eligible for reappointment.²⁵ The President and the Speaker each designate one of their appointees to serve as chair and the chair must rotate each July 1.²⁶ The Secretary of the DCM, or his or her designee, serves as the ex officio, nonvoting executive director.²⁷

The DCM is required to contract with the task force for the expenditure of appropriated funds, which may be used by the task force for:

- Economic and product research and development;
- Joint planning with host communities to accommodate military missions and prevent base encroachment;
- Advocacy on the state's behalf with federal civilian and military officials;
- Assistance to school districts in providing a smooth transition for large numbers of additional military-related students;

²¹ Section 288.1229(7)(g), F.S.

²² Chapter 2011-76, s. 38, Laws of Fla.

²³ Section 288.987(2), F.S.

²⁴ Section 288.987(3), F.S.

²⁵ Section 288.987(3), F.S.

²⁶ Section 288.987(4), F.S.

²⁷ Section 288.987(5), F.S., actually states that the Secretary of Economic Opportunity serves as the ex officio, nonvoting executive director; however, HB 5 from 2023 (enacted as Chapter 2023-173, Laws of Fla.) changed the name of the Department of Economic Opportunity to the Department of Commerce.

- Job training and placement for military spouses in communities with high proportions of active duty military personnel; and
- Promotion of the state to military and related contractors and employers.²⁸

The Task Force must submit an annual progress report and work plan to the Governor, the President, and the Speaker each February 1.²⁹

Effect of Proposed Changes

The bill amends s. 288.987, F.S., to require the DCM to establish a direct-support organization (DSO) to support Florida's military and defense industries and communities, and renames the Florida Defense Support Task Force as the DSO. The DSO must operate under a contract with the DCM which must provide that:

- The DCM may review the DSO's articles of incorporation;
- The DSO must submit an annual budget proposal to the DCM;
- Any DSO funds held in a trust must revert to the state upon the expiration or cancellation of the contract; and
- The DSO is subject to an annual compliance review by the DCM.

The DSO fiscal year begins on July 1 and ends on June 30 of the next succeeding year. The DSO must also provide an annual financial audit pursuant to s. 215.981, F.S.

The bill specifies that, under certain provisions of law, the DSO is not an agency for purposes of leasing buildings or for bids for printing. However, the DSO must comply with per diem and travel expense requirements pursuant to s. 112.061, F.S. The DCM may allow the DSO to use the property, facilities, personnel, and services of the DCM if the DSO provides equal employment opportunities to all persons regardless of race, color, religion, sex, or national origin.

The bill revises the mission of the DSO. In addition to carrying out the provisions of s. 288.987, F.S., the DSO must assist with the coordination of economic and workforce development efforts in military communities and assist in the planning and research and development related to military missions, businesses, and military families. Additionally, the DSO is organized and operated to:

- Request, receive, hold, invest, and administer property;
- Manage and make expenditures for the operation of the activities, services, functions, and programs for economic and product research and development,
- Conduct joint planning with host communities to accommodate military missions and prevent base encroachment,
- Advocate on the state's behalf with federal civilian and military officials;
- Assist school districts in providing a smooth transition for additional military-related students;
- Provide job training and placement for military spouses in communities with high proportions of active duty military personnel; and

²⁸ Section 288.987(7), F.S.

²⁹ Section 288.987(6), F.S.

- Promote of the state to military and related contractors and employers.

The DSO must be governed by a board of directors composed of the Governor, or his or her designee, four members appointed by the Governor, the President, and the Speaker. All appointments in place as of July 1, 2024, must continue in effect until the expiration of the term. The President and the Speaker each designate one of their appointees to serve as chair for a 2-year term and the chair must rotate on July 1 of each odd-numbered year.

In the performance of its duties, the DSO is authorized to make and enter into contracts as necessary to carry out its mission. A proposed contract with a total cost of \$750,000 or more is subject to the noticing, review, and objection procedures provided in s. 216.177, F.S. The DSO may not divide one proposed contract with a total cost of \$750,000 or more into multiple contracts to circumvent the prohibition. If the contract is contrary to legislative policy and intent, the DSO is prohibited from entering into such contract. The DSO is also authorized to establish grant programs and administer grant awards to support its mission.

The bill changes the due date for an annual report from February 1 to December 1.

Unless reviewed and saved from repeal by the Legislature, the DSO is repealed on October 1, 2029.

Florida Defense Support Task Force Public Records and Meetings Exemption (Section 6)

Present Situation

Current law provides a public record exemption for certain records held by the Task Force. Specifically, the following records are exempt³⁰ from public records requirements:³¹

- That portion of a record that relates to strengths and weaknesses of military installations or military missions in Florida relative to the selection criteria for the realignment and closure of military bases and missions under the United States base realignment and closure (BRAC) process.
- That portion of a record that relates to strengths and weaknesses of military installations or military missions in other state or territories and the vulnerability of such installations or missions to base realignment or closure under the United States BRAC process, and any agreements or proposals to relocate or realign military units and missions from other states or territories.
- That portion of a record that relates to Florida's strategy to retain its military bases during any United States BRAC process and any agreements or proposals to relocate or realign military units and missions.

³⁰ There is a difference between records the Legislature designates exempt from public record requirements and those the Legislature designates confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. Sch. Bd. of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied, 892 So.2d 1015 (Fla. 2004); *State v. Wooten*, 260 So. 3d 1060, 1070 (Fla. 4th DCA 2018); *City of Rivera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. See Op. Att'y Gen. Fla. 04- 09 (2004).

³¹ Section 288.985(1)(a)-(c), F.S.

Current law also provides a public meeting exemption for any portion of a meeting of the Task Force, or a workgroup of the Task Force, wherein such exempt records are presented or discussed.³² In addition, any records generated during the closed portion of the meeting are exempt from public record requirements.³³

Effect of Proposed Changes

The bill amends s. 288.985, F.S., to make conforming changes made by s. 288.987, F.S.

