

Tab 1	CS/SB 138 by TR, Brandes (CO-INTRODUCERS) Rodriguez; (Similar to H 00817) Electric Vehicles						
210172	T	S	RCS	ATD, Brandes	In title, delete L.1:	03/23 11:06 AM	

Tab 2	CS/SB 140 by TR, Brandes; (Similar to H 00819) Fees/Electric Vehicles						
490740	A	S	RCS	ATD, Brandes	Delete L.50 - 52:	03/23 11:06 AM	

Tab 3	SB 1104 by Rodriguez; Division of Library and Information Services						
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Tab 4	SB 1404 by Hooper; (Similar to CS/H 00909) Cultural and Historical Programs						
146764	A	S	RCS	ATD, Hooper	Delete L.328 - 360:	03/23 10:32 AM	

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

**APPROPRIATIONS SUBCOMMITTEE ON
TRANSPORTATION, TOURISM, AND ECONOMIC
DEVELOPMENT**

Senator Gainer, Chair
Senator Hooper, Vice Chair

MEETING DATE: Tuesday, March 23, 2021
TIME: 8:30—10:00 a.m.
PLACE: *Toni Jennings Committee Room, 110 Senate Building*

MEMBERS: Senator Gainer, Chair; Senator Hooper, Vice Chair; Senators Ausley, Boyd, Cruz, Garcia, Gibson, Mayfield, Perry, Taddeo, and Wright

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
PUBLIC TESTIMONY WILL BE RECEIVED FROM ROOM A1 AT THE DONALD L. TUCKER CIVIC CENTER, 505 W PENSACOLA STREET, TALLAHASSEE, FL 32301			
1	CS/SB 138 Transportation / Brandes (Similar H 817, Compare H 819, Linked CS/S 140)	Electric Vehicles; Revising the principles relating to mobility which the department's goals are required to address; requiring that certain funds be used for specified purposes relating to the Electric Vehicle Infrastructure Grant Program, beginning in a specified year; requiring the department to establish the Electric Vehicle Infrastructure Grant Program; providing for the distribution of grants to certain entities to install electric vehicle charging infrastructure; requiring the department to coordinate, develop, and recommend a supplemental master plan to address innovations in electric vehicle charging station infrastructure and the development of high-powered charging infrastructure for electric aircraft; prohibiting certain rules adopted by the Department of Agriculture and Consumer Services from requiring specific methods of sale for electric vehicle charging equipment used and services provided in this state, etc. TR 03/10/2021 Fav/CS ATD 03/23/2021 Fav/CS AP	Fav/CS Yeas 11 Nays 0
2	CS/SB 140 Transportation / Brandes (Similar H 819, Compare H 817, S 1276, Linked CS/S 138)	Fees/Electric Vehicles; Creating additional fees for electric vehicles; creating a license tax and an additional fee for plug-in hybrid electric vehicles; authorizing persons and entities to biennially renew vehicle registrations for electric vehicles and plug-in hybrid electric vehicles; providing that certain vehicles are exempt from specified fees, etc. TR 03/10/2021 Fav/CS ATD 03/23/2021 Fav/CS AP	Fav/CS Yeas 11 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Tuesday, March 23, 2021, 8:30—10:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	SB 1104 Rodriguez	Division of Library and Information Services; Removing the date by which the division must submit an annual report regarding the allocation of library funding to the Chief Financial Officer; revising the duties and responsibilities of the division in the administration of the records and information management program; deleting a provision that provides for the title of a record to pass to the division under specified circumstances; removing a limitation on the annual grant amount that the administrative unit of a library cooperative may receive from the state for purposes of sharing library resources, etc. GO 03/03/2021 Favorable ATD 03/23/2021 Favorable AP	Favorable Yeas 11 Nays 0
4	SB 1404 Hooper (Similar CS/H 909)	Cultural and Historical Programs; Designating the Museum of Florida History as the official state history museum; providing that the Secretary of State shall be known as "Florida's Chief Arts and Culture Officer"; transferring certain responsibilities from the Division of Cultural Affairs to the Division of Historical Resources; revising provisions relating to the Museum of Florida History museum store, the establishment and operation of a certain nonprofit organization or association, and the deposit of certain funds; removing the requirement that a museum inform a lender of certain provisions in certain circumstances, etc. GO 03/10/2021 Favorable ATD 03/23/2021 Fav/CS AP	Fav/CS Yeas 11 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 Subcommittee on Transportation, Tourism, and Economic
Development

BILL: PCS/CS/SB 138 (303668)

INTRODUCER: Appropriations Subcommittee on Transportation, Tourism, and Economic Development;
Transportation Committee; and Senator Brandes and others

SUBJECT: Electric Vehicles and Devices

DATE: March 25, 2021 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Vickers	TR	Fav/CS
2.	Wells	Hrdlicka	ATD	Recommend: Fav/CS
3.			AP	

Please see Section IX. for Additional Information:
COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 138 directs the Florida Department of Transportation (FDOT) to establish the Electric Vehicle (EV) Infrastructure Grant Program to provide financial assistance to encourage the installation of publicly available electric vehicle charging infrastructure for electric vehicles, electric semi-trucks, and electric aircraft on public or private property.

The bill authorizes state agencies, public universities, public transit agencies, ports, airports, and local governments to apply to the FDOT for grants for technical assistance for the development and adoption of local or regional plans establishing charging infrastructure and for assistance with the purchase of related equipment and costs of installation. The bill sets out required matching funds and sources and authorizes an applicant to partner with a private-sector entity to install charging infrastructure on private property in the jurisdiction of the applicant.

The FDOT is directed to develop and publish criteria for prioritizing applications and maintain a prioritized list of approved grant applications; continually review emerging research, policies, and standards relating to electric vehicle charging infrastructure; publish best practices relating to such infrastructure; and adopt rules to administer the new provisions.

The bill also amends current law relating to FDOT development of a required EV Infrastructure Master Plan for development of electric vehicle charging station infrastructure along the State

Highway System, requiring a supplemental master plan by July of 2023 and a second status report by December of 2021, following an already-issued initial status report.

The bill also makes the following changes related to EVs:

- Effective upon the passage of SB 140, allocates certain increased license tax revenues from registration of electric and hybrid vehicles to the State Transportation Trust Fund (STTF) and requires the FDOT to use the revenues to fund the EV Infrastructure Grant Program beginning in Fiscal Year 2023-2024.
- Prohibits the Department of Agriculture and Consumer Services from adopting rules that require specific methods of sale for electric vehicle charging equipment used and services provided in this state.
- Revises the FDOT's prevailing principle relating to mobility to include improvement of travel choices to ensure that mobility includes planning and establishment of infrastructure for innovative technologies, including electric vehicle charging infrastructure.

In addition, the bill:

- Revises the definition of "autocycle" to require compliance with a specified Federal Motor Vehicle Safety Standard relating to antilock brakes and to replace the requirement of a steering "wheel" with a requirement for a steering "mechanism."
- Revises portions of the definition of "personal delivery device" (PDD) related to maximum weight and speed to provide that maximum weight is set by FDOT administrative rule and maximum speed may be set by FDOT administrative rule.

Except as otherwise provided, the bill takes effect July 1, 2021.

The bill is expected to present varied but indeterminate fiscal impacts to state and local governments and to the private sector. See Section V. "Fiscal Impact Statement" for details.

II. Present Situation:

Electric and Hybrid Vehicles

Electric vehicles (EVs) offer a readily available and cleaner fuel source, with higher fuel efficiency and improved air quality compared to vehicles with internal combustion engines. Increasing interest in EV use is driven by higher gas prices and greenhouse gas emission concerns, but their relative high cost compared to conventional fuel-powered vehicles and their relative limited range have restricted the commercial viability of EVs.¹ However, advancements in EV-related technology are continuing, EV manufacturing is rising, and EV prices have been dropping.²

¹ See Federal Highway Administration, *FHWA NHTS Brief, Electric Vehicle Feasibility*, July 2016, pp. 1-2, available at <http://nhts.ornl.gov/briefs/EVFeasibility20160701.pdf> (last visited March 16, 2021).

² *Id.* at p. 2.

Types of EVs

The U.S. Department of Energy’s Alternative Fuels Data Center (AFDC) uses the term “electric-drive vehicles” to collectively refer to hybrid electric vehicles (HEVs), plug-in hybrid electric vehicles (PHEVs), and all-electric vehicles (AEVs). According to the AFDC:³

- HEVs are primarily powered by an internal combustion engine that runs on conventional or alternative fuel and an electric motor that uses energy stored in a battery. The battery is charged through regenerative braking and by the internal combustion engine and is not plugged in to charge.
- PHEVs are powered by an internal combustion engine that can run on conventional or alternative fuel and an electric motor that uses energy stored in a battery. The vehicle can be plugged in to an electric power source to charge the battery.
- AEVs use a battery to store the electric energy that powers the motor. AEV batteries are charged by plugging the vehicle in to an electric power source. AEVs are also referred to as battery electric vehicles or BEVs.

For purposes of vehicle registration, Florida law currently defines the term “electric vehicle” to mean “a motor vehicle that is powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electrical current.”⁴

Electric Semi-trucks

A number of automakers reportedly have “announced or advanced ambitious plans to electrify heavy-duty big rigs, semi-trucks, box trucks, delivery vans and more.” The report details efforts at various stages of development, such as companies that are ramping up production of medium- and heavy-duty electric trucks; unveiling long-haul electric trucks; and actually delivering battery-electric trucks.⁵

Electric Vertical Takeoff and Landing (eVTOL) Aircraft

Electric vertical takeoff and landing aircraft, other than the familiar helicopter, are in the development stage. The Federal Aviation Administration (FAA) is currently working with a number of companies seeking what is called a type certificate, which is the FAA’s approval of the design of the aircraft and all component parts. The certificate “signifies the design is in compliance with applicable airworthiness, noise, fuel venting, and exhaust emissions standards.”⁶

³ See AFDC, *Hybrid and Plug-In Electric Vehicles*, available at <https://www.afdc.energy.gov/vehicles/electric.html> (last visited March 16, 2021).

⁴ Section 320.01(36), F.S.

⁵ See GreenBiz, *Keep your eyes on these 9 electric truck and van companies in 2021*, January 4, 2021, available at <https://www.greenbiz.com/article/keep-your-eyes-these-9-electric-truck-and-van-companies-2021> (last visited March 16, 2021).

⁶ See FAA, *Certification*, available at https://www.faa.gov/uas/advanced_operations/certification/ (last visited March 16, 2021). Once obtained, the next step is production certification, which is the approval to manufacture duplicate products under an FAA-approved type design. Lastly is the airworthiness certification, either in the “Standard” or “Special Class,” which signifies that an aircraft meets its approved type design and is in a condition for safe operation.

III. Effect of Proposed Changes:

Florida EV Infrastructure Master Plan Reports (Section 5)

Present Situation

The 2020 Legislature enacted s. 339.287, F.S., directing the FDOT, in consultation with the Public Service Commission and the Office of Energy within the Department of Agriculture and Consumer Services (DACCS), to develop and recommend a master plan for current and future plans for the development of EV charging station infrastructure along the State Highway System.⁷ The recommended master plan must be developed and submitted by July 1, 2021. As also required, the FDOT submitted a preliminary status report in December of 2020.⁸

Preliminary recommendations in the status report contain 12 areas of focus, with potential strategies and action items categorized by potential action type (by executive order, legislative, and/or agency action) and potential lead and coordinating agencies identified.⁹

In accordance with the 2020 law, the status report reviews emerging technologies in the electric and alternative vehicle market and sets out the following preliminary findings:¹⁰

- With respect to EV technologies:
 - PHEVs have a relatively short range on a full battery (~40 miles). Once expired, the internal combustion engine automatically starts, so PHEVs are not limited in range by available electricity.
 - BEVs have a 40-300 mile range, depending on the vehicle make and model, which is a primary consideration for long-range travel and evacuations.
- With respect to EV technology trends:
 - The trend is toward increased battery power density, increased battery lifetime (recharge cycle), and higher battery voltages.
 - BEV historical battery cost has decreased from ~\$1,175 per kWh¹¹ in 2010 to ~\$375 per kWh in 2015 and is forecasted to decrease further to ~\$160 in 2020 and to ~\$100 in 2025.
 - BEV historical range has increased from ~75 miles in 2010 to ~160 miles in 2015 and is forecasted to increase further to 250 miles in 2020 and ~450 miles in 2025.

⁷ Chapter 2020-21, s. 3, Laws of Florida.

⁸ FDOT, *EV Infrastructure Master Plan Status Report*, December 1, 2020, available at https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/planning/fto/evmp-status.pdf?sfvrsn=ac348cf4_8 (last visited March 16, 2021).

⁹ These recommendations are set out in table form for ease of review at *id.* at p. 15.

¹⁰ *Supra* note 8 at p. 3.

¹¹ Per kilowatt hour.

As required, the report also evaluates and compares EV charging stations available at present and which may become available, key findings of which are summarized in part in the below table:

EVSE ¹² Type	Supply Voltage	Power Level	Charge Rate (miles/hour)	Use cases
Level 1	120V (toaster)	1 -18 kW	3 – 7	Home/overnight
Level 2	208-240V (clothes dryer)	3.3 – 19.2 7.7 kW typical	10-60 26	Home/work Destination charging
DC Fast Charger	480V (commercial HVAC unit)	50 kW 150 Kw 350Kw	175 500 1,200	Roadside/travel Emergency charging

The report indicates that Level 1 chargers are currently obsolete for commercial purposes, Level 2 chargers are currently dominant for commercial purposes, and DC fast chargers are the most applicable for long-range travel and evacuations.¹³ Future EVSE technologies for fleet and passenger operations include higher-power charging, up to 350 kW with current standards, extreme fast charging for medium and heavy duty applications, and wireless power transfer.¹⁴

Effect of Proposed Changes

Section 5 of the bill amends s. 339.287, F.S., relating to the EV Infrastructure Master Plan reports. The bill requires the FDOT to submit a supplemental master plan to the Governor, the President of the Senate, and the Speaker of the House of Representatives by July 1, 2023; the current recommended master plan is still due July 1, 2021. The supplemental master plan must also include recommendations for legislation and other recommendations as determined by the FDOT.

The supplemental master plan must:

- Address innovations in EV charging infrastructure occurring since the submission of the recommended master plan and the development of high-powered charging infrastructure for electric aircraft, and
- Make recommendations related to charging station infrastructure along the State Highway System and at airports, seaports, and other ports in light of the innovations.

The bill requires the FDOT to file a second status report by December 1, 2021.

¹² The report refers to EV charging equipment using an industry term, electric vehicle supply equipment or EVSE.

¹³ *Supra* note 8 at p. 4.

¹⁴ *Id.* For a map of existing publicly accessible Level 2 station locations (773), DC fast charger stations (59), and locations funded by the Florida Department of Environmental Protection from the VW Settlement (27), *see* p. 16.

EV Infrastructure Grant Program (Section 4)

Present Situation

The EV Infrastructure Master Plan status report also identified barriers to the use of EVs and EV charging station infrastructure for both short- and long-range EV travel. With respect to barriers to adoption of EVs:

- EV prices are generally still higher than a motor vehicle powered solely by an internal combustion engine, but cost parity with internal combustion engine vehicle is expected to occur between 2025 and 2030.
- Range anxiety is a significant factor during longer trips, as drivers worry about availability of electric vehicle supply equipment (EVSE).
- A lack of EV models exists on the market; trucks and SUVs account for greater than 50 percent of vehicles registered in Florida.
- Dealerships lack the knowledge or willingness to suggest the purchase of an EV and have few available EVs.¹⁵

As for barriers to adoption of EVSE:

- The EV customer base is low and the public lacks awareness of EVSE locations. A perception exists that gasoline is cheap and the public is generally more familiar with internal combustion engine vehicles.
- EV charging speeds are a deterrent, in that charging speed is a function of power delivery of the EVSE and how much power the EV can accept.
- Service providers locate EVSE where EV adoption is highest, resulting in gaps in EVSE particularly in low-utilization, rural, and income qualified communities. In addition, a lack of site-specific utility infrastructure for DC fast charger stations exists, particularly in rural and emergency-critical areas, and additional costs are incurred when back-up power is provided for emergency-critical EVSE locations.
- Utility charges increase during peak demand periods.
- A lack of state-level public funding to deploy EVSE exists, especially in low-use areas.¹⁶

Current Florida law contains the following EV-related incentives:

- Section 163.08, F.S., authorizes a property owner to apply to a local government for funding of, or to enter into, a financing agreement with the local government to finance installation of EV charging equipment on the owner's property, subject to local government ordinance or resolution.
- Section 212.055(2), F.S., authorizes local governments to use proceeds from a local government infrastructure surtax to provide loans, grants, or rebates to residential or commercial property owners who make energy efficiency improvements to their property, including, but not limited to, installation of EV charging equipment, if the local government ordinance authorizing such use is approved by referendum.
- Certain hybrid vehicles and inherently low-emission vehicles may use a high-occupancy vehicle lane (HOV lane)¹⁷ regardless of occupancy, and such vehicles may use any HOV

¹⁵ *Supra* note 8 at p. 5.

¹⁶ *Id.*

¹⁷ Generally, a high-occupancy vehicle lane is a lane designated for use by vehicles in which there is more than one occupant. Section 316.0741(1)(a), F.S.

lane re-designated as HOV toll lanes or express lanes without paying a toll as provided in s. 316.0741, F.S.

Effect of Proposed Changes

Section 4 of the bill creates s. 339.286, F.S., directing the FDOT to establish the EV Infrastructure Grant Program to provide financial assistance to encourage the installation of electric vehicle charging infrastructure. Eligible applicants include state agencies, public universities, public transit agencies, ports, airports, and local governments, including housing authorities and libraries. Applicants may apply to the FDOT for grants to install publicly available EV charging infrastructure on public or private property.

The bill authorizes award of a grant for:

- Technical assistance for the development and adoption of:
 - A local or regional plan that establishes an EV charging infrastructure;
 - Any action plans necessary to address any infrastructure gaps; and
 - Steps necessary to complete the infrastructure plan. (A plan must address actions to deploy the necessary infrastructure in high-density housing areas and low-income to moderate-income areas.)
- Assistance with the purchase of related equipment and the costs of installation of that equipment to provide EV charging. (Such equipment must be capable of collecting and reporting data, use standard connectors, and be available to the public.)

Applicants may apply for a grant for both technical assistance and equipment purchase and installation. Twenty percent of the funds available under the grant program must be reserved for applicants or projects in fiscally constrained counties.

For a technical assistance grant, a minimum match of funds from the applicant of 30 percent of the grant award is required, but no match is required for an applicant located in a fiscally constrained county.¹⁸

For an equipment purchase and installation grant, a minimum match of the total project cost is required:

- 60 percent for alternating-current, Level 2 charging infrastructure;
- 20 percent for direct-current, fast charging infrastructure; or
- 20 percent for high-powered charging infrastructure for electric aircraft, including, but not limited to, eVTOL aircraft and electric semi-trucks.

Matching funds must be from non-state sources, but may include private funds provided through a partnership with a private entity or in-kind contributions such as donation of equipment, services, or land or use of land for establishment of EV charging infrastructure.

¹⁸ See s. 218.67(1), F.S. The Florida Department of Revenue has a list of fiscally constrained counties, available at <https://floridarevenue.com/property/Documents/fcco081210.pdf> (last visited March 18, 2021).

Grant funds may not subsidize the cost for the use of electricity. An applicant is authorized to partner with a private-sector entity to install charging infrastructure on private property in the same county or local jurisdiction as the applicant.

The FDOT is required to develop and publish criteria prioritizing grant applications based on the extent to which the activities of the grant will encourage growth in EV use and increase the availability of charging stations along emergency evacuation routes. Grants for equipment purchase and installation that immediately and most effectively serve current EV owners or operators may receive priority. The FDOT must maintain a prioritized list of approved applications, which must include recommended funding levels for each application and, if staged implementation is appropriate, funding requirements for each stage.

The bill directs the FDOT to continually review emerging research, policies, and standards related to EV infrastructure and innovations in the use of EVs. Using such information, the FDOT must publish best practices for the establishment of EV charging infrastructure, model infrastructure plan development and components, and other significant information for the implementation and use of EV charging infrastructure. The bill authorizes the FDOT to develop a model plan that state agencies, public universities, public transit agencies, ports, airports, and local governments may use to establish an EV charging infrastructure plan. The bill directs the FDOT to adopt rules to administer the new section of law.

Allocation of Increased License Tax Revenues (Section 3)

Present Situation

Currently, an electric vehicle pays the same motor vehicle license tax as non-electric vehicles.¹⁹ Generally, registration fees differ based on factors such as the type of vehicle and its weight, with fees ranging, for example, between \$14.50 and \$32.50 annually for light-duty vehicles and from \$60.75 to \$1,322 for heavy trucks and truck tractors.²⁰

The EV Infrastructure Master Plan status report includes projections of the increase in the use of EVs in Florida over the next 20 years, which, in part, provides data²¹ on existing EV market adoption in Florida.

- The report concludes that BEVs (44,068) and PHEVs (22,617) currently total just 0.41 percent of the 16,529,219 total light-duty vehicle registrations in Florida.²²
- The report projects conservative, moderate, and aggressive growth scenarios for light-duty EV sales, projecting a respective 10, 20, and 35 percent growth in sales by 2040.²³
- Respective of the growth scenarios, projections of negative net revenue loss to the STTF of 8.4, 16.6, and 30 percent by the same year.²⁴

¹⁹ Section 320.08001, F.S.

²⁰ Section 320.08, F.S.

²¹ The source is vehicle registration data as of July 28, 2020, provided to the FDOT by the Florida Department of Highway Safety and Motor Vehicles. *Supra* note 8 at p. 6.

²² *Supra* note 8 at p. 6. HEVs are not included as part of the 0.41 percent of the total light-duty vehicle registrations. HEVs do not plug in to an electric power source to charge batteries, using regenerative braking instead.

²³ *Id.*

²⁴ *Supra* note 8 at p. 7.

Among the most common potential strategies for mitigation of revenue loss from increased EV use in other states, the report notes a fee in addition to any existing registration fee, which may or may not be tied to inflation. According to the report, 26 states impose such a fee with a range in cost of \$32.50 to \$213.88 annually.²⁵

Linked Legislation

SB 140, linked to this bill, imposes fees in addition to the general registration fees discussed above as follows:

- For “electric vehicles” weighing less than 10,000 pounds, a flat fee of \$135 beginning July 1, 2021, increasing to \$150 beginning January 1, 2025.
- For “electric vehicles” weighing 10,000 pounds or more, \$235 beginning July 1, 2021, increasing to \$250 beginning January 1, 2025.
- For “plug-in hybrid electric vehicles,” a \$35 flat fee beginning July 1, 2021, increasing to \$50 beginning January 1, 2025.

SB 140 requires these fees to be deposited into the STTF.²⁶

Effect of Proposed Changes

Section 3 of *this* bill, contingent upon passage of SB 140, creates s. 339.0802, F.S., requiring that funds resulting from increased revenues to the STTF from the additional fees imposed on EVs by SB 140 must be used to fund the EV Infrastructure Grant Program beginning in the 2023-2024 fiscal year.

The new s. 339.0802, F.S., expires on December 31, 2030. The additional fees imposed on certain EVs by SB 140 also expire on the same date. The EV Infrastructure Grant Program would not expire and could continue should future funding resources become available.

Regulatory Structure to Deliver Electricity to EVs and EV Infrastructure (Section 6)

Present Situation

The EV Infrastructure Master Plan Status Report notes that in Florida, a traditionally regulated state, public electric utilities serving exclusive service territories are under Public Service Commission (PSC) jurisdiction pursuant to chs. 350 and 366, F.S. As described in the report:²⁷

The PSC exercises its regulatory authority through rate setting, oversight of bulk power grid planning, safety inspections, and ensuring the provision of reliable service. The PSC has full regulatory authority over five investor-owned utilities in Florida. Rates are set for public utilities based on the cost of service.

²⁵ *Id.*

²⁶ See the Senate Transportation Committee Staff Analysis for CS/SB 140 for details, available at <https://www.flsenate.gov/Session/Bill/2021/140>, “Analyses” tab (last visited March 16, 2021).

²⁷ *Supra* note 8 at p. 9.

The PSC does not regulate the rates and service quality of municipal or rural cooperative electric utilities, but does have jurisdiction regarding rate structure, safety, territorial boundaries, and bulk power supply planning.

Since the current regulatory structure of electric utilities in Florida includes exclusive service territories, the sale of electricity to retail or end-use customers by a third party is not permitted. However, in 2012 the Florida Legislature created an exemption for electric vehicle charging.²⁸

The report also notes initial observations formulated following a PSC request for comment relating to the types of regulatory structure necessary for the delivery of electricity to EV charging infrastructure and participation of public utilities in the marketplace, including:

- A general consensus exists among stakeholders that Florida’s current regulatory structure is appropriate for the delivery of electricity to charging station infrastructure; and
- Participation by public utilities in the EV charging marketplace involves two considerations: electrical infrastructure deployment and rates and utility-owned/operated EVSE.²⁹

The report notes, however, that “[a] focus on flexibility should be maintained in order to adopt different models of utility and third-party ownership/operation based upon site-specific circumstances. In addition, prematurely and narrowly defining the role of public utilities should be discouraged given the nascence of the market and the urgent need to address gaps in charging infrastructure.”³⁰

Methods of Sale

Section 366.94, F.S., currently requires DACS to adopt rules relating to electric vehicle charging stations to allow for consistency for consumers and the industry, including, but not limited to, methods of sale. Through Rule 5J-22.003 of the Florida Administrative Code, the DACS adopted by reference the 2017 Edition of the National Institute of Standards and Technology Handbook 130, including a section on the “Uniform Regulation for the Method of Sale of Commodities.” Section 2.34.2 provides:

Method of Sale. – All electrical energy kept, offered, or exposed for sale and sold at retail as a vehicle fuel shall be in units in terms of the megajoule (MJ) or kilowatt-hour (kWh). In addition to the fee assessed for the quantity of electrical energy sold, fees may be assessed for other services; such fees may be based on time measurement and/or a fixed fee.

Effect of Proposed Changes

Section 6 of the bill amends s. 366.94(2), F.S., prohibiting rules implemented under the DACS rulemaking requirement from requiring specific methods of sale for EV charging equipment used in Florida, and EV charging services provided in Florida.

²⁸ Section 366.94(1), F.S., which provides that the “provisions of electric vehicle charging to the public by a nonutility is not the retail sale of electricity...”

²⁹ *Supra* note 8 at p. 9.

³⁰ *Id.*

The current DACS rule appears to be in conflict with this provision and, therefore, may require revision.³¹

FDOT Mobility Goals (Section 2)

Present Situation

Section 334.046, F.S., sets out the FDOT’s mission, goals, and objectives, which must address the prevailing principles of preservation, economic competitiveness, and mobility. With respect to the prevailing principle of mobility to be addressed by the FDOT’s goals, FDOT must ensure a cost-effective, statewide, interconnected transportation system.

Effect of Proposed Changes

Section 2 of the bill amends s. 334.046(4), F.S., relating to the prevailing principle of mobility. Under the bill, the FDOT’s goals related to mobility must also include addressing improvement of travel choices to ensure that mobility includes “planning and establishment of infrastructure for innovative technologies, including electric vehicle charging infrastructure.”