Incumbent Worker Training Program and CareerSource Florida, Inc. (Sections 8 and 9)

Present Situation

Workforce Innovation and Opportunity Act of 2014

In 2014, Congress passed the Workforce Innovation and Opportunity Act (WIOA), which superseded the Workforce Investment Act of 1998.³⁴ WIOA requires each state to develop a single, unified plan for aligning workforce services through the identification and evaluation of core workforce programs.³⁵

WIOA identifies four core programs that coordinate and complement each other to ensure job seekers have access to needed resources.³⁶ The core programs are:

- Adult, Dislocated Worker and Youth Programs;
- Adult Education and Literacy Activities;
- Employment Services under the Wagner-Peyser Act;³⁷ and
- Vocational Rehabilitation Services.³⁸

WIOA establishes minimum performance accountability measures for the evaluation of core programs in each state and performance reports to be provided at the state, local, and training provider levels.³⁹ Performance measures that apply across all core programs include:⁴⁰

- The percentage of participants in unsubsidized employment during second quarter after exit.
- The percentage of participants in unsubsidized employment during fourth quarter after exit.
- The median earnings of participants during second quarter after exit.
- The percentage of participants who obtain a postsecondary credential or secondary school diploma within 1 year after exit.
- The achievement of measureable skill gains toward credentials or employment; and
- The effectiveness in serving employers.

³² Section 288.985(2), F.S.

³³ Section 288.985(3), F.S.

³⁴ Workforce Innovation and Opportunity Act, 29 U.S.C. s. 3101 et seq. (2014).

³⁵ See 29 U.S.C. s. 3112(a).

³⁶ See 29 U.S.C. s. 3102(13).

³⁷ See 29 U.S.C. s. 49 et seq.

³⁸ See 29 U.S.C. s. 720 et. seq.

³⁹ See 29 U.S.C. s. 3141.

⁴⁰ *Id.*

State Administration of Workforce Development

WIOA requires the Governor to establish a State Workforce Development Board (state board) to assist the Governor in carrying out the duties and responsibilities required by WIOA.⁴¹

CareerSource Florida, Inc., implements the policy directives of the state board and administers state workforce development programs.⁴² CareerSource Florida, Inc., provides administrative support to the state board, the principal workforce policy organization for the state. WIOA state board members are nonvoting and the number of members is determined by the Governor.⁴³

WIOA requires states to designate local workforce development areas in the state. The local workforce development areas must be consistent with labor market areas and regional economic development areas in the state and have available federal and non-federal resources necessary to effectively administer workforce development services.⁴⁴ Within each area, a local workforce development board must be established.⁴⁵ Each local workforce development board is required to coordinate planning and service delivery strategies within the local workforce development area and submit to the Governor a 4-year local plan for the delivery of workforce development services.⁴⁶

The DCM serves as Florida's lead workforce agency.⁴⁷ The DCM is responsible for the fiscal and administrative affairs of the workforce development system.⁴⁸ The DCM receives and distributes federal funds for employment-related programs to the local workforce development boards.⁴⁹ Under the direction of CareerSource, the DCM is required to annually meet with each local workforce development board to review the board's performance and to certify that the board is in compliance with applicable state and federal laws.⁵⁰

Incumbent Worker Training Program

The Incumbent Worker Training Program (program) was created to provide grant funding for continuing education and training of incumbent employees at existing Florida businesses. The program provides reimbursement grants to businesses that pay for preapproved, direct, training-related costs. The term "business" includes hospitals operated by nonprofit or local government entities which provide nursing opportunities to acquire new or improved skills.⁵¹

Funding priority is given in the following order:⁵²

- Businesses that provide employees with opportunities to acquire new or improved skills by earning a credential on the Master Credentials List;

⁴¹ 29 U.S.C. s. 3111.

⁴² Section 445.004(2), F.S.

⁴³ Section 445.004(3)(a), F.S.

⁴⁴ See 29 U.S.C. s. 3121.

⁴⁵ 29 U.S.C. s. 3122.

⁴⁶ See 29 U.S.C. ss. 3122 and 3123.

⁴⁷ Primarily through the Division of Workforce Services. See s. 20.60, F.S.

⁴⁸ See s. 20.60(5)(c), F.S. and s. 445.009(3)(c), F.S.

⁴⁹ See s. 20.60(5)(c), F.S. and s. 445.003, F.S.

⁵⁰ See s. 445.007(3), F.S.

⁵¹ Section 445.003(3)3., F.S.

⁵² *Id.*

- Hospitals operated by nonprofit or local government entities that provide nursing opportunities to acquire new or improved skills;
- Businesses whose grant proposals represent a significant upgrade in employee skills;
- Businesses with 25 employees or fewer, businesses in rural areas, and businesses in distressed inner-city areas; and
- Businesses in a qualified targeted industry or businesses whose grant proposals represent a significant layoff avoidance strategy.

Effect of Proposed Changes

The bill amends s. 445.003, F.S., to revise the term “businesses” under the program to include healthcare facilities and allied health care opportunities. The bill also revises the funding priority for grant purposes to provide that health care facilities, in addition to hospitals, operated by nonprofit or local government entities that provide opportunities in health care, rather than nursing opportunities, are eligible for the funding.

The bill amends s. 445.004, F.S., to specify that WIOA state board members are voting members.

DCM Review of Revitalization of Homeowner Association Covenants (Section 10)

Present Situation

Parcel owners in a community that was previously subject to a declaration of covenants that has ceased to govern one or more parcels in the community may revive the declaration and the association for the community upon approval by the parcel owners to be governed as provided in the Covenant Revitalization Act⁵³ and upon approval of the declaration and the other governing documents for the association by the DCM.⁵⁴

No later than 60 days after the date after the date the proposed revived declaration and other governing documents are approved by the affected parcel owners, the organizing committee must submit the proposed revived governing documents and any supporting materials to the DCM to review and determine whether to approve or disapprove of the proposal to preserve the residential community.⁵⁵

The DCM must make a determination no later than 60 days and must notify the organizing committee in writing of its approval or reasons for the disapproval.⁵⁶

Effect of Proposed Changes

The bill amends s. 720.406, F.S., to specify that a homeowner’s association’s proposed revived declaration of covenants and articles of incorporation and bylaws must be submitted to the DCM within 60 days after obtaining valid written consent from a majority of the affected parcel

⁵³ Chapter 720, Part III, F.S.

⁵⁴ Section 720.403(2), F.S.

⁵⁵ Section 720.406(1), F.S.

⁵⁶ Section 720.406(2), F.S.

owners, or within 60 days after the date the documents are approved by affected parcel owners by a vote at a meeting.

Miscellaneous Provisions

Section 1 amends s. 163.3175, F.S., to update a cross reference.