Autocycles (Section 1)

Present Situation

According to the National Conference of State Legislatures, the National Highway Traffic Safety Administration (NHTSA) does not currently have a vehicle classification for autocycles. At the federal level, autocycles fall under the definition of “motorcycle” and must generally comply with applicable motorcycle manufacturing and safety standards. States are making efforts to define “autocycles,” address safety requirements and passenger restrictions, and regulate operator licensing and operation of autocycles on roadways.³²

Current Florida law defines the term “autocycle” to mean “a three-wheeled motorcycle³³ that has two wheels in the front and one wheel in the back; is equipped with a roll cage or roll hoops, a seat belt for each occupant, antilock brakes, a steering wheel, and seating that does not require the operator to straddle or sit astride it; and is manufactured in accordance with the applicable federal motor vehicle safety standards in 49 C.F.R. part 571 by a manufacturer registered with the [NHTSA].”³⁴

³¹ See DACS, *Senate Bill 138 Agency Bill Analysis*, December 9, 2020 (on file in the Senate Transportation Committee).

³² See National Conference of State Legislatures, *Transportation Review: Autocycles*, Lambert, S. and Shinkle, D., April 2017, available at <https://www.ncsl.org/research/transportation/transportation-review-autocycles.aspx> (last visited March 16, 2021).

³³ “Motorcycle” is defined in s. 316.003(45), F.S., as “any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground. The term includes an autocycle, but does not include a tractor, a moped, an electric bicycle, or any vehicle in which the operator is enclosed by a cabin unless it meets the requirements set forth by the National Highway Traffic Safety Administration for a motorcycle.”

³⁴ Section 316.003(2), F.S.

Effect of Proposed Changes

Section 1 of the bill amends s. 316.003(2), F.S., to revise the definition of “autocycle” by clarifying that the required antilock brakes must meet the requirements of Federal Motor Vehicle Safety Standard No. 122 relating to such brakes and to revise the requirement for a steering “wheel” to a steering “mechanism.”

Personal Delivery Devices (Section 1)

Present Situation

A personal delivery device (PDD) is an electrically-powered device that:

- Is operated on sidewalks and crosswalks and intended primarily for transporting property;
- Weighs less than 80 pounds, excluding cargo;
- Has a maximum speed of 10 miles per hour; and
- Is equipped with technology to allow for operation of the device with or without the active control or monitoring of a natural person.

A PDD is not considered a vehicle, unless expressly defined by law as a vehicle.³⁵

A PDD may operate on sidewalks and crosswalks and has all the rights and duties applicable to a pedestrian, except that a PDD may not unreasonably interfere with pedestrians or traffic and must yield the right-of-way to pedestrians on a sidewalk or crosswalk.³⁶

A PDD must obey all traffic and pedestrian control signals and devices, include identifying information on the PDD, and be equipped with a braking system that, when activated or engaged, enables the PDD to come to a controlled stop.³⁷ A PDD may not:

- Operate on a public highway, except to the extent necessary to cross a crosswalk.
- Operate on a sidewalk or crosswalk, unless the PDD operator is actively controlling or monitoring the navigation and operation of the PDD.
- Transport hazardous materials.³⁸

A person who owns and operates a PDD in this state must maintain an insurance policy, on behalf of himself or herself and his or her agents, which provides general liability coverage of at least \$100,000 for damages arising from the combined operations of PDDs under the entity’s or agent’s control.³⁹

A PDD may be operated on sidewalks and crosswalks within a county or municipality when such use is permissible under federal law, but a county or a municipality is not prohibited from otherwise adopting regulations for the safe operation of PDDs. A PDD may not be operated on the Florida Shared-Use Nonmotorized Trail Network or components of the Florida Greenways and Trails System.⁴⁰

³⁵ Section 316.003(56), F.S.

³⁶ Section 316.2071(1), F.S.

³⁷ Section 316.2071(2), F.S.

³⁸ Section 316.2071(3), F.S.

³⁹ Section 316.2071(4), F.S.

⁴⁰ Section 316.008(7)(b), F.S.

Effect of Proposed Changes

Section 1 of the bill amends s. 316.003(56), F.S., revising the definition of the term “personal delivery device.” Related to the weight of a PDD, the bill revises the maximum weight from 80 pounds, excluding cargo, to a maximum weight established by FDOT rule. Depending on the adopted rule, the maximum weight could be greater than 80 pounds.

Related to the maximum speed, the bill defines a PDD as having a maximum speed of 10 miles per hour or a maximum speed established by the FDOT if the FDOT adopts a rule setting a maximum speed. Depending on if the FDOT adopts a rule, the maximum speed could be greater than 10 miles per hour.

Under the bill, the FDOT is *required* to establish by rule a maximum weight for a PDD. PDDs will be required to comply with the maximum weight requirement to comply with Florida law. The FDOT *may* establish by rule a maximum speed. PDDs will be required to comply with that established maximum speed to comply with Florida law if such a rule is adopted; otherwise the maximum speed is 10 miles per hour.

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. This bill does not impose or increase any tax or fee. It does allocate the new fees imposed on certain EVs in the linked bill SB 140, which fees are to be used to fund the EV Infrastructure Grant Program.

E. Other Constitutional Issues:

None identified.

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

None. This bill does not impose or increase any tax or fee. It does allocate the new fees imposed on certain EVs in the linked bill SB 140, which fees are to be used to fund the EV Infrastructure Grant Program.

B. Private Sector Impact:

Private entities may experience positive fiscal impacts through receipt of grant funds.

Vendors may experience indeterminate positive fiscal impacts associated with providing the related technology, services, and equipment for EV charging infrastructure.

Citizens may experience generally positive impacts associated with increased availability of publicly available EV charging stations. However, those subjected to the fees imposed by SB 140 may object to use of the fees for electric aircraft purposes, as no fees are imposed by that bill on aircraft of any kind.

C. Government Sector Impact:

The FDOT will incur minimal expenses to adopt the required rule for a maximum weight for PDD and may incur expenses if the department decides to also adopt a rule for maximum speed.⁴¹

The DHSMV advises the bill will require modification of its existing procedures, website, driver license handbook, and communications to specific stakeholders, including tax collectors, but the bill “has minimal impact to the Division of Motorist Services.”⁴²

Related to the EV Infrastructure Grant Program the FDOT will incur expenses to establish and administer the program. The FDOT stated that it does not know how many, if any, FTE are needed and did not provide any other cost estimates.⁴³ No funds are appropriated to the FDOT in Fiscal Year 2021-2022 to administer the program. The FDOT may be able to administer portions of the program within existing resources, such as reviewing emerging research and publishing best practices; however, no funds are currently allocated to the program to provide grants. Beginning in Fiscal Year 2023-2024, FDOT can administer the program from increased revenues specifically allocated to the program. Until December 31, 2030, the program will be funded from the increased allocation to the STTF from the additional fees created in SB 140. The additional fees expire on December 31, 2030, as does s. 339.0802, F.S., created in Section 3 of this bill; at that point in time the program would be funded from general STTF funds or other resources.

⁴¹ See FDOT, *Senate Bill 138 Agency Bill Analysis*, December 11, 2020, at p. 8 (on file in the Senate Transportation Committee).

⁴² See DHSMV, *Senate Bill 138 Agency Bill Analysis*, January 14, 2020, at p. 3 (on file in the Senate Transportation Committee).

⁴³ *Id.*

The DACS advises it may need to amend its existing rule relating to methods of sale.⁴⁴ The cost is expected to be absorbed within existing resources.

Local governments (and other eligible public entities) that apply for an receive grant awards for the establishment of EV charging infrastructure will be able to improve local EV infrastructure, provided that they can meet any match requirements.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The FDOT notes the bill provides no date by which it must publish the required prioritization criteria or best practices.⁴⁵

Individuals subjected to the fees imposed by SB 140 may object to use of the fees for electric aircraft purposes, as no fees are imposed by that bill on aircraft of any kind.

Section 1 of the bill amends the definition of a PDD in s. 316.003(56), F.S., and authorizes the FDOT to adopt rules to implement a maximum weight limit and speed for PDDs.

Section 4 of the bill creates s. 339.286, F.S., creating a new grant program related to EV infrastructure and requires the FDOT to adopt rules to administer the program.

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 316.003, 334.046, 339.287, and 366.94.

This bill creates the following sections of the Florida Statutes: 339.0802 and 339.286.

IX. Additional Information:

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

CS/CS by Appropriations Subcommittee on Transportation, Tourism, and Economic Development on March 23, 2021:

The committee substitute amends the title to add “devises.”

CS by Transportation on March 10, 2021:

The committee substitute:

- Adds high-powered charging infrastructure for electric aircraft and semi-trucks as eligible for potential grant awards under the EV Infrastructure Grant Program.

⁴⁴ *Supra* note 31.

⁴⁵ *Supra* note 41.

- Revises law relating to development of a currently required EV Infrastructure Master Plan for development of electric vehicle charging station infrastructure along the State Highway System, requiring a supplemental master plan by July of 2023 and a second status report by December of 2021.
- Requires all of the additional flat fees for vehicle registration imposed on electric and plug-in hybrid electric vehicles by SB 140 to be used to fund the EV Infrastructure Grant Program beginning in Fiscal Year 2023-2024.
- Removes the \$5 million appropriation in non-recurring funds from the STTF to the FDOT to implement the EV Infrastructure Grant Program.

B. Amendments:

None.



210172

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/23/2021	.	
	.	
	.	
	.	

Appropriations Subcommittee on Transportation, Tourism, and
Economic Development (Brandes) recommended the following:

Senate Amendment

In title, delete line 1
and insert:
An act relating to electric vehicles and devices;
amending s.

By the Committee on Transportation; and Senators Brandes and Rodriguez

596-02647-21

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1 A bill to be entitled
 2 An act relating to electric vehicles; amending s.
 3 316.003, F.S.; revising definitions; authorizing the
 4 Department of Transportation to adopt rules; amending
 5 s. 334.046, F.S.; revising the principles relating to
 6 mobility which the department's goals are required to
 7 address; creating s. 339.0802, F.S.; requiring that
 8 certain funds be used for specified purposes relating
 9 to the Electric Vehicle Infrastructure Grant Program,
 10 beginning in a specified year; providing for future
 11 expiration; creating s. 339.286, F.S.; requiring the
 12 department to establish the Electric Vehicle
 13 Infrastructure Grant Program; providing the purpose of
 14 the program; providing for the distribution of grants
 15 to certain entities to install electric vehicle
 16 charging infrastructure; providing grant requirements;
 17 providing requirements for equipment installed using
 18 grant funds; requiring the department to develop and
 19 publish criteria for the prioritization of grant
 20 applications and to maintain a prioritized list of
 21 approved applications; requiring the department to
 22 continually review emerging research, policies, and
 23 standards; requiring the department to publish certain
 24 information; authorizing the department to develop a
 25 model plan for specified entities; requiring the
 26 department to adopt rules; amending s. 339.287, F.S.;
 27 requiring the department to coordinate, develop, and
 28 recommend a supplemental master plan to address
 29 innovations in electric vehicle charging station

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

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30 infrastructure and the development of high-powered
 31 charging infrastructure for electric aircraft;
 32 requiring the department to submit the plan to the
 33 Governor and the Legislature by a specified date;
 34 conforming provisions to changes made by the act;
 35 requiring the department to file a second status
 36 report with the Governor and the Legislature by a
 37 specified date; amending s. 366.94, F.S.; prohibiting
 38 certain rules adopted by the Department of Agriculture
 39 and Consumer Services from requiring specific methods
 40 of sale for electric vehicle charging equipment used
 41 and services provided in this state; providing
 42 effective dates.
 43
 44 Be It Enacted by the Legislature of the State of Florida:
 45
 46 Section 1. Subsections (2) and (56) of section 316.003,
 47 Florida Statutes, are amended to read:
 48 316.003 Definitions.—The following words and phrases, when
 49 used in this chapter, shall have the meanings respectively
 50 ascribed to them in this section, except where the context
 51 otherwise requires:
 52 (2) AUTOCYCLE.—A three-wheeled motorcycle that has two
 53 wheels in the front and one wheel in the back; is equipped with
 54 a roll cage or roll hoops, a seat belt for each occupant,
 55 antilock brakes that meet the requirements of Federal Motor
 56 Vehicle Safety Standard No. 122, a steering mechanism ~~wheel~~, and
 57 seating that does not require the operator to straddle or sit
 58 astride it; and is manufactured in accordance with the

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59 applicable federal motorcycle safety standards in 49 C.F.R. part
60 571 by a manufacturer registered with the National Highway
61 Traffic Safety Administration.

62 (56) PERSONAL DELIVERY DEVICE.—An electrically powered
63 device that:

64 (a) Is operated on sidewalks and crosswalks and intended
65 primarily for transporting property;

66 (b) Has a weight that does not exceed the maximum weight
67 established by Department of Transportation rule ~~Weighs less~~
68 ~~than 80 pounds, excluding cargo;~~

69 (c) Has a maximum speed of 10 miles per hour or, if the
70 Department of Transportation establishes by rule a maximum
71 speed, has a speed that does not exceed that maximum; and

72 (d) Is equipped with technology to allow for operation of
73 the device with or without the active control or monitoring of a
74 natural person.

75
76 A personal delivery device is not considered a vehicle unless
77 expressly defined by law as a vehicle. A mobile carrier is not
78 considered a personal delivery device. The Department of
79 Transportation may adopt rules to implement this subsection.

80 Section 2. Paragraph (c) of subsection (4) of section
81 334.046, Florida Statutes, is amended to read:

82 334.046 Department mission, goals, and objectives.—

83 (4) At a minimum, the department's goals shall address the
84 following prevailing principles.

85 (c) Mobility.—Ensuring a cost-effective, statewide,
86 interconnected transportation system. Improvement of travel
87 choices to ensure mobility includes planning and establishment

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88 of infrastructure for innovative technologies, including
89 electric vehicle charging infrastructure.