Section 5 amends s. 288.980, F.S., to update a cross reference.

Section 12 provides an effective date of July 1, 2024, except section 11, which directs the DCM to amend any existing loans executed before Feb. 1, 2024, in order to increase the loan term to a total of 10 years from the original date of execution, takes effect upon becoming a law.

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:

Article II, s. 5(a) of the Florida Constitution prohibits a person from holding at the same time more than one office under the government of the state and the counties and municipalities therein, except that a notary public or military officer may hold another office, and any officer may be a member of a constitution revision commission, taxation and budget reform commission, constitutional convention, or statutory body having only advisory powers.

A direct support organization (DSO) is a statutorily created private entity, generally required to be a non-profit corporation, and authorized to carry out specific tasks in support of public entities or public causes. The functions and purpose of a DSO are prescribed by its enacting statute and also, for most, by a written contract with the agency the DSO was created to support.

This bill creates a DSO to support Florida's military and defense industries and communities. The DSO is governed by a board of directors composed of the Governor, or

his or her designee, and members appointed by the Governor, the Speaker, and the President. Currently serving members of the Legislature may only vote on advisory matters, but this restriction does not apply to the Governor. Though created as a private entity, the DSO is organized and operated to, among other things, manage and make expenditures for the operation of the activities, services, functions, and programs of this state.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 163.3175, 163.3184, 288.066, 288.1229, 288.980, 288.985, 288.987, 445.003, 445.004, 720.406, and 721.97.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Commerce and Tourism on January 23, 2024:

The committee substitute:

- Extends the repayment period of the Local Government Emergency Revolving Bridge Loan Program from 5 to 10 years and directs the DCM to amend existing loans executed before Feb. 1, 2024, in order to increase the loan term to a total of 10 years from the original date of execution; and
- Removes a provision requiring the Secretary of the DCM, rather than the Governor, to appoint commissioners of deeds who authenticate acknowledgements in certain real estate transactions in other states or foreign countries.

B. Amendments:

None.

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

By the Committee on Commerce and Tourism; and Senator Burgess

577-02391-24

20241420c1

1 A bill to be entitled
 2 An act relating to the Department of Commerce;
 3 amending s. 163.3175, F.S.; conforming a provision to
 4 changes made by the act; amending s. 163.3184, F.S.;
 5 revising the procedure for adopting comprehensive plan
 6 amendments; providing that amendments are deemed
 7 withdrawn if the local government fails to transmit
 8 the comprehensive plan amendments to the department,
 9 in its role as the state land planning agency, within
 10 a certain time period; amending s. 288.066, F.S.;
 11 revising the maximum length of a loan term under the
 12 Local Government Emergency Revolving Bridge Loan
 13 Program; amending s. 288.1229, F.S.; revising the
 14 duties of the Florida Sports Foundation; amending ss.
 15 288.980 and 288.985, F.S.; conforming provisions to
 16 changes made by the act; amending s. 288.987, F.S.;
 17 requiring the department to establish a direct-support
 18 organization; renaming the Florida Defense Support
 19 Task Force as the direct-support organization;
 20 specifying that the organization is a direct-support
 21 organization of the department and a corporation not
 22 for profit; requiring the organization to operate
 23 under contract with the department; specifying
 24 requirements for such contract; specifying the
 25 organization's fiscal year; specifying audit
 26 requirements applicable to the organization;
 27 authorizing the organization to take certain actions
 28 regarding administration of property and expenditures;
 29 specifying that the organization is not an agency for

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

577-02391-24

20241420c1

30 purposes of specified provisions of law; authorizing
 31 the department to allow the organization to use
 32 certain departmental resources, if certain conditions
 33 are met; revising the mission of the organization;
 34 modifying provisions governing the composition of the
 35 organization; revising the date by which the
 36 organization's annual report is due; providing certain
 37 powers and duties of the organization, subject to
 38 certain requirements and limitations; providing for
 39 future repeal; amending s. 445.003, F.S.; revising the
 40 definition of the term "businesses"; revising funding
 41 priority for purposes of funding grants under the
 42 Incumbent Worker Training Program; amending s.
 43 445.004, F.S.; specifying that certain members of the
 44 state workforce development board are voting members
 45 of the board; amending s. 720.406, F.S.; specifying
 46 required actions for a proposed revived declaration
 47 and other governing documents; making technical
 48 changes; authorizing the department to amend certain
 49 previously executed loan agreements under certain
 50 circumstances; providing effective dates.
 51
 52 Be It Enacted by the Legislature of the State of Florida:
 53
 54 Section 1. Subsection (3) of section 163.3175, Florida
 55 Statutes, is amended to read:
 56 163.3175 Legislative findings on compatibility of
 57 development with military installations; exchange of information
 58 between local governments and military installations.-

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59 (3) The direct-support organization created in s. 288.987
 60 ~~Florida Defense Support Task Force~~ may recommend to the
 61 Legislature changes to the military installations and local
 62 governments specified in subsection (2) based on a military
 63 base's potential for impacts from encroachment, and incompatible
 64 land uses and development.

65 Section 2. Paragraph (c) of subsection (3) and paragraph
 66 (e) of subsection (4) of section 163.3184, Florida Statutes, are
 67 amended to read:

68 163.3184 Process for adoption of comprehensive plan or plan
 69 amendment.—

70 (3) EXPEDITED STATE REVIEW PROCESS FOR ADOPTION OF
 71 COMPREHENSIVE PLAN AMENDMENTS.—

72 (c)1. The local government shall hold a its second public
 73 hearing, which shall be a hearing on whether to adopt one or
 74 more comprehensive plan amendments pursuant to subsection (11).
 75 If the local government fails, within 180 days after receipt of
 76 agency comments, to hold the second public hearing, and to adopt
 77 the comprehensive plan amendments, the amendments are shall be
 78 deemed withdrawn unless extended by agreement with notice to the
 79 state land planning agency and any affected person that provided
 80 comments on the amendment. The 180-day limitation does not apply
 81 to amendments processed pursuant to s. 380.06.

82 2. All comprehensive plan amendments adopted by the
 83 governing body, along with the supporting data and analysis,
 84 shall be transmitted within 10 working days after the final
 85 adoption second public hearing to the state land planning agency
 86 and any other agency or local government that provided timely
 87 comments under subparagraph (b)2. If the local government fails

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88 to transmit the comprehensive plan amendments within 10 working
 89 days after the final adoption hearing, the amendments are deemed
 90 withdrawn.

91 3. The state land planning agency shall notify the local
 92 government of any deficiencies within 5 working days after
 93 receipt of an amendment package. For purposes of completeness,
 94 an amendment shall be deemed complete if it contains a full,
 95 executed copy of:

96 a. The adoption ordinance or ordinances;
 97 b. In the case of a text amendment, ~~a full copy of the~~
 98 amended language in legislative format with new words inserted
 99 in the text underlined, and words deleted stricken with hyphens;
 100 c. In the case of a future land use map amendment, ~~a copy~~
 101 ~~of the future land use map clearly depicting the parcel, its~~
 102 existing future land use designation, and its adopted
 103 designation; and

104 d. ~~a copy of~~ Any data and analyses the local government
 105 deems appropriate.

106 4. An amendment adopted under this paragraph does not
 107 become effective until 31 days after the state land planning
 108 agency notifies the local government that the plan amendment
 109 package is complete. If timely challenged, an amendment does not
 110 become effective until the state land planning agency or the
 111 Administration Commission enters a final order determining the
 112 adopted amendment to be in compliance.

113 (4) STATE COORDINATED REVIEW PROCESS.—

114 (e) *Local government review of comments; adoption of plan*
 115 *or amendments and transmittal.*—

116 1. The local government shall review the report submitted

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117 to it by the state land planning agency, if any, and written
 118 comments submitted to it by any other person, agency, or
 119 government. The local government ~~shall~~, upon receipt of the
 120 report from the state land planning agency, ~~shall~~ hold its
 121 second public hearing, ~~which shall be a hearing~~ to determine
 122 whether to adopt the comprehensive plan or one or more
 123 comprehensive plan amendments pursuant to subsection (11). If
 124 the local government fails to hold the second hearing and adopt
 125 the amendments within 180 days after receipt of the state land
 126 planning agency's report, the amendments shall be deemed
 127 withdrawn unless extended by agreement with notice to the state
 128 land planning agency and any affected person that provided
 129 comments on the amendment. The 180-day limitation does not apply
 130 to amendments processed pursuant to s. 380.06.

131 2. All comprehensive plan amendments adopted by the
 132 governing body, along with the supporting data and analysis,
 133 shall be transmitted within 10 working days after the final
 134 adoption ~~second public~~ hearing to the state land planning agency
 135 and any other agency or local government that provided timely
 136 comments under paragraph (c). If the local government fails to
 137 transmit the comprehensive plan amendments within 10 working
 138 days after the final adoption hearing, the amendments are deemed
 139 withdrawn.

140 3. The state land planning agency shall notify the local
 141 government of any deficiencies within 5 working days after
 142 receipt of a plan or plan amendment package. For purposes of
 143 completeness, a plan or plan amendment shall be deemed complete
 144 if it contains a full, executed copy of each of the following:

145 a. The adoption ordinance or ordinances;

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146 b. In the case of a text amendment, ~~a full copy of the~~
 147 amended language in legislative format with new words inserted
 148 in the text underlined, and words deleted stricken with hyphens;

149 c. In the case of a future land use map amendment, ~~a copy~~
 150 ~~of the future land use map~~ clearly depicting the parcel, its
 151 existing future land use designation, and its adopted
 152 designation; and

153 d. ~~a copy of~~ Any data and analyses the local government
 154 deems appropriate.

155 4. After the state land planning agency makes a
 156 determination of completeness regarding the adopted plan or plan
 157 amendment, the state land planning agency shall have 45 days to
 158 determine whether ~~if~~ the plan or plan amendment is in compliance
 159 with this act. Unless the plan or plan amendment is
 160 substantially changed from the one commented on, the state land
 161 planning agency's compliance determination shall be limited to
 162 objections raised in the objections, recommendations, and
 163 comments report. During the period provided for in this
 164 subparagraph, the state land planning agency shall issue,
 165 through a senior administrator or the secretary, a notice of
 166 intent to find that the plan or plan amendment is in compliance
 167 or not in compliance. The state land planning agency shall post
 168 a copy of the notice of intent on the agency's Internet website.
 169 Publication by the state land planning agency of the notice of
 170 intent on the state land planning agency's Internet site is
 171 ~~shall be~~ prima facie evidence of compliance with the publication
 172 requirements of this subparagraph.

173 5. A plan or plan amendment adopted under the state
 174 coordinated review process shall go into effect pursuant to the

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175 state land planning agency's notice of intent. If timely
 176 challenged, an amendment does not become effective until the
 177 state land planning agency or the Administration Commission
 178 enters a final order determining the adopted amendment to be in
 179 compliance.

180 Section 3. Effective upon becoming a law, paragraph (c) of
 181 subsection (3) of section 288.066, Florida Statutes, is amended
 182 to read:

183 288.066 Local Government Emergency Revolving Bridge Loan
 184 Program.—

185 (3) LOAN TERMS.—

186 (c) The term of the loan is up to 10 years ~~5 years~~.

187 Section 4. Paragraph (g) of subsection (7) of section
 188 288.1229, Florida Statutes, is amended to read:

189 288.1229 Promotion and development of sports-related
 190 industries and amateur athletics; direct-support organization
 191 established; powers and duties.—

192 (7) To promote amateur sports and physical fitness, the
 193 foundation shall:

194 ~~(g) Continue the successful amateur sports programs~~
 195 ~~previously conducted by the Florida Governor's Council on~~
 196 ~~Physical Fitness and Amateur Sports created under former s.~~
 197 ~~14.22.~~

198 Section 5. Paragraph (b) of subsection (2) of section
 199 288.980, Florida Statutes, is amended to read:

200 288.980 Military base retention; legislative intent; grants
 201 program.—

202 (2)

203 (b)1. The department shall, annually by October 1, request

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204 military installations in this ~~the~~ state to provide the
 205 department with a list of base buffering encroachment lands for
 206 fee simple or less-than-fee simple acquisitions ~~before October~~
 207 ~~1~~.

208 2. The department shall submit the list of base buffering
 209 encroachment lands to the direct-support organization ~~Florida~~
 210 ~~Defense Support Task Force~~ created in s. 288.987.