90 Section 3. Effective upon SB 140 or other similar
91 legislation being enacted in the 2021 Regular Session or an
92 extension thereof and becoming a law, section 339.0802, Florida
93 Statutes, is created to read:

94 339.0802 Allocation of increased license tax revenues from
95 licensure of electric and hybrid vehicles.—Funds that result
96 from increased revenues to the State Transportation Trust Fund
97 derived under s. 320.08001(2) and (3) must be used as set forth
98 in this section, notwithstanding any other provision of law.
99 Beginning in the 2023-2024 fiscal year, all increased revenues
100 must be used to fund the Electric Vehicle Infrastructure Grant
101 Program created by s. 339.286. This section expires on December
102 31, 2030.

103 Section 4. Section 339.286, Florida Statutes, is created to
104 read:

105 339.286 Electric Vehicle Infrastructure Grant Program.—

106 (1) The department shall establish the Electric Vehicle
107 Infrastructure Grant Program. The purpose of the program is to
108 provide financial assistance to encourage the installation of
109 electric vehicle charging infrastructure.

110 (2) State agencies, public universities, public transit
111 agencies, ports, airports, and local governments, including
112 local housing authorities and libraries, may apply to the
113 department for grants for the purpose of installing publicly
114 available electric vehicle charging infrastructure on public or
115 private property.

116 (3) A grant may be awarded for:

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117 (a) Technical assistance for the development and adoption
 118 of:

119 1. A local or regional plan that establishes an electric
 120 vehicle charging infrastructure;

121 2. Any action plans necessary to address any infrastructure
 122 gaps; and

123 3. Steps necessary to complete the infrastructure plan.

124
 125 A plan must address actions to deploy the necessary
 126 infrastructure in high-density housing areas and low-income to
 127 moderate-income areas.

128 (b) Assistance with the purchase of related equipment and
 129 the costs of installation of that equipment to provide electric
 130 vehicle charging. Such equipment must be capable of collecting
 131 and reporting data, use standard connectors, and be available to
 132 the public.

133 (4) (a) An applicant may apply for a grant for both
 134 technical assistance and equipment purchase and installation. A
 135 grant for technical assistance requires a minimum match of funds
 136 from the applicant of 30 percent of the grant award, but such
 137 match is not required for an applicant that is located in a
 138 fiscally constrained county as described in s. 218.67(1). A
 139 grant for equipment purchase and installation requires a minimum
 140 match of funds from the applicant in the amount of 60 percent of
 141 the total project cost for alternating-current, Level 2 charging
 142 infrastructure; 20 percent of the total project cost for direct-
 143 current, fast-charging infrastructure; or 20 percent of the
 144 total project cost for high-powered charging infrastructure for
 145 electric aircraft, including, but not limited to, electric

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146 vertical takeoff and landing aircraft, and semi-trucks. The
 147 matching funds must be from nonstate resources, but may include
 148 private funds provided through a partnership with a private
 149 entity or in-kind contributions such as the donation of
 150 equipment, services, or land or use of land for establishment of
 151 the electric vehicle charging infrastructure. Grant funds may
 152 not subsidize the cost for the use of electricity. Twenty
 153 percent of the funds available under the grant program must be
 154 reserved for applicants or projects in fiscally constrained
 155 counties as described in s. 218.67(1). An applicant may partner
 156 with a private sector entity to install charging infrastructure
 157 on private property in the same county or local jurisdiction as
 158 the applicant.

159 (b) The department shall develop and publish criteria for
 160 prioritizing the grant applications and shall maintain a
 161 prioritized list of approved grant applications. The prioritized
 162 list must include recommended funding levels for each
 163 application and, if staged implementation is appropriate, must
 164 provide funding requirements for each stage. Grants must be
 165 prioritized based on the extent to which the activities of the
 166 grant will encourage growth in the use of electric vehicles and
 167 increase the availability of charging locations along evacuation
 168 routes. A grant for equipment purchase and installation that
 169 will immediately and most effectively serve those who currently
 170 own or operate electric vehicles may receive priority.

171 (5) The department shall continually review emerging
 172 research, policies, and standards related to electric vehicle
 173 infrastructure and innovations in the use of electric vehicles.
 174 Using such information, the department shall publish best

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175 practices for the establishment of electric vehicle charging
 176 infrastructure, model infrastructure plan development and
 177 components, and other significant information for the
 178 implementation and use of electric vehicle charging
 179 infrastructure. The department may develop a model plan that
 180 state agencies, public universities, public transit agencies,
 181 ports, airports, and local governments may use as a guide to
 182 establish an electric vehicle charging infrastructure plan.

183 (6) The department shall adopt rules to administer this
 184 section.

185 Section 5. Subsection (2) of section 339.287, Florida
 186 Statutes, is amended to read:

187 339.287 Electric vehicle charging stations; infrastructure
 188 plan development.—

189 (2) (a) The department shall coordinate, develop, and
 190 recommend a master plan and a supplemental master plan for
 191 current and future plans for the development of electric vehicle
 192 charging station infrastructure along the State Highway System,
 193 as defined in s. 334.03(24). The plans must include
 194 recommendations for legislation and may include other
 195 recommendations as determined by the department.

196 1. The department shall develop the recommended master plan
 197 and submit the recommended master plan ~~it~~ to the Governor, the
 198 President of the Senate, and the Speaker of the House of
 199 Representatives by July 1, 2021. The plan must include
 200 recommendations for legislation and may include other
 201 recommendations as determined by the department.

202 2. The department shall submit the recommended supplemental
 203 master plan to the Governor, the President of the Senate, and

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204 the Speaker of the House of Representatives by July 1, 2023. The
 205 supplemental master plan must address innovations in electric
 206 vehicle charging station infrastructure occurring since the
 207 submission of the recommended master plan and the development of
 208 high-powered charging infrastructure for electric aircraft. The
 209 supplemental master plan also must make recommendations related
 210 to charging station infrastructure along the State Highway
 211 System and at airports, seaports, and other ports in light of
 212 these innovations.

213 (b) The department, in consultation with the Public Service
 214 Commission and the Office of Energy within the Department of
 215 Agriculture and Consumer Services, and any other public or
 216 private entities as necessary or appropriate, shall be primarily
 217 responsible for the following goals and objectives in developing
 218 the plans plan:

219 1. Identifying the types or characteristics of possible
 220 locations for electric vehicle charging station infrastructure
 221 along the State Highway System to support a supply of electric
 222 vehicle charging stations that will:

- 223 a. Accomplish the goals and objectives of this section;
- 224 b. Support both short-range and long-range electric vehicle
- 225 travel;
- 226 c. Encourage the expansion of electric vehicle use in this
- 227 state; and
- 228 d. Adequately serve evacuation routes in this state.

229 2. Identifying any barriers to the use of electric vehicles
 230 and electric vehicle charging station infrastructure both for
 231 short-range and long-range electric vehicle travel along the
 232 State Highway System.

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233 3. Identifying an implementation strategy for expanding
234 electric vehicle and charging station infrastructure use in this
235 state.

236 4. Quantifying the loss of revenue to the State
237 Transportation Trust Fund due to the current and projected
238 future use of electric vehicles in this state and summarizing
239 efforts of other states to address such revenue loss.

240 (c) The Public Service Commission, in consultation with the
241 department and the Office of Energy within the Department of
242 Agriculture and Consumer Services, and any other public or
243 private entities as necessary or appropriate, shall be primarily
244 responsible for the following goals and objectives in developing
245 the plans ~~plan~~:

246 1. Projecting the increase in the use of electric vehicles
247 in this state over the next 20 years and determining how to
248 ensure an adequate supply of reliable electric vehicle charging
249 stations to support and encourage this growth in a manner
250 supporting a competitive market with ample consumer choice.

251 2. Evaluating and comparing the types of electric vehicle
252 charging stations available at present and which may become
253 available in the future, including the technology and
254 infrastructure incorporated in such stations, along with the
255 circumstances within which each type of station and
256 infrastructure is typically used, including fleet charging, for
257 the purpose of identifying any advantages to developing
258 particular types or uses of these stations.

259 3. Considering strategies to develop this supply of
260 charging stations, including, but not limited to, methods of
261 building partnerships with local governments, other state and

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262 federal entities, electric utilities, the business community,
263 and the public in support of electric vehicle charging stations.

264 4. Identifying the type of regulatory structure necessary
265 for the delivery of electricity to electric vehicles and
266 charging station infrastructure, including competitive neutral
267 policies and the participation of public utilities in the
268 marketplace.

269 (d) The Public Service Commission, in consultation with the
270 Office of Energy within the Department of Agriculture and
271 Consumer Services, shall review emerging technologies in the
272 electric and alternative vehicle market, including alternative
273 fuel sources.

274 (e) The department, the Public Service Commission, and the
275 Office of Energy within the Department of Agriculture and
276 Consumer Services may agree to explore other issues deemed
277 necessary or appropriate for purposes of the plans ~~report~~
278 required by ~~the~~ paragraph (a).

279 (f) By December 1, 2021 ~~December 1, 2020~~, the department
280 shall file a second status report with the Governor, the
281 President of the Senate, and the Speaker of the House of
282 Representatives containing any preliminary recommendations,
283 including recommendations for legislation.

284 Section 6. Section 366.94, Florida Statutes, is amended to
285 read:

286 366.94 Electric vehicle charging stations.—

287 (1) The provision of electric vehicle charging to the
288 public by a nonutility is not the retail sale of electricity for
289 the purposes of this chapter. The rates, terms, and conditions
290 of electric vehicle charging services by a nonutility are not

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291 subject to regulation under this chapter. This section does not
292 affect the ability of individuals, businesses, or governmental
293 entities to acquire, install, or use an electric vehicle charger
294 for their own vehicles.

295 (2) The Department of Agriculture and Consumer Services
296 shall adopt rules to provide definitions, methods of sale,
297 labeling requirements, and price-posting requirements for
298 electric vehicle charging stations to allow for consistency for
299 consumers and the industry. Rules implemented under this
300 subsection may not require specific methods of sale for electric
301 vehicle charging equipment used in, and electrical vehicle
302 charging services provided in, this state.

303 (3) (a) It is unlawful for a person to stop, stand, or park
304 a vehicle that is not capable of using an electrical recharging
305 station within any parking space specifically designated for
306 charging an electric vehicle.

307 (b) If a law enforcement officer or parking enforcement
308 specialist finds a motor vehicle in violation of this
309 subsection, the officer or specialist shall charge the operator
310 or other person in charge of the vehicle in violation with a
311 noncriminal traffic infraction, punishable as provided in s.
312 316.008(4) or s. 318.18.

313 Section 7. Except as otherwise expressly provided in this
314 act, this act shall take effect July 1, 2021.



The Florida Senate

Committee Agenda Request

To: Senator George Gainer, Chair
Appropriations Subcommittee on Transportation, Tourism, and Economic
Development

Subject: Committee Agenda Request

Date: March 15, 2021

I respectfully request that **Senate Bill # 138**, relating to Electric Vehicles, be placed on the:

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

A handwritten signature in black ink, appearing to read "Jeff Brandes", written over a horizontal line.

Senator Jeff Brandes
Florida Senate, District 24

THE FLORIDA SENATE
APPEARANCE RECORD

3/23/21

Meeting Date

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

138

Bill Number (if applicable)

Topic ELECTRIC VEHICLES

Amendment Barcode (if applicable)

Name LENA JUAREZ

Job Title PRESIDENT

Address PO BOX 10390

Phone 8502128370

Street

TALLAHASSEE FL 32302

Email lenaej@assx.com

City

State

Zip

Speaking: For Against Information

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

Representing CHARGEPOINT

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
APPEARANCE RECORD

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

3/23/21

Meeting Date

SB 138

Bill Number (if applicable)

Topic Electric Vehicles

Amendment Barcode (if applicable)

Name JEFFREY STARKER

Job Title President, CAPITAL ALLIANCE GROUP

Address 106 E Colley Ave # 1110

Phone 850 224 1000

Street

TCH, FL 32301

City

State

Zip

Email JEFFREY@CAPITALALLIANCEGROUP.COM

Speaking: For Against Information

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

Representing TESLA

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 Subcommittee on Transportation, Tourism, and Economic Development

BILL: PCS/CS/SB 140 (117190)

INTRODUCER: Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Transportation Committee; and Senator Brandes

SUBJECT: Fees/Electric Vehicles

DATE: March 25, 2021 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Vickers	TR	Fav/CS
2.	Wells	Hrdlicka	ATD	Recommend: Fav/CS
3.			AP	

Please see Section IX. for Additional Information:
COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 140 imposes flat fees by weight, in addition to existing license taxes, for electric vehicles beginning July 1, 2021, and increasing January 1, 2025. The bill likewise imposes an additional flat fee for plug-in hybrid electric vehicles, which also increases on January 1, 2025. The bill authorizes any person or entity registering an electric or plug-in hybrid electric vehicle to renew the registration biennially in accordance with current law.

These fees are contingent upon passage of a linked bill, SB 138, which in part creates the Electric Vehicle Infrastructure Grant Program within the Florida Department of Transportation (FDOT) to provide financial assistance to encourage the installation of publicly-available electric vehicle charging infrastructure on public or private property. That bill requires 64 percent of the additional flat fees imposed to be deposited into the State Transportation Trust Fund (STTF) to be used to fund the grant program.

The other 36 percent of the additional flat fee must be allocated to the county where the vehicle is registered. Until June 30, 2024, the county must use the fees to provide publically available electrical vehicle charging infrastructure and related equipment. Beginning July 1, 2024, allocation must be distributed by the Department of Revenue to the county and the municipalities within the county proportionate to the distributions of local option fuel taxes. These funds must be used for transportation expenditures, the same as the current uses for the local option fuel taxes.

The fees expire on December 31, 2030.

The bill takes effect July 1, 2021, but only if SB 138 or similar legislation is enacted.