211 3. The direct-support organization created in s. 288.987
 212 ~~Florida Defense Support Task Force~~ shall, annually by December
 213 1, review the list of base buffering encroachment lands
 214 submitted by the military installations and provide its
 215 recommendations for ranking the lands for acquisition to the
 216 department.

217 4. The department shall annually submit the list of base
 218 buffering encroachment lands provided by the direct-support
 219 organization created in s. 288.987 ~~Florida Defense Support Task~~
 220 ~~Force~~ to the Board of Trustees of the Internal Improvement Trust
 221 Fund, which may acquire the lands pursuant to s. 253.025. At a
 222 minimum, the annual list must contain all of the following for
 223 each recommended land acquisition:

224 a. A legal description of the land and its property
 225 identification number, ~~†~~

226 b. A detailed map of the land, ~~†~~ and

227 c. A management and monitoring agreement to ensure the land
 228 serves a base buffering purpose.

229 Section 6. Subsection (1) and paragraph (a) of subsection
 230 (2) of section 288.985, Florida Statutes, are amended to read:

231 288.985 Exemptions from public records and public meetings
 232 requirements.—

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233 (1) The following records held by the direct-support
 234 organization created in s. 288.987 Florida Defense Support Task
 235 ~~Force~~ are exempt from s. 119.07(1) and s. 24(a), Art. I of the
 236 State Constitution:

237 (a) That portion of a record which relates to strengths and
 238 weaknesses of military installations or military missions in
 239 this state relative to the selection criteria for the
 240 realignment and closure of military bases and missions under any
 241 United States Department of Defense base realignment and closure
 242 process.

243 (b) That portion of a record which relates to strengths and
 244 weaknesses of military installations or military missions in
 245 other states or territories and the vulnerability of such
 246 installations or missions to base realignment or closure under
 247 the United States Department of Defense base realignment and
 248 closure process, and any agreements or proposals to relocate or
 249 realign military units and missions from other states or
 250 territories.

251 (c) That portion of a record which relates to the state's
 252 strategy to retain its military bases during any United States
 253 Department of Defense base realignment and closure process and
 254 any agreements or proposals to relocate or realign military
 255 units and missions.

256 (2) (a) Meetings or portions of meetings of the direct-
 257 support organization created in s. 288.987 Florida Defense
 258 ~~Support Task Force~~, or a workgroup of the direct-support
 259 organization task force, at which records are presented or
 260 discussed that are exempt under subsection (1) are exempt from
 261 s. 286.011 and s. 24(b), Art. I of the State Constitution.

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262 Section 7. Section 288.987, Florida Statutes, is amended to
 263 read:

264 288.987 Florida Defense Support Task ~~Force~~.—

265 (1) The Department of Commerce shall establish a direct-
 266 support organization to support Florida's military and defense
 267 industries and communities ~~The Florida Defense Support Task~~
 268 ~~Force is created.~~

269 (a) The direct-support organization is a corporation not
 270 for profit, as defined in s. 501(c)(3) of the Internal Revenue
 271 Code, which is incorporated under chapter 617 and approved by
 272 the Department of State. The direct-support organization is
 273 exempt from paying filing fees under chapter 617.

274 (b) The direct-support organization shall operate under
 275 contract with the department. The contract must provide that:

276 1. The department may review the direct-support
 277 organization's articles of incorporation.

278 2. The direct-support organization shall submit an annual
 279 budget proposal to the department, on a form provided by the
 280 department, in accordance with department procedures for filing
 281 budget proposals based on recommendations of the department.

282 3. Any funds that the direct-support organization holds in
 283 trust must revert to the state upon the expiration or
 284 cancellation of the contract.

285 4. The direct-support organization is subject to an annual
 286 financial and performance review by the department to determine
 287 whether the direct-support organization is complying with the
 288 terms of the contract and is acting in a manner consistent with
 289 the goals of the department and in the best interest of the
 290 state.

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291 (c) The fiscal year of the direct-support organization
 292 begins on July 1 and ends on June 30 of the next succeeding
 293 year.

294 (d) The direct-support organization shall provide an annual
 295 financial audit in accordance with s. 215.981.

296 (e) The direct-support organization is not an agency for
 297 purposes of parts I, II, and IV-VIII of chapter 112; chapter
 298 120; s. 215.31; chapter 216; ss. 255.21, 255.25, and 255.254,
 299 relating to leasing of buildings; ss. 283.33 and 283.35,
 300 relating to bids for printing; and chapter 287. However, the
 301 direct-support organization shall comply with the per diem and
 302 travel expense provisions of s. 112.061.

303 (f) Subject to the approval of the Secretary of Commerce,
 304 the department may allow the direct-support organization to use
 305 the property, facilities, personnel, and services of the
 306 department if the direct-support organization provides equal
 307 employment opportunities to all persons regardless of race,
 308 color, religion, sex, or national origin.

309 (2) The mission of the direct-support organization ~~task~~
 310 ~~force~~ is to carry out the provisions of this section, to make
 311 recommendations to preserve and protect military installations,
 312 to assist with the coordination of economic and workforce
 313 development efforts in military communities, to assist in the
 314 planning and research and development related to military
 315 missions, businesses, and military families to support the
 316 ~~state's position in research and development related to or~~
 317 ~~arising out of military missions and contracting, and to improve~~
 318 the state's military-friendly environment for servicemembers,
 319 military dependents, military retirees, and businesses that

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320 bring military and base-related jobs to the state. The direct-
 321 support organization is organized and operated to request,
 322 receive, hold, invest, and administer property and to manage and
 323 make expenditures for the operation of the activities, services,
 324 functions, and programs of this state for economic and product
 325 research and development, joint planning with host communities
 326 to accommodate military missions and prevent base encroachment,
 327 advocacy on the state's behalf with federal civilian and
 328 military officials, assistance to school districts in providing
 329 a smooth transition for large numbers of additional military-
 330 related students, job training and placement for military
 331 spouses in communities with high proportions of active duty
 332 military personnel, and promotion of the state to military and
 333 related contractors and employers.

334 (3) The direct-support organization shall be governed by a
 335 board of directors.

336 (a) The board of directors is composed of the Governor, or
 337 his or her designee, and the following members ~~task force~~ shall
 338 ~~be comprised of the Governor or his or her designee, and 12~~
 339 ~~members~~ appointed as follows:

340 1. ~~(a)~~ Four members appointed by the Governor.