II. Present Situation:

Electric and Hybrid Vehicles

Electric vehicles (EVs) offer a readily available and cleaner fuel source, with higher fuel efficiency and improved air quality compared to vehicles with internal combustion engines. Increasing interest in EV use is driven by higher gas prices and greenhouse gas emission concerns, but their relative high cost compared to conventional fuel-powered vehicles and their relative limited range have restricted the commercial viability of EVs.¹ However, advancements in EV-related technology are continuing, EV manufacturing is rising, and EV prices have been dropping.²

Types of EVs

The U.S. Department of Energy's Alternative Fuels Data Center (AFDC) uses the term "electric-drive vehicles" to collectively refer to hybrid electric vehicles (HEVs), plug-in hybrid electric vehicles (PHEVs), and all-electric vehicles (AEVs). According to the AFDC:³

- HEVs are primarily powered by an internal combustion engine that runs on conventional or alternative fuel and an electric motor that uses energy stored in a battery. The battery is charged through regenerative braking and by the internal combustion engine and is not plugged in to charge.
- PHEVs are powered by an internal combustion engine that can run on conventional or alternative fuel and an electric motor that uses energy stored in a battery. The vehicle can be plugged in to an electric power source to charge the battery.
- AEVs use a battery to store the electric energy that powers the motor. AEV batteries are charged by plugging the vehicle in to an electric power source. AEVs are also referred to as battery electric vehicles or BEVs.

For purposes of vehicle registration, Florida law currently defines the term "electric vehicle" to mean "a *motor vehicle* that is powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electrical current."⁴

Florida EV Infrastructure Master Plan Status Report

The 2020 Legislature enacted s. 339.287, F.S., directing the FDOT, in consultation with the Public Service Commission and the Office of Energy within the Department of Agriculture and Consumer Services (DACCS), to develop and recommend a master plan for current and future

¹ See Federal Highway Administration, *FHWA NHTS Brief, Electric Vehicle Feasibility*, July 2016, pp. 1-2, available at <http://nhts.ornl.gov/briefs/EVFeasibility20160701.pdf> (last visited March 16, 2021).

² *Id.* at p. 2.

³ See AFDC, *Hybrid and Plug-In Electric Vehicles*, available at <https://www.afdc.energy.gov/vehicles/electric.html> (last visited March 16, 2021).

⁴ Section 320.01(36), F.S.

plans for the development of EV charging station infrastructure along the State Highway System.⁵ The recommended master plan must be developed and submitted by July 1, 2021. As also required, the FDOT submitted a preliminary status report in December of 2020.⁶

Preliminary recommendations in the status report contain 12 areas of focus, with potential strategies and action items categorized by potential action type (by executive order, legislative, and/or agency action) and potential lead and coordinating agencies identified.⁷

In accordance with the 2020 law, the status report reviews emerging technologies in the electric and alternative vehicle market and sets out the following preliminary findings:⁸

- With respect to EV technologies:
 - PHEVs have a relatively short range on a full battery (~40 miles). Once expired, the internal combustion engine automatically starts, so PHEVs are not limited in range by available electricity.
 - BEVs have a 40-300 mile range, depending on the vehicle make and model, which is a primary consideration for long-range travel and evacuations.
- With respect to EV technology trends:
 - The trend is toward increased battery power density, increased battery lifetime (recharge cycle), and higher battery voltages.
 - BEV historical battery cost has decreased from ~\$1,175 per kWh⁹ in 2010 to ~\$375 per kWh in 2015 and is forecasted to decrease further to ~\$160 in 2020 and to ~\$100 in 2025.
 - BEV historical range has increased from ~75 miles in 2010 to ~160 miles in 2015 and is forecasted to increase further to 250 miles in 2020 and ~450 miles in 2025.

As required, the report also evaluates and compares EV charging stations available at present and which may become available, key findings of which are summarized in part in the below table:

EVSE ¹⁰ Type	Supply Voltage	Power Level	Charge Rate (miles/hour)	Use cases
Level 1	120V (toaster)	1 -18 kW	3 – 7	Home/overnight
Level 2	208-240V (clothes dryer)	3.3 – 19.2 7.7 kW typical	10-60 26	Home/work Destination charging
DC Fast Charger	480V (commercial HVAC unit)	50 kW 150 Kw 350Kw	175 500 1,200	Roadside/travel Emergency charging

The report indicates that Level 1 chargers are currently obsolete for commercial purposes, Level 2 chargers are currently dominant for commercial purposes, and DC fast chargers are the

⁵ Chapter 2020-21, s. 3, Laws of Florida.

⁶ FDOT, *EV Infrastructure Master Plan Status Report*, December 1, 2020, available at https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/planning/fto/evmp-status.pdf?sfvrsn=ac348cf4_8 (last visited March 16, 2021).

⁷ These recommendations are set out in table form for ease of review at *id.* at p. 15.

⁸ *Supra* note 8 at p. 3.

⁹ Per kilowatt hour.

¹⁰ The report refers to EV charging equipment using an industry term, electric vehicle supply equipment or EVSE.

most applicable for long-range travel and evacuations.¹¹ Future EVSE technologies for fleet and passenger operations include higher-power charging, up to 350 kW with current standards, extreme fast charging for medium and heavy duty applications, and wireless power transfer.¹²

EV Registration, Market Share, and State Transportation Trust Fund Revenue Impacts

Currently, an electric vehicle pays the same motor vehicle license tax as non-electric vehicles.¹³ Generally, registration fees differ based on factors such as the type of vehicle and its weight, with fees ranging, for example, between \$14.50 and \$32.50 annually for light-duty vehicles and from \$60.75 to \$1,322 for heavy trucks and truck tractors.¹⁴

The EV Infrastructure Master Plan status report includes projections of the increase in the use of EVs in Florida over the next 20 years, which in part provides data¹⁵ on existing EV market adoption in Florida.

- The report concludes that BEVs (44,068) and PHEVs (22,617) currently total just 0.41 percent of the 16,529,219 total light-duty vehicle registrations in Florida.¹⁶
- The report projects conservative, moderate, and aggressive growth scenarios for light-duty EV sales, projecting a respective 10, 20, and 35 percent growth in sales by 2040.¹⁷
- Respective of the growth scenarios, projections of negative net revenue loss to the STTF of 8.4, 16.6, and 30 percent by the same year.¹⁸

Among the most common potential strategies for mitigation of revenue loss from increased EV use in other states, the report notes a fee in addition to any existing registration fee, which may or may not be tied to inflation. According to the report, 26 states impose such a fee with a range in cost of \$32.50 to \$213.88 annually.¹⁹

Linked Legislation

SB 138, linked to this bill, directs the Florida Department of Transportation (FDOT) to establish the Electric Vehicle Infrastructure Grant Program to provide financial assistance to encourage the installation of publicly-available electric vehicle charging infrastructure for electric vehicles, including, but not limited to, electric semi-trucks and electric aircraft, on public or private property.

The bill authorizes state agencies, public universities, public transit agencies, ports, airports, and local governments to apply to the FDOT for grants for technical assistance for the development

¹¹ *Supra* note 8 at p. 4.

¹² *Id.* For a map of existing publicly accessible Level 2 station locations (773), DC fast charger stations (59), and locations funded by the Florida Department of Environmental Protection from the VW Settlement (27), *see* p. 16.

¹³ Section 320.08001, F.S.

¹⁴ Section 320.08, F.S.

¹⁵ The source is vehicle registration data as of July 28, 2020, provided to the FDOT by the Florida Department of Highway Safety and Motor Vehicles. *Supra* note 8 at p. 6.

¹⁶ *Supra* note 8 at p. 6. HEVs are not included as part of the 0.41 percent of the total light-duty vehicle registrations. HEVs do not plug in to an electric power source to charge batteries, using regenerative braking instead.

¹⁷ *Id.*

¹⁸ *Supra* note 8 at p. 7.

¹⁹ *Id.*

and adoption of local or regional plans establishing charging infrastructure and for assistance with the purchase of related equipment and costs of installation. The bill sets out required matching funds and sources and authorizes an applicant to partner with a private-sector entity to install charging infrastructure on private property in the jurisdiction of the applicant.

The FDOT is directed to develop and publish criteria for prioritizing applications and maintain a prioritized list of approved grant applications; continually review emerging research, policies, and standards relating to electric vehicle charging infrastructure; publish best practices relating to such infrastructure; and adopt rules to administer the new provisions.

Contingent upon passage of this bill, CS/SB 138 creates s. 339.0802, F.S., requiring the FDOT to use the funds resulting from increased revenues to the STTF from the additional fees imposed on EVs by this bill to fund the EV Infrastructure Grant Program beginning in Fiscal Year 2023-2024.

III. Effect of Proposed Changes:

Section 1 amends s. 320.08001, F.S., imposing annual flat fees in addition to existing license taxes imposed by s. 320.08, F.S., as follows:

- For “electric vehicles” weighing less than 10,000 pounds, a flat fee of \$135 beginning July 1, 2021, increasing to \$150 beginning January 1, 2025.
- For “electric vehicles” weighing 10,000 pounds or more, \$235 beginning July 1, 2021, increasing to \$250 beginning January 1, 2025.
- For “plug-in hybrid electric vehicles,” a \$35 flat fee beginning July 1, 2021, increasing to \$50 beginning January 1, 2025.

The bill exempts from the fees a low-speed, electric, or plug-in hybrid electric vehicle that uses a battery storage system of up to 5 kilowatt hours. This appears to exclude vehicles such as golf carts.

The bill authorizes any person or entity registering an electric or plug-in hybrid electric vehicle to renew the registration biennially in accordance with current law.

Of the proceeds of the additional flat fee, 64 percent must be deposited into the STTF and 36 percent must be allocated to the county where the vehicle is registered. Beginning in Fiscal Year 2023-2024, the funds deposited into the STTF would be allocated under SB 138 to fund the EV Infrastructure Grant Program.

Of the portion of fees allocated to counties, until June 30, 2024, the Department of Highway Safety and Motor Vehicles, which collects motor vehicle license tax, must distribute the funds to the tax collector of the county where the vehicle was registered for use by the county commission for providing publically available EV charging infrastructure and related equipment.

Beginning July 1, 2024, the Department of Highway Safety and Motor Vehicles must transfer the county funds to the Department of Revenue to distribute to the appropriate county commission and municipalities within the county in proportion to the previous month’s distribution of local

option fuel taxes.²⁰ Local option fuel tax revenues are transferred to the Local Option Fuel Tax Trust Fund, and are distributed monthly by the Department of Revenue pursuant to law to counties and municipalities. The portion of the fees distributed under this bill must be used by the local governments for transportation expenditures. Currently, transportation expenditures include:²¹

- Public transportation operations and maintenance;
- Roadway and right-of-way maintenance and equipment, and related storage for such equipment;
- Roadway and right-of-way drainage;
- Street lighting installation, operation, maintenance, and repair;
- Traffic signs and engineering, signalization, and pavement markings, installation, operation, maintenance, and repair;
- Bridge maintenance and operation; and
- Debt service and current expenditures for transportation capital projects.

Section 2 eliminates the fees on December 31, 2030, the same date of expiration for the allocation made in SB 138.

Section 3 provides the bill takes effect July 1, 2021, but only if SB 138 or similar legislation is enacted.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Article VII, s. 19, of the Florida Constitution requires that a new state tax or fee, as well as an increased state tax or fee, must be approved by two-thirds of the membership of each house of the Legislature and must be contained in a separate bill that contains no other subject. Article VII, s. 19(d)(1), of the Florida Constitution defines “fee” to mean “any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.”

²⁰ Section 336.025, F.S., authorizes the levy of local option fuel tax on motor fuel and diesel fuel.

²¹ Section 336.025(7), F.S.

The bill imposes new fees for registration of the specified electric vehicles and contains no other subject. The bill requires approval by two-thirds of the membership of each house of the Legislature.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill imposes the specified flat fees, in addition to current license taxes, for annual registration of the identified electric vehicles. The Revenue Estimating Conference has not yet met to estimate the impact of this bill.

In general, motor vehicle license taxes are currently first deposited into the District Capital Outlay and Debt Service Trust Fund with the remaining distributed to the STTF. The bill directs 64 percent of the additional flat fees for electric vehicles to be deposited into the STTF.

The remaining 36 percent of the flat fees are allocated to counties where the vehicles are registered:

- Until June 30, 2024, to the respective tax collector for the county commission to use for EV charging infrastructure.
- Beginning July 1, 2024, to the Department of Revenue to distribute to the county and any municipalities similar to the distribution of local option fuel taxes for use for transportation expenditures.

B. Private Sector Impact:

Owners of the identified electric vehicles, in addition to current license taxes, will be subject to the following fees:

- For “electric vehicles” weighing less than 10,000 pounds, a flat fee of \$135 beginning July 1, 2021, increasing to \$150 beginning January 1, 2025.
- For “electric vehicles” weighing 10,000 pounds or more, \$235 beginning July 1, 2021, increasing to \$250 beginning January 1, 2025.
- For “plug-in hybrid electric vehicles,” a \$35 flat fee beginning July 1, 2021, increasing to \$50 beginning January 1, 2025.

These additional flat fees expire on December 31, 2030.

C. Government Sector Impact:

State and local governments²² are expected to experience an indeterminate, positive fiscal impact associated with increased revenues from imposition of the additional flat fees. The extent of the impact is at least in part indeterminate, as the available data does not currently distinguish between electric vehicles by weight. Additionally, the Florida Department of Highway Safety and Motor Vehicles (DHSMV) reports that the market for electric heavy trucks is unknown.²³

The bill presents an indeterminate positive fiscal impact to the STTF due to the increased fees collected and deposited to fund the EV Infrastructure Grant Program established in SB 138.

The DHSMV indicates the bill would present “a significant impact on the Department’s operational resources and resources dedicated to the Motorist Modernization project. Programming would be required in the Florida Realtime Vehicle Information System (FRVIS) and Virtual Office (web-based renewal system) and renewal notices to incorporate the flat fee requirements. FRVIS would have to be modified to require the mandatory collection of the fuel type for all vehicles, including electric and hybrid vehicles (the best method to gather this information is currently unknown).”²⁴

The DHSMV further notes that the majority of the work required will be performed on its motor vehicle system, which is to be replaced as part of the Motorist Modernization Phase II project. “Additional requirements due to changes in law will result in an increase in the complexity and implementation costs.”²⁵

An administrative fiscal impact to the Department of Revenue to distribute the fees beginning July 1, 2024, to counties and municipalities is unknown.