341 2. ~~(b)~~ Four members appointed by the President of the
 342 Senate.

343 3. ~~(c)~~ Four members appointed by the Speaker of the House of
 344 Representatives.

345 (b) ~~(d)~~ Appointed members must represent defense-related
 346 industries or communities that host military bases and
 347 installations. All appointments in place as of July 1, 2024,
 348 must continue in effect until the expiration of the term ~~must be~~

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349 ~~made by August 1, 2011.~~ Members shall serve for a term of 4
 350 years, ~~with the first term ending July 1, 2015.~~ However, if
 351 members of the Legislature are appointed to the direct-support
 352 organization task force, those members shall serve until the
 353 expiration of their legislative term and may be reappointed
 354 once. A vacancy shall be filled for the remainder of the
 355 unexpired term in the same manner as the initial appointment.
 356 ~~All members of the council are eligible for reappointment.~~ A
 357 member who serves in the Legislature may participate in all
 358 direct-support organization task force activities but may only
 359 vote on matters that are advisory.

360 (c)(4) The President of the Senate and the Speaker of the
 361 House of Representatives shall each designate one of their
 362 appointees to serve as chair of the direct-support organization
 363 task force. The chair shall serve a 2-year term, rotating on
 364 ~~rotate each~~ July 1 of each odd-numbered year. The appointee
 365 designated by the President of the Senate shall serve as initial
 366 chair. If the Governor, instead of his or her designee,
 367 participates in the activities of the direct-support
 368 organization task force, ~~then~~ the Governor shall serve as chair.

369 (d)(5) The Secretary of Commerce Economic Opportunity, or
 370 his or her designee, shall serve as the ex officio, nonvoting
 371 executive director of the direct-support organization task
 372 force.

373 (4)(6) The direct-support organization task force shall
 374 submit an annual ~~progress~~ report ~~and work plan~~ to the Governor,
 375 the President of the Senate, and the Speaker of the House of
 376 Representatives each December February 1.

377 (5) The direct-support organization, in the performance of

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378 its duties, may:

379 (a) Make and enter into contracts and assume such other
 380 functions as are necessary to carry out the mission of the
 381 direct-support organization and its contract with the
 382 department, provided that any such contracts and assumptions are
 383 not inconsistent with this section or any other applicable
 384 provision of law governing the direct-support organization. A
 385 proposed contract with a total cost of \$750,000 or more is
 386 subject to the notice, review, and objection procedures of s.
 387 216.177. If the chair and vice chair of the Legislative Budget
 388 Commission, or the President of the Senate and the Speaker of
 389 the House of Representatives, timely advise the direct-support
 390 organization in writing that such proposed contract is contrary
 391 to legislative policy and intent, the direct-support
 392 organization may not enter into such proposed contract. The
 393 direct-support organization may not divide one proposed contract
 394 with a total cost of \$750,000 or more into multiple contracts to
 395 circumvent the requirements of this paragraph.

396 (b) Establish grant programs and administer grant awards to
 397 support its mission.

398 ~~(7) The department shall support the task force and~~
 399 ~~contract with the task force for expenditure of appropriated~~
 400 ~~funds, which may be used by the task force for economic and~~
 401 ~~product research and development, joint planning with host~~
 402 ~~communities to accommodate military missions and prevent base~~
 403 ~~encroachment, advocacy on the state's behalf with federal~~
 404 ~~civilian and military officials, assistance to school districts~~
 405 ~~in providing a smooth transition for large numbers of additional~~
 406 ~~military-related students, job training and placement for~~

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407 ~~military spouses in communities with high proportions of active~~
 408 ~~duty military personnel, and promotion of the state to military~~
 409 ~~and related contractors and employers. The task force may~~

410 (c) Annually spend up to \$250,000 of funds appropriated to
 411 the department for the direct-support organization ~~task force~~
 412 for staffing and administrative expenses of the direct-support
 413 organization ~~task force~~, including travel and per diem costs
 414 incurred by direct-support organization ~~task force~~ members who
 415 are not otherwise eligible for state reimbursement.

416 (6) This section is repealed October 1, 2029, unless
 417 reviewed and saved from repeal by the Legislature.

418 Section 8. Paragraph (a) of subsection (3) of section
 419 445.003, Florida Statutes, is amended to read:

420 445.003 Implementation of the federal Workforce Innovation
 421 and Opportunity Act.—

422 (3) FUNDING.—

423 (a) Title I, Workforce Innovation and Opportunity Act
 424 funds; Wagner-Peyser funds; and NAFTA/Trade Act funds will be
 425 expended based on the 4-year plan of the state board. The plan
 426 must outline and direct the method used to administer and
 427 coordinate various funds and programs that are operated by
 428 various agencies. The following provisions apply to these funds:

429 1. At least 50 percent of the Title I funds for Adults and
 430 Dislocated Workers which are passed through to local workforce
 431 development boards shall be allocated to and expended on
 432 Individual Training Accounts unless a local workforce
 433 development board obtains a waiver from the state board.
 434 Tuition, books, and fees of training providers and other
 435 training services prescribed and authorized by the Workforce

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436 Innovation and Opportunity Act qualify as Individual Training
 437 Account expenditures.

438 2. Fifteen percent of Title I funding shall be retained at
 439 the state level and dedicated to state administration and shall
 440 be used to design, develop, induce, fund, and evaluate the long-
 441 term impact of innovative Individual Training Account pilots,
 442 demonstrations, and programs to enable participants to attain
 443 self-sufficiency and to evaluate the effectiveness of
 444 performance-based contracts used by local workforce development
 445 boards under s. 445.024(5) on increasing wages and employment
 446 over the long term. Of such funds retained at the state level,
 447 \$2 million may be reserved for the Incumbent Worker Training
 448 Program created under subparagraph 3. Eligible state
 449 administration costs include the costs of funding for the state
 450 board and state board staff; operating fiscal, compliance, and
 451 management accountability systems through the department;
 452 conducting evaluation and research on workforce development
 453 activities; and providing technical and capacity building
 454 assistance to local workforce development areas at the direction
 455 of the state board. Notwithstanding s. 445.004, such
 456 administrative costs may not exceed 25 percent of these funds.
 457 An amount not to exceed 75 percent of these funds shall be
 458 allocated to Individual Training Accounts and other workforce
 459 development strategies for other training designed and tailored
 460 by the state board in consultation with the department,
 461 including, but not limited to, programs for incumbent workers,
 462 nontraditional employment, and enterprise zones. The state
 463 board, in consultation with the department, shall design, adopt,
 464 and fund Individual Training Accounts for distressed urban and

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465 rural communities.