VI. Technical Deficiencies:

Florida law currently defines the term “electric vehicle” for purposes of vehicle registration under ch. 320, F.S., to mean “a motor vehicle that is powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electrical current.” The definition does not distinguish between vehicles solely powered by electric motors or partially powered by electric motors. The definition can be amended to include either all vehicles at least partially powered by an electric motor (which would include BEVs, PHEVs, and HEVs) or only vehicles solely powered by electric motors (only BEVs). Additionally, Florida law does not currently define “plug-in hybrid electric vehicle.”

²² For a description of the distribution of the current base tax, see DHSMV, *Senate Bill 138 Agency Bill Analysis*, January 14, 2020, at p. 3 (on file in the Senate Transportation Committee).

²³ *Id.* at p. 6.

²⁴ *Id.*

²⁵ *Id.*

VII. Related Issues:

According to the FDOT Tax Primer, the typical Florida driver pays \$297 in motor fuel tax each year - \$101 in federal fuel tax, \$122 in state fuel tax, and \$74 in local fuel tax – for transportation related projects. “These amounts equate to approximately 2.3 cents per mile.”²⁶

VIII. Statutes Affected:

This bill substantially amends section 320.08001 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/CS by Appropriations Subcommittee on Transportation, Tourism, and Economic Development on March 23, 2021:

The committee substitute:

- Revises how the proceeds of the additional flat fees are to be distributed. A portion is retained in the State Transportation Trust Fund (64 percent) and a portion is allocated to the county where the vehicle was registered (36 percent).
- Until June 30, 2024, counties must use the funds for electric vehicle charging infrastructure.
- Beginning July 1, 2024, the county's share is shared between the county and municipalities in the county based on local option fuel tax collections and the funds must be used for transportation expenditures.

CS by Transportation on March 10, 2021:

The committee substitute authorizes any person or entity registering an electric or plug-in hybrid electric vehicle to renew the registration biennially in accordance with current law.

- B. **Amendments:**

None.

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

²⁶ FDOT, *Florida's Transportation Tax Sources, A Primer 2021*, Appendix 6, question 5, available at <https://fdotwp1.dot.state.fl.us/FMSupportApps/Documents/prs/Primer.pdf> (last visited March 24, 2021).



490740

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/23/2021	.	
	.	
	.	
	.	

Appropriations Subcommittee on Transportation, Tourism, and Economic Development (Brandes) recommended the following:

Senate Amendment

Delete lines 50 - 52
and insert:

(5) Of the proceeds of the additional flat fees imposed under subsections (2) and (3), 64 percent shall be deposited into the State Transportation Trust Fund and 36 percent shall be allocated to the county where the vehicle is registered.

(a) Until June 30, 2024, the department shall distribute the funds allocated to a county to the respective tax collector



490740

11 for use by the Board of County Commissioners for the purpose of
12 providing publicly available electric vehicle charging
13 infrastructure and related equipment.

14 (b) Beginning July 1, 2024, the department shall transfer
15 the funds allocated to a county to the Department of Revenue for
16 distribution to the Board of County Commissioners and
17 municipalities within the county in proportion to the previous
18 month's distribution of the local option fuel taxes authorized
19 under section 336.025(1)(a). Local governments shall utilize
20 moneys received pursuant to this paragraph for transportation
21 expenditures, as defined in section 336.025(7).

By the Committee on Transportation; and Senator Brandes

596-02650-21

2021140c1

A bill to be entitled

An act relating to fees; amending s. 320.08001, F.S.; creating additional fees for electric vehicles; creating a license tax and an additional fee for plug-in hybrid electric vehicles; authorizing persons and entities to biennially renew vehicle registrations for electric vehicles and plug-in hybrid electric vehicles; providing for the distribution of proceeds from the additional fees; providing that certain vehicles are exempt from specified fees; providing for the future expiration and reversion of specified statutory text; providing a contingent effective date.

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

Section 1. Section 320.08001, Florida Statutes, is amended to read:

320.08001 Low-speed, electric, and plug-in hybrid electric vehicles; license tax.-

(1) The license tax for a ~~an electric vehicle or~~ low-speed vehicle is the same as that prescribed in s. 320.08 for a vehicle that is not electrically powered.

(2) (a) The license tax for an electric vehicle weighing less than 10,000 pounds is the same as that prescribed in s. 320.08 for a vehicle that is not electrically powered, plus an additional \$135 flat fee. Beginning on January 1, 2025, the license tax for an electric vehicle weighing less than 10,000 pounds is the same as that prescribed in s. 320.08 for a vehicle that is not electrically powered, plus an additional \$150 flat

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

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fee.

(b) The license tax for an electric vehicle weighing 10,000 pounds or more is the same as that prescribed in s. 320.08 for a vehicle that is not electrically powered, plus an additional \$235 flat fee. Beginning on January 1, 2025, the license tax for an electric vehicle weighing 10,000 pounds or more is the same as that prescribed in s. 320.08 for a vehicle that is not electrically powered, plus an additional \$250 flat fee.

(3) The license tax for a plug-in hybrid electric vehicle is the same as that prescribed in s. 320.08 for a vehicle that is not partially powered by a rechargeable energy-storage system, plus an additional \$35 flat fee. Beginning on January 1, 2025, the license tax for a plug-in hybrid electric vehicle is the same as that prescribed in s. 320.08 for a vehicle that is not partially powered by a rechargeable energy-storage system, plus an additional \$50 flat fee.

(4) Any person or entity that registers a vehicle identified in subsection (2) or subsection (3) may renew the vehicle registration biennially in accordance with s. 320.07(2) (b).

(5) The proceeds of the additional flat fees imposed under subsections (2) and (3) must be deposited into the State Transportation Trust Fund.

(6) A low-speed, electric, or plug-in hybrid electric vehicle that uses a battery storage system of up to 5 kilowatt hours is exempt from any fee imposed under this section.

Section 2. The amendments made by this act to s. 320.08001, Florida Statutes, expire on December 31, 2030, and the text of that section shall revert to that in existence on June 30, 2021,

Page 2 of 3

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59 except that any amendments to such text enacted other than by
60 this act must be preserved and continue to operate to the extent
61 that such amendments are not dependent upon the portions of text
62 which expire pursuant to this section.

63 Section 3. This act shall take effect July 1, 2021, but
64 only if SB 138 or similar legislation takes effect, if such
65 legislation is adopted in the same legislative session or an
66 extension thereof and becomes a law.



The Florida Senate

Committee Agenda Request

To: Senator George Gainer, Chair
Committee on Appropriations Subcommittee on Transportation, Tourism, and
Economic Development

Subject: Committee Agenda Request

Date: March 15, 2021

I respectfully request that **Senate Bill # 140**, relating to Fees/Electric Vehicles, be placed on the:

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

A handwritten signature in black ink, appearing to read "Jeff Brandes", with a long horizontal line extending to the right.

Senator Jeff Brandes
Florida Senate, District 24

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

3/23/2021

Meeting Date

SB 140

Bill Number (if applicable)

490740

Amendment Barcode (if applicable)

Topic Fees/ Electric Vehicles

Name Bob McKee

Job Title Deputy Director of Public Policy

Address 100 S Monroe

Street

Tallahassee

City

FL

State

32308

Zip

Phone (850) 922-4300

Email bmckee@flcounties.com

Speaking: For Against Information

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

Representing Florida Association of Counties

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.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

3/23/21
Meeting Date

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

140
Bill Number (if applicable)

Topic ELECTRIC VEHICLES / FEES

Amendment Barcode (if applicable)

Name LENA JUAREZ

Job Title PRESIDENT

Address PO BOX 10390

Phone 850 212 8330

TALLAHASSEE FL 32302
City State Zip

Email lena.juarez.com

Speaking: For Against Information

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

Representing CHARGEPOINT

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 Subcommittee on Transportation, Tourism, and Economic Development

BILL: SB 1104

INTRODUCER: Senator Rodriguez

SUBJECT: Division of Library and Information Services

DATE: March 22, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Candelaria</u>	<u>McVaney</u>	<u>GO</u>	<u>Favorable</u>
2.	<u>Wells</u>	<u>Hrdlicka</u>	<u>ATD</u>	<u>Favorable</u>
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 1104 consolidates and clarifies the responsibilities and duties of the Division of Library and Information Services (division) within the Department of State, in part to better reflect current practices.

The bill requires the certification of funds provided to libraries to be given to the Chief Financial Officer *annually* – as opposed to by December 1 of each year, as provided under current law. The bill repeals responsibilities and duties that the division does not currently undertake, including efforts to preserve, collect, process, transcribe, index, and research the oral history of Florida government and the preservation of duplicate records. The bill also repeals s. 257.34, F.S., relating to the creation, duties, and responsibilities of the Florida International Archive and Repository. The division has adequate authority pursuant to s. 257.35, F.S., relating to the Florida State Archives, to continue to perform this function.

The bill specifies that the division is responsible for setting standards and guidelines for the retention, storage, security, and disposal of records and clarifies the division’s specific responsibilities when records are stored by other agencies in a record center it operates. The bill also specifies the role and responsibility of an agency’s records management liaison officer.

Related to library cooperative grants, the bill removes the cap of \$400,000 on an annual grant from the state available to the administrative unit of a library cooperative for the purpose of sharing library resources. With the removal of the statutory cap of \$400,000, the bill will have an indeterminate impact for multitype library cooperatives who seek funds under the library cooperative grant program.

The bill will take effect on July 1, 2021.

II. Present Situation:

The Division of Library and Information Services – Allocation of State Funds

State funds allocated to libraries must be expended only for library purposes in the manner prescribed by the division. Such funds may not be expended for the purchase or construction of a library building or library quarters except such funds specifically appropriated for construction purposes.¹

The division must establish operating standards under which libraries and library cooperatives will be eligible to receive state funds.² The division is required to certify to the Chief Financial Officer the amount of funds paid to each county, municipality, special district, or special tax district on or before December 1 of each year.³

The Florida International Archive and Repository and The Florida State Archives

Section 257.34, F.S., establishes the Florida International Archive and Repository within the division for the preservation of public records,⁴ including manuscripts, international judgements involving disputes between domestic and foreign business, and all other public matters that the Department of State or the Florida Council of International Relations deems relevant to international issues. The division is charged with:

- Organizing and administering the Florida International Archive and Repository;
- Preserving and administering records that are transferred to its custody;⁵
- Permitting records to be inspected and copied at reasonable times and under the supervision of the division;⁶
- Assisting the records and information management program in the determination of retention values for records;
- Cooperating with and assisting state institutions, departments, agencies, counties, municipalities, and individuals engaged in internationally related activities;
- Providing a public research room where, under rules established by the division, the materials in the international archive and repository may be studied;
- Conducting, promoting, and encouraging research in international trade, government, and culture and maintaining a program of information, assistance, coordination, and guidance for public officials, educational institutions, libraries, the scholarly community, and the general public engaged in such research;
- Cooperating with and assisting agencies, libraries, institutions, and individuals in projects concerned with internationally related issues;
- Preserving original materials relating to internationally related issues; and

¹ Section 257.24, F.S.

² Sections 257.15 and 257.41(2), F.S. Section 257.41(2), F.S., further providing that the division must issue a certificate to each library cooperative that meets the standards and rules established.

³ Section 257.22, F.S.

⁴ Public records as defined in s. 119.011, F.S.

⁵ This includes accepting, arranging, and preserving the records according to approved archival and repository practices.

⁶ All public records transferred to the custody of the division are subject to the provisions of s. 119.07(1), F.S.

- Assisting and cooperating with the records and information management program in the training and information program described in s. 257.36(1)(g), F.S.⁷

Section 257.35, F.S., creates the Florida State Archives within the division for the preservation of public records,⁸ manuscripts, and other archival material that have been determined by the division to have sufficient historical or other value to warrant continued preservation and have been accepted by the division for deposit in its custody. The division performs similar duties for the Florida State Archives as it does for the Florida International Archive, including:

- Organizing and administering the Florida State Archives;
- Preserving and administering such records transferred to its custody;⁹
- Permitting records to be inspected and copied at reasonable times and under the supervision of the division;
- Assisting the records and information management program in the determination of retention values for records;
- Cooperating with and assisting state institutions, departments, agencies, counties, municipalities, and individuals engaged in activities in the field of state archives, manuscripts, and history;
- Accepting from any person any paper, book, record, or similar material which in the judgment of the division warrants preservation in the state archives;
- Providing a public research room where, under rules established by the division, the materials in the state archives may be studied;
- Conducting, promoting, and encouraging research in Florida history, government, and culture and maintaining a program of information, assistance, coordination, and guidance for public officials, educational institutions, libraries, the scholarly community, and the general public engaged in such research;
- Cooperating with and assisting agencies, libraries, institutions, and individuals in projects designed to preserve original source materials relating to Florida history, government, and culture;
- Preparing and publishing handbooks, guides, indexes, and other literature directed toward encouraging the preservation and use of the state's documentary resources;
- Encouraging and initiating efforts to preserve, collect, process, transcribe, index, and research the oral history of Florida government; and
- Assisting and cooperating with the records and information management program in the training and information program described in s. 257.36(1)(g), F.S.¹⁰

Records and Information Management

Section 257.36(1), F.S., creates a records management program within the division. The program's purpose is directed to the application of efficient and economical management methods relating to the creation, utilization, maintenance, retention, preservation, and disposal of records.¹¹ The division must establish and operate a records center or centers primarily for the

⁷ Section 257.34(1), F.S.

⁸ Public records as defined in s. 119.011, F.S.

⁹ This includes accepting, arranging, and preserving the records according to approved archival practices.