466 3. The Incumbent Worker Training Program is created for the
467 purpose of providing grant funding for continuing education and
468 training of incumbent employees at existing Florida businesses.
469 The program will provide reimbursement grants to businesses that
470 pay for preapproved, direct, training-related costs. For
471 purposes of this subparagraph, the term "businesses" includes
472 hospitals and health care facilities operated by nonprofit or
473 local government entities which provide nursing or allied health
474 care opportunities to acquire new or improved skills.

475 a. The Incumbent Worker Training Program will be
476 administered by CareerSource Florida, Inc., which may, at its
477 discretion, contract with a private business organization to
478 serve as grant administrator.

479 b. The program shall be administered under s. 134(d) (4) of
480 the Workforce Innovation and Opportunity Act. Funding priority
481 shall be given in the following order:

482 (I) Businesses that provide employees with opportunities to
483 acquire new or improved skills by earning a credential on the
484 Master Credentials List.

485 (II) Hospitals or health care facilities operated by
486 nonprofit or local government entities that provide ~~nursing~~
487 opportunities in health care to acquire new or improved skills.

488 (III) Businesses whose grant proposals represent a
489 significant upgrade in employee skills.

490 (IV) Businesses with 25 employees or fewer, businesses in
491 rural areas, and businesses in distressed inner-city areas.

492 (V) Businesses in a qualified targeted industry or
493 businesses whose grant proposals represent a significant layoff

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494 avoidance strategy.

495 c. All costs reimbursed by the program must be preapproved
496 by CareerSource Florida, Inc., or the grant administrator. The
497 program may not reimburse businesses for trainee wages, the
498 purchase of capital equipment, or the purchase of any item or
499 service that may possibly be used outside the training project.
500 A business approved for a grant may be reimbursed for
501 preapproved, direct, training-related costs including tuition,
502 fees, books and training materials, and overhead or indirect
503 costs not to exceed 5 percent of the grant amount.

504 d. A business that is selected to receive grant funding
505 must provide a matching contribution to the training project,
506 including, but not limited to, wages paid to trainees or the
507 purchase of capital equipment used in the training project; must
508 sign an agreement with CareerSource Florida, Inc., or the grant
509 administrator to complete the training project as proposed in
510 the application; must keep accurate records of the project's
511 implementation process; and must submit monthly or quarterly
512 reimbursement requests with required documentation.

513 e. All Incumbent Worker Training Program grant projects
514 shall be performance-based with specific measurable performance
515 outcomes, including completion of the training project and job
516 retention. CareerSource Florida, Inc., or the grant
517 administrator shall withhold the final payment to the grantee
518 until a final grant report is submitted and all performance
519 criteria specified in the grant contract have been achieved.

520 f. The state board may establish guidelines necessary to
521 implement the Incumbent Worker Training Program.

522 g. No more than 10 percent of the Incumbent Worker Training

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523 Program's total appropriation may be used for overhead or
524 indirect purposes.

525 4. At least 50 percent of Rapid Response funding shall be
526 dedicated to Intensive Services Accounts and Individual Training
527 Accounts for dislocated workers and incumbent workers who are at
528 risk of dislocation. The department shall also maintain an
529 Emergency Preparedness Fund from Rapid Response funds, which
530 will immediately issue Intensive Service Accounts, Individual
531 Training Accounts, and other federally authorized assistance to
532 eligible victims of natural or other disasters. At the direction
533 of the Governor, these Rapid Response funds shall be released to
534 local workforce development boards for immediate use after
535 events that qualify under federal law. Funding shall also be
536 dedicated to maintain a unit at the state level to respond to
537 Rapid Response emergencies and to work with state emergency
538 management officials and local workforce development boards. All
539 Rapid Response funds must be expended based on a plan developed
540 by the state board in consultation with the department and
541 approved by the Governor.

542 Section 9. Paragraph (a) of subsection (3) of section
543 445.004, Florida Statutes, is amended to read:

544 445.004 CareerSource Florida, Inc., and the state board;
545 creation; purpose; membership; duties and powers.—

546 (3) (a) Members of the state board described in Pub. L. No.
547 113-128, Title I, s. 101(b)(1)(C)(iii)(I)(aa) are voting
548 ~~nonvoting~~ members. The number of members is determined by the
549 Governor, who shall consider the importance of minority, gender,
550 and geographic representation in making appointments to the
551 state board. When the Governor is in attendance, he or she shall

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552 preside at all meetings of the state board.

553 Section 10. Section 720.406, Florida Statutes, is amended
554 to read:

555 720.406 Department of Commerce Economic Opportunity;
556 submission; review and determination.—

557 (1) Within no later than 60 days after obtaining valid
558 written consent from a majority of the affected parcel owners,
559 or within 60 days after the date the proposed revived
560 declaration and other governing documents are approved by the
561 affected parcel owners by vote at a meeting, the organizing
562 committee or its designee must submit the proposed revived
563 governing documents and supporting materials to the Department
564 of Commerce Economic Opportunity to review and determine whether
565 to approve or disapprove of the proposal to preserve the
566 residential community. The submission to the department must
567 include:

568 (a) The full text of the proposed revived declaration of
569 covenants and articles of incorporation and bylaws of the
570 homeowners' association.†

571 (b) A verified copy of the previous declaration of
572 covenants and other previous governing documents for the
573 community, including any amendments thereto.†

574 (c) The legal description of each parcel to be subject to
575 the revived declaration and other governing documents and a plat
576 or other graphic depiction of the affected properties in the
577 community.†

578 (d) A verified copy of the written consents of the
579 requisite number of the affected parcel owners approving the
580 revived declaration and other governing documents or, if

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581 approval was obtained by a vote at a meeting of affected parcel
 582 owners, verified copies of the notice of the meeting,
 583 attendance, and voting results. ~~+~~

584 (e) An affidavit by a current or former officer of the
 585 association or by a member of the organizing committee verifying
 586 that the requirements for the revived declaration set forth in
 587 s. 720.404 have been satisfied. ~~+~~ ~~and~~

588 (f) Such other documentation that the organizing committee
 589 believes is supportive of the policy of preserving the
 590 residential community and operating, managing, and maintaining
 591 the infrastructure, aesthetic character, and common areas
 592 serving the residential community.

593 (2) ~~Within No later than~~ 60 days after receiving the
 594 submission, the department must determine whether the proposed
 595 revived declaration of covenants and other governing documents
 596 comply with the requirements of this act.

597 (a) If the department determines that the proposed revived
 598 declaration and other governing documents comply with the act
 599 and have been approved by the parcel owners as required by this
 600 act, the department shall notify the organizing committee in
 601 writing of its approval.

602 (b) If the department determines that the proposed revived
 603 declaration and other governing documents do not comply with ~~+~~
 604 ~~this act~~ or have not been approved as required by ~~+~~ this act, the
 605 department shall notify the organizing committee in writing that
 606 it does not approve the governing documents and shall state the
 607 reasons for the disapproval.

608 Section 11. Effective upon becoming a law, the Department
 609 of Commerce is authorized to amend a loan agreement executed

577-02391-24 20241420c1

610 before February 1, 2024, and made pursuant to s. 288.066,
 611 Florida Statutes, in order to increase the loan term to a total
 612 of 10 years from the original date of execution, as authorized
 613 by this act, upon request of the local government and as
 614 determined by the department to be in the best interests of the
 615 state.

616 Section 12. Except as otherwise expressly provided in this
 617 act and except for this section, which shall take effect upon
 618 this act becoming a law, this act shall take effect July 1,
 619 2024.



The Florida Senate

Committee Agenda Request

To: Senator Ed Hooper, Chair
Appropriations Committee on Transportation, Tourism, and Economic
Development

Subject: Committee Agenda Request

Date: January 25, 2024

I respectfully request that **Senate Bill #1420**, relating to Department of Commerce, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in blue ink that reads "Danny".

Senator Danny Burgess
Florida Senate, District 23

CourtSmart Tag Report

Room: SB 110

Case No.:

Type:

Caption: Senate Appropriations Committee on Transportation, Tourism, and Economic Development

Judge:

Started: 2/8/2024 10:49:59 AM

Ends: 2/8/2024 11:37:28 AM

Length: 00:47:30

10:50:10 AM Sen. Trumbull (Chair)
10:50:28 AM Sen. Trumbull
10:50:43 AM S 1362
10:50:54 AM Sen. Harrell
10:52:27 AM Am. 954964
10:52:28 AM Sen. Harrell
10:55:37 AM Sen. Yarborough
10:56:10 AM Sen. Harrell
10:56:37 AM Sen. Yarborough
10:56:51 AM Sen. Harrell
10:57:40 AM Jeff Sharkey, Volocopter GMB (Waives in Support)
10:57:48 AM Jared Rosenstein, Ferrovia
11:00:42 AM Sen. Harrell
11:01:34 AM S 1362 (cont.)
11:01:50 AM Cynthia Henderson, Supernal (Waives in Support)
11:02:10 AM Jeff Sharkey, Volocopter Gmb
11:03:40 AM Sen. Wright
11:04:24 AM Sen. Harrell
11:05:40 AM Sen. Trumbull
11:05:48 AM Sen. Hooper (chair)
11:05:51 AM S 356
11:06:00 AM Sen. Avila
11:07:38 AM Am. 850420
11:07:38 AM Sen. Avila
11:07:46 AM S 356 (cont)
11:07:59 AM Sen. Thompson
11:08:10 AM Sen. Avila
11:08:46 AM Sen. Thompson
11:09:10 AM Sen. Avila
11:10:03 AM Karen Murillo, AARP (Waives in Support)
11:10:17 AM Sen. Avila
11:10:45 AM S 716
11:10:51 AM Sen. Rodriguez
11:11:06 AM Am. 298200
11:11:14 AM Sen. Rodriguez
11:11:38 AM Barbara Devane, Florida Now (Waives in Support)
11:12:02 AM Am. 296090
11:12:11 AM Sen. Rodriguez
11:12:44 AM S 716 (cont.)
11:13:01 AM Sen. Hooper
11:13:08 AM Sen. Thompson
11:13:32 AM Sen. Rodriguez
11:15:01 AM S 736
11:15:05 AM Sen. Trumbull
11:15:15 AM Am. 828660
11:15:22 AM Sen. Trumbull
11:16:20 AM Tim Qualli, Florida Tax Collectors Association (Waives in Support)
11:16:24 AM Anne M. Gannon (Waives in Support)
11:16:51 AM S 736 (cont.)
11:17:00 AM Sen. Trumbull
11:17:25 AM Sen. Hooper
11:17:30 AM S 934

11:17:35 AM Sen. Yarborough
11:18:09 AM Am. 831476
11:18:31 AM Sen. Yarborough
11:18:40 AM Sen. Hooper
11:18:44 AM Sen. Yarborough
11:19:08 AM S 736 (cont.)
11:19:18 AM Sen. Yarborough
11:19:43 AM S 754
11:19:53 AM Sen. Diceglie
11:20:58 AM Megan Cannan, Florida TaxWatch (Waives in Support)
11:21:00 AM Chris Dudley, Florida Truckers Association (Waives in Support)
11:21:24 AM Sen. Diceglie
11:22:00 AM Sen. Hooper
11:22:45 AM S 512
11:22:50 AM Sen. Bradley
11:23:35 AM Sen. Bradley
11:24:09 AM Sen. Trumbull (Chair)
11:24:16 AM S 266
11:24:20 AM Sen. Hooper
11:24:33 AM Sen. Trumbull
11:24:37 AM Am. 745354
11:24:40 AM Sen. Hooper
11:29:28 AM Laura Youmans, Florida Justice Association
11:32:11 AM Sen. Hooper
11:32:16 AM S 266 (cont.)
11:32:25 AM Megan Cannan, Florida TaxWatch
11:32:53 AM Sen. Hooper
11:34:04 AM Sen. Hooper (Chair)
11:34:13 AM S 1420
11:34:16 AM Sen. Burgess
11:35:05 AM Sen. Burgess
11:35:38 AM Sen. Stewart
11:35:55 AM Sen. Wright
11:36:30 AM Sen. Hooper
11:37:15 AM Meeting adjourned