¹⁰ Section 257.35(1), F.S.

¹¹ Section 257.36(1)(a), F.S.

storage, processing, servicing, and security of public records that must be retained for varying periods of time but that are not required to be retained in an agency's office equipment or space.¹²

The division must create retention schedules which govern when public records may be destroyed or otherwise disposed of.¹³

Section 257.36(1)(g), F.S., requires the division to institute and maintain a training program in: (i) all phases of records and information management to bring approved practices to the attention of all agencies; and (ii) the requirements relating to access to public records under ch. 119, F.S.

Each agency¹⁴ has the duty to cooperate with the division in complying with ch. 257, F.S., and must designate a records management liaison officer. Further, each agency must establish and maintain an active and continuing program for the economical and efficient management of records.¹⁵

Library Cooperatives and Library Cooperative Grants

The Legislature intended that library cooperative programs be established to augment the local library resources with regional and statewide services.¹⁶ A multitype library cooperative (MLC) is a not-for-profit corporation, qualified or registered pursuant to ch. 617, F.S., and in good standing, consisting of two or more libraries under separate governance and of more than one type, including any combination of academic, school, special, state institution, and public libraries as required by s. 257.41(1), F.S.¹⁷

The administrative unit of a library cooperative is eligible to receive an annual grant (library cooperative grant) from the state of not more than \$400,000 for the purpose of sharing library resources. Grant funds may not be used to supplant local funds or other funds. Additionally, a library cooperative must provide from local sources matching cash funds equal to 10 percent of the grant award.¹⁸ Florida's priority for use of the library cooperative grants and matching funds is for the purpose of sharing library resources between members of the Florida Library Information Network.¹⁹ Library cooperative grants and local matching funds must be expended on resource sharing activities and related training, provided services to all Florida Information Network member libraries.

¹² Section 257.36(b), F.S.

¹³ Section 257.36(6), F.S.

¹⁴ Section 257.36(5), F.S., defines "agency," for purposes of this section, to mean any state, county, district, or municipal officer, department, division, bureau, board, commission, or other separate unit of government created or established by law.

¹⁵ See s. 257.36(5), F.S.

¹⁶ Section 257.40, F.S.

¹⁷ Department of State, *Library Cooperative Grant Guidelines*, 2020-2021, at p. 5, <https://dos.myflorida.com/media/702617/cooperativegrantguidelines2020-2021.pdf> (last visited March 5, 2020).

¹⁸ Section 257.42, F.S.

¹⁹ See *supra* note 18 at p. 1.

Florida's five MLCs and their service areas for purpose of the Library Cooperative Grant Program are as follows:

- NEFLIN - Northeast Florida Library Information Network service area includes: Alachua, Baker, Bradford, Brevard, Clay, Columbia, Dixie, Duval, Flagler, Gilchrist, Hamilton, Lafayette, Levy, Madison, Marion, Nassau, Putnam, Seminole, St. Johns, Sumter, Suwannee, Taylor, Union, and Volusia counties.
- PLAN - Panhandle Library Access Network service area includes: Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Okaloosa, Santa Rosa, Wakulla, Walton, and Washington counties.
- SEFLIN - Southeast Florida Library Information Network service area includes: Broward, Martin, Miami-Dade, and Palm Beach counties.
- SWFLN - Southwest Florida Library Network service area includes: Charlotte, Collier, Hendry, Lee, and Monroe counties.
- TBLC - Tampa Bay Library Consortium service area includes: Citrus, DeSoto, Glades, Hardee, Hernando, Highlands, Hillsborough, Indian River, Lake, Manatee, Okeechobee, Orange, Osceola, Pasco, Pinellas, Polk, Sarasota, and St. Lucie counties.²⁰

III. Effect of Proposed Changes:

Section 1 amends s. 257.22, F.S., to provide that the certification of funds by the division to the Chief Financial Officer be made *annually* – as opposed to by December 1 of each year.²¹ The Department of State indicates the division currently must provide two certifications to the Chief Financial Officer. The first is submitted by the statutory deadline of December 1 and contains estimated grant amounts. The second certification is submitted later and reflects the actual final grant amounts. Thus, the bill will allow the division to make one certification of funds.

Section 2 repeals s. 257.34, F.S., relating to the creation, duties, and responsibilities of the Florida International Archive and Repository. The division has adequate authority pursuant to s. 257.35, F.S., relating to the Florida State Archives, to continue to perform this function.

Section 3 amends s. 257.35, F.S., relating to the Florida State Archives, to eliminate the requirement that the division encourage and initiate efforts to preserve, collect, process, transcribe, index, and research the oral history of Florida government. According to the Department of State, these activities have not been undertaken by the department in the past.²²

Section 4 amends s. 257.36, F.S., relating to the records and information management program. The bill specifies that the requirement related to analyzing, developing, establishing, and coordinating standard procedures and techniques of record-making and recordkeeping, includes, but is not limited to, standards and guidelines for retention, storage, security, and disposal of records.

²⁰ *Id.* at p. 2.

²¹ See Department of State, *Senate Bill 1570 Agency Legislative Analysis* (January 22, 2020) (on file with the Senate Committee on Governmental Oversight and Accountability).

²² *Id.*

This section requires an agency's records management liaison officer to serve as the primary point of contact between the agency and the division for records management purposes and to conduct any records management functions assigned by the agency.

This section also clarifies, in certain instances, the division's specific responsibilities when records are stored by other agencies in a storage center operated by the division. This section repeals provisions related to preservation duplicates; the division will no longer be responsible for making and storing preservation duplicates of records. The Department of State indicates that the preservation of duplicates is no longer a function of the division.²³

Finally, this section amends provisions related to the destruction of records. Under current law, the division must notify, by certified mail, the agency that transferred the record to the division when the record is eligible for destruction. The agency has 90 days to respond to request continued retention of the record or authorize its destruction or disposal. Nonresponse passes the title of the record to the division. The bill repeals the requirement that the notice be sent by certified mail and the time period by which the agency must respond.

Section 5 amends s. 257.42, F.S., to remove the cap of \$400,000 on an annual library cooperative grant. Thus, the Legislature will have more discretion in making appropriations for library cooperative grants.

Section 6 amends s. 120.54, F.S., to correct a cross-reference.

Section 7 provides that the act takes effect on July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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.

²³ *Id.* See also s. 92.29, F.S., which provides that photographic reproductions or reproductions through electronic recordkeeping systems made by an agency in the regular course of business shall be admitted and received as evidence similar to the original record.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill does not alter existing, recurring appropriations for library cooperative grants. However, the bill changes how those appropriations may be used. A library cooperative may receive a grant in excess of \$400,000 annually if the bill is enacted.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 257.22, 257.35, 257.36, 257.42, and 120.54.

This bill repeals section 257.34 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.

By Senator Rodriguez

39-01534-21

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1 A bill to be entitled
 2 An act relating to the Division of Library and
 3 Information Services; amending s. 257.22, F.S.;
 4 removing the date by which the division must submit an
 5 annual report regarding the allocation of library
 6 funding to the Chief Financial Officer; repealing s.
 7 257.34, F.S., relating to the Florida International
 8 Archive and Repository; amending s. 257.35, F.S.;
 9 revising the duties and responsibilities of the
 10 division in the administration of the Florida State
 11 Archives; conforming a cross-reference; amending s.
 12 257.36, F.S.; revising the duties and responsibilities
 13 of the division in the administration of the records
 14 and information management program; clarifying
 15 provisions governing the storage of records
 16 transferred to the division for storage; removing the
 17 requirement that the division notify an agency by
 18 certified mail of a record's eligibility for
 19 destruction; deleting a provision that provides for
 20 the title of a record to pass to the division under
 21 specified circumstances; deleting a provision
 22 specifying the effect of a preservation duplicate of a
 23 record; specifying the role and duties of records
 24 management liaison officers; amending s. 257.42, F.S.;
 25 removing a limitation on the annual grant amount that
 26 the administrative unit of a library cooperative may
 27 receive from the state for purposes of sharing library
 28 resources; amending s. 120.54, F.S.; conforming a
 29 cross-reference; providing an effective date.

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

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30
 31 Be It Enacted by the Legislature of the State of Florida:
 32
 33 Section 1. Section 257.22, Florida Statutes, is amended to
 34 read:
 35 257.22 Division of Library and Information Services;
 36 allocation of funds.—Any moneys that may be appropriated for use
 37 by a county, a municipality, a special district, or a special
 38 tax district for the maintenance of a library or library service
 39 shall be administered and allocated by the division ~~of Library~~
 40 ~~and Information Services~~ in the manner prescribed by law. ~~On or~~
 41 ~~before December 1 of each year,~~ The division shall annually
 42 certify to the Chief Financial Officer the amount to be paid to
 43 each county, municipality, special district, or special tax
 44 district.
 45 Section 2. Section 257.34, Florida Statutes, is repealed.
 46 Section 3. Paragraphs (h) and (i) of subsection (1) of
 47 section 257.35, Florida Statutes, are amended to read:
 48 257.35 Florida State Archives.—
 49 (1) There is created within the Division of Library and
 50 Information Services of the Department of State the Florida
 51 State Archives for the preservation of those public records, as
 52 defined in s. 119.011(12), manuscripts, and other archival
 53 material that have been determined by the division to have
 54 sufficient historical or other value to warrant their continued
 55 preservation and have been accepted by the division for deposit
 56 in its custody. It is the duty and responsibility of the
 57 division to:
 58 (h) ~~Encourage and initiate efforts to preserve, collect,~~

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59 ~~process, transcribe, index, and research the oral history of~~
60 ~~Florida government.~~

61 ~~(i)~~ Assist and cooperate with the records and information
62 management program in the training and information program
63 described in s. 257.36(1)(d) ~~257.36(1)(g)~~.

64 Section 4. Section 257.36, Florida Statutes, is amended to
65 read:

66 257.36 Records and information management.—

67 (1) There is created within the Division of Library and
68 Information Services of the Department of State a records and
69 information management program. It is the duty and
70 responsibility of the division to:

71 (a) Establish and administer a records management program
72 directed to the application of efficient and economical
73 management methods relating to the creation, utilization,
74 maintenance, retention, preservation, and disposal of records.

75 (b) Analyze, develop, establish, and coordinate standards,
76 procedures, and techniques of recordmaking and recordkeeping,
77 including, but not limited to, standards and guidelines for
78 retention, storage, security, and disposal of records.

79 (c) Establish and operate a records center or centers
80 primarily for the storage, processing, servicing, and security
81 of public records that must be retained for varying periods of
82 time but need not be retained in an agency's office equipment or
83 space. To this end, the records center shall:

84 ~~(c)~~ ~~Analyze, develop, establish, and coordinate standards,~~
85 ~~procedures, and techniques of recordmaking and recordkeeping.~~

86 1. ~~(d)~~ Ensure the maintenance and security of stored records
87 ~~which are deemed appropriate for preservation.~~

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88 2. ~~(e)~~ Establish safeguards against unauthorized or unlawful
89 removal or loss of stored records.

90 3. ~~(f)~~ Initiate appropriate action to recover stored records
91 removed unlawfully or without authorization.

92 ~~(d)~~ ~~(g)~~ Institute and maintain a training and information
93 program in:

94 1. All phases of records and information management to
95 bring approved and current practices, methods, procedures, and
96 devices for the efficient and economical management of records
97 to the attention of all agencies.

98 2. The requirements relating to access to public records
99 under chapter 119.

100 ~~(e)~~ ~~(h)~~ Make continuous surveys of recordkeeping operations.

101 ~~(f)~~ ~~(i)~~ Recommend improvements in current records management
102 practices, including the use of space, equipment, supplies, and
103 personnel in creating, maintaining, and servicing records.

104 (g) ~~(j)~~ Establish and maintain a program in cooperation with
105 each agency for the selection and preservation of records
106 considered essential to the operation of government and to the
107 protection of the rights and privileges of citizens.

108 ~~(k)~~ ~~Make, or have made, preservation duplicates, or~~
109 ~~designate existing copies as preservation duplicates, to be~~
110 ~~preserved in the place and manner of safekeeping as prescribed~~
111 ~~by the division.~~

112 (2) (a) All records transferred to the division for storage
113 may be held ~~by it~~ in its a records center or centers, to be
114 designated by the division ~~it~~, for such time as in its judgment
115 retention therein is deemed necessary. At such time as it is
116 established by the division, such records as are determined by

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117 it as having historical or other value warranting continued
118 preservation shall be transferred to the Florida State Archives.

119 (b) Title to any record ~~stored~~ ~~detained~~ in any records
120 center operated by the division remains ~~shall remain~~ in the
121 agency transferring such record to the division. When the
122 Legislature transfers any duty or responsibility of an agency to
123 another agency, the receiving agency shall be the custodian of
124 public records with regard to the public records associated with
125 that transferred duty or responsibility, and shall be
126 responsible for the records storage service charges of the
127 division. If an agency is dissolved and the legislation
128 dissolving that agency does not assign an existing agency as the
129 custodian of public records for the dissolved agency's records,
130 then the Cabinet is the custodian of public records for the
131 dissolved agency, unless the Cabinet otherwise designates a
132 custodian. The Cabinet or the agency designated by the Cabinet
133 shall be responsible for the records storage service charges of
134 the division.

135 (c) When a record held in a records center is eligible for
136 destruction, the division shall notify, in writing, ~~by certified~~
137 ~~mail~~, the agency that ~~which~~ transferred the record. The agency
138 shall ~~have 90 days from receipt of that notice to respond by~~
139 ~~requesting continued retention of the record or authorizing~~
140 ~~destruction or disposal of the record. If the agency does not~~
141 ~~respond within that time, title to the record shall pass to the~~
142 ~~division.~~

143 (3) The division may charge fees for supplies and services,
144 including, but not limited to, shipping containers, pickup,
145 delivery, reference, and storage. Fees shall be based upon the

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146 actual cost of the supplies and services and shall be deposited
147 in the Records Management Trust Fund.

148 (4) (a) ~~Any preservation duplicate of any record made~~
149 ~~pursuant to this chapter shall have the same force and effect~~
150 ~~for all purposes as the original record. A transcript,~~
151 ~~exemplification, or certified copy of such preservation~~
152 ~~duplicate shall be deemed, for all purposes, to be a transcript,~~
153 ~~exemplification, or certified copy of the original record.~~

154 ~~(5)~~ For the purposes of this section, the term "agency"
155 means ~~shall mean~~ any state, county, district, or municipal
156 officer, department, division, bureau, board, commission, or
157 other separate unit of government created or established by law.

158 (b) It is the duty of each agency to:

159 1. ~~(a)~~ Cooperate with the division in complying with ~~the~~
160 ~~provisions of this chapter.~~

161 2. and Designate a records management liaison officer to
162 serve as the primary point of contact between the agency and the
163 division for records management purposes and to conduct any
164 records management functions assigned by the agency.

165 3. ~~(b)~~ Establish and maintain an active and continuing
166 program for the economical and efficient management of records.

167 (5) ~~(6)~~ A public record may be destroyed or otherwise
168 disposed of only in accordance with retention schedules
169 established by the division. The division shall adopt reasonable
170 rules not inconsistent with this chapter which shall be binding
171 on all agencies relating to the destruction and disposition of
172 records. Such rules must ~~shall~~ provide, but are not ~~be~~ limited
173 to:

174 (a) Procedures for complying and submitting to the division

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175 records-retention schedules.

176 (b) Procedures for the physical destruction or other

177 disposal of records.

178 (c) Standards for the reproduction of records for security

179 or with a view to the disposal of the original record.

180 Section 5. Section 257.42, Florida Statutes, is amended to

181 read:

182 257.42 Library cooperative grants.—The administrative unit

183 of a library cooperative is eligible to receive an annual grant

184 from the state ~~of not more than \$400,000~~ for the purpose of

185 sharing library resources based upon an annual plan of service

186 and expenditure and an annually updated 5-year, long-range plan

187 of cooperative library resource sharing. Those plans, which must

188 include a component describing how the cooperative will share

189 technology and the use of technology, must be submitted to the

190 ~~division of Library and Information Services of the Department~~

191 ~~of State~~ for evaluation and possible recommendation for funding

192 in the division's legislative budget request. Grant funds may

193 not be used to supplant local funds or other funds. A library

194 cooperative must provide from local sources matching cash funds

195 equal to 10 percent of the grant award.

196 Section 6. Subsection (8) of section 120.54, Florida

197 Statutes, is amended to read:

198 120.54 Rulemaking.—

199 (8) RULEMAKING RECORD.—In all rulemaking proceedings the

200 agency shall compile a rulemaking record. The record shall

201 include, if applicable, copies of:

202 (a) All notices given for the proposed rule.

203 (b) Any statement of estimated regulatory costs for the

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204 rule.

205 (c) A written summary of hearings on the proposed rule.

206 (d) The written comments and responses to written comments

207 as required by this section and s. 120.541.

208 (e) All notices and findings made under subsection (4).

209 (f) All materials filed by the agency with the committee

210 under subsection (3).

211 (g) All materials filed with the Department of State under

212 subsection (3).

213 (h) All written inquiries from standing committees of the

214 Legislature concerning the rule.

215

216 Each state agency shall retain the record of rulemaking as long

217 as the rule is in effect. When a rule is no longer in effect,

218 the record may be destroyed pursuant to the records-retention

219 schedule developed under s. 257.36(5) ~~257.36(6)~~.

220 Section 7. This act shall take effect July 1, 2021.



The Florida Senate

Committee Agenda Request

To: Senator George Gainer, Chair
Appropriations Subcommittee on Transportation, Tourism, and Economic
Development

Subject: Committee Agenda Request

Date: March 9, 2021

I respectfully request that **Senate Bill #1104**, relating to Division of Library and Information Services, be placed on the:

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

A handwritten signature in black ink, appearing to read "Ana Maria Rodriguez".

Senator Ana Maria Rodriguez
Florida Senate, District 39

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

3/23/21

Meeting Date

1104

Bill Number (if applicable)

Topic Division of Library & Information Services

Amendment Barcode (if applicable)

Name Brittany Dover

Job Title Legislative Affairs Director

Address 500 South Bronough Street

Phone 850-245-6509

Street

Tallahassee

FL

32399

Email Brittany.Dover@DOS.myflorida.

City

State

Zip

Speaking: For Against Information

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

Representing Department of State

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.

S-001 (10/14/14)

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 Subcommittee on Transportation, Tourism, and Economic Development

BILL: PCS/SB 1404 (817458)

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

SUBJECT: Cultural and Historical Programs

DATE: March 25, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Ponder</u>	<u>McVaney</u>	<u>GO</u>	Favorable
2.	<u>Wells</u>	<u>Hrdlicka</u>	<u>ATD</u>	Recommend: Fav/CS
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 1404 designates the Museum of Florida History as the official state history museum and makes several changes to the Division of Cultural Affairs and Division of Historical Resources.

The bill renames the “Division of Cultural Affairs” to the “Division of Arts and Culture” and designates the Secretary of State as “Florida’s Chief Arts and Culture Officer.”

To better align the duties of the Division of Arts and Culture and the Division of Historical Resources, the bill transfers the:

- Florida Folklife Program from the Division of Historical Resources to the newly named Division of Arts and Culture; and
- The operation of the Museum of Florida History from the Division of Cultural Affairs to the Division of Historical Resources.

The bill requires the Division of Historical Resources to establish professional standards for the preservation of the collections under state ownership and take appropriate action to foster appreciation of Florida history and culture.

The bill transfers and revises provisions relating to property on loan to museums and property abandoned at museums. The bill revises inventory responsibilities of the Division of Historical

Resources for objects of historical or archaeological value by raising the threshold value or cost of objects in custody to \$1,000 instead of \$500.

The Department of State may experience an indeterminate positive fiscal impact as the reassignment of the Florida Folklife Program brings the program in line with new federal funding program requirements from the National Endowment for the Arts.

The bill takes effect on July 1, 2021.

II. Present Situation:

Official State Emblems

Chapter 15, F.S., statutorily designates official state emblems. To date, there are designations for an official state seal, motto, tree, fruit, beverage, citrus archive, anthem, song, shell, stone, gem, wildflower, play, animal, freshwater fish, saltwater fish, marine mammal and saltwater mammal, butterfly, reptile and saltwater reptile, tortoise, air fair, rodeo, festival, moving image center and archive, litter control symbol, pageant, opera program, renaissance festival, railroad museums, transportation museum, flagship, soil, fiddle contest, band, sports hall of fame, pie, honey, horse, and heritage cattle breed.¹

Department of State

The Department of State (department), created in s. 20.10, F.S., is composed of six divisions: Elections, Historical Resources, Corporations, Library and Information Services, Cultural Affairs, and Administration. The head of the department is the Secretary of State (Secretary).² The Secretary is appointed by the Governor, subject to confirmation by the Senate, and serves at the pleasure of the Governor. The Secretary performs functions conferred by the State Constitution upon the custodian of records.

The department is authorized to create Community Support Organizations for its Divisions of Cultural Affairs,³ Historical Resources,⁴ and Library and Information Services.⁵ Citizen support organizations (CSOs) are statutorily created entities that are generally required to be nonprofit corporations and are authorized to carry out specific tasks in support of public entities or public causes.

The Division of Cultural Affairs

The Division of Cultural Affairs is Florida's designated state arts agency. The division promotes arts and culture as essential to the quality of life for all Floridians. "To promote excellence and encourage access to cultural opportunities, the division provides funding, programs and resources, including grants for: arts in education, local arts agencies, state service organizations,

¹ Sections 15.0301 through 15.0527, F.S.

² Section 20.10, F.S.

³ Section 265.703(1), F.S.

⁴ Section 267.17(1), F.S.

⁵ Section 257.43(1), F.S.

museums, theater, dance, folk arts, literature, media arts, multidisciplinary, music, sponsor/presenter, and visual arts programs and projects.”⁶

The Division of Cultural Affairs also administers the Museum of Florida History and has its offices in the historic Brokaw-McDougall House. “Opened in 1977, the Museum of Florida History collects, preserves, exhibits, and interprets evidence of past and present cultures in Florida, and promotes knowledge and appreciation of this heritage. As the State’s History Museum, it focuses on artifacts and eras unique to Florida’s development and on roles that Floridians have played in national and global events. Through exhibits, educational programs, research, and collections, the Museum reflects the ways that people have shaped and reacted to their cultural and natural environments.”⁷ The Division of Cultural Affairs also oversees the Museum and Capitol gift shops as well as the citizen support organization charged with supporting the Museum.

The Friends of the Museums of Florida, Inc., is the CSO created to support programs, exhibits, collections, and activities of the Museum of Florida History and the Knott House Museum.⁸ A citizen support organization is defined as an organization that is:

- A nonprofit corporation approved by the Department of State;
- Organized and operated to conduct programs and activities, raise funds, request and receive grants, and make expenditures to benefit the division;
- Determined by the division to be consistent with the goals of the division and in the best interest of the state; and
- Approved in writing by the division to operate for the benefit of the division.⁹

The identity of donors to the CSO who desire to remain anonymous are confidential and exempt from public records requirements.¹⁰

Florida Arts and Cultural Act

The Florida Arts and Cultural Act is set forth in ss. 265.281-265.709, F.S. The Legislative intent of the Act is to provide state support for, and to gain national and international recognition of, the efforts, works, and performances of Florida artists, art agencies, museums and nonprofit organizations.¹¹ The Act defines the term “division” to mean the Division of Cultural Affairs of the Department of State.¹² The division is charged with directly administering and overseeing all programs authorized by the Act. The division’s duties include:

- Accepting and administering state and federal funds appropriated by the Legislature or funds received from other public or private sources;

⁶ Department of State, Division of Cultural Affairs, *About Us, Mission*, available at <https://dos.myflorida.com/cultural/about-us/mission/> (last visited on March 11, 2021).

⁷ Section 265.707, F.S. Department of State, Museum of Florida History, *About*, available at <https://museumoffloridahistory.com/> (last visited March 11, 2021).

⁸ Department of State, Museum of Florida History, *About the Friends of the Museums of Florida History, Inc.*, available at <https://museumoffloridahistory.com/support/membership-program/about-the-friends-of-the-museums-of-florida-history-inc/> (last visited March 11, 2021).

⁹ Section 265.703(1), F.S.

¹⁰ Section 265.703(3), F.S.

¹¹ Section 265.282, F.S.

¹² Section 265.283(4), F.S.

- Consulting and advising on acquisition of fine art works, appropriate use and display of state-owned art treasures for maximum public benefit, and suitability of ornamental or decorative structure or fixtures in public buildings;
- Accepting donations of money, property, art objects, and antiquities on behalf of the state;¹³
- Sponsoring performances and exhibits; promoting and encouraging the study and appreciation of arts and culture; and collecting, publishing, and printing pamphlets, papers, newsletters, and other materials related to arts and cultural programs available throughout the state; and
- Conducting and supporting cultural programs and cultural exchanges by coordinating with the appropriate state agencies and other organizations.¹⁴

Florida Historical Resources Act

The Florida Historical Resources Act¹⁵ was established to preserve archaeological sites and objects of antiquity for the public benefit.¹⁶ The Florida Historical Resources Act recognizes Florida's rich and unique heritage of historic properties as an important legacy to be valued and conserved for present and future generations. Accordingly, Florida has adopted a state policy to lead, assist, administer, and encourage public entities and private citizens to preserve the state's historic environment and resources.¹⁷

Division of Historical Resources

The Division of Historical Resources is responsible for preserving and promoting Florida's historical, archaeological, and folk culture resources. The division oversees historic preservation programs to identify, evaluate, preserve, and interpret Florida's historic and cultural resources. These activities include administering the historic preservation grants programs, overseeing the National Register of Historic Places, and maintain an inventory of the state's historical resources. The division also is responsible for the state's archaeology program, which includes surveys and excavations, primarily on state-owned lands or underwater locations; and coordinates outreach programs to promote Florida's historic and traditional culture, including the State Historical Markers program and Florida Folklife program. The division director serves as the State Historic Preservation Officer, acting as the liaison with the national historic preservation program conducted by the National Park Service.¹⁸

Under the Florida Folklife Program, the division must identify, research, interpret, and present Florida folk arts, artists, performers, folklore, traditions, customs, and cultural heritage and make folk cultural resources and folklife projects available throughout the state. The division is assisted by the Florida Folklife Council, a seven member council appointed by the Secretary of

¹³ Such donations of money and any cash income may be received from the disposal of any donations of property, art objects, or antiquities. The donations and cash income are deposited into the Grants and Donations Trust Fund and by statutes are appropriated for use by the division for the purposes authorized in the Act. Section 265.284(3)(e), F.S.

¹⁴ Section 265.284(3), F.S.

¹⁵ Chapter 267, F.S.

¹⁶ Section 267.14, F.S.

¹⁷ Section 267.061(2)(a), F.S.

¹⁸ Department of State, Division of Historical Resources, *About*, available at <https://dos.myflorida.com/historical/about/> (last visited on March 19, 2021). *See also* ch. 267, F.S.

State, in carrying out its duties under the program.¹⁹ The program is funded in part by the National Endowment for the Arts.²⁰

Secretary of State – Florida’s Chief Cultural Officer

The Divisions of Cultural Affairs, Historical Resources, and Library and Information Services of the department promote programs having substantial cultural, artistic, and indirect economic significance that emphasize American creativity.²¹ The Secretary is designated as “Florida’s Chief Cultural Officer” and is encouraged to initiate and develop relationships between the state and foreign governmental officials in order to promote Florida as the center of American creativity. As Florida’s Chief Cultural Officer, the Secretary must coordinate international activities with Enterprise Florida, Inc., and any other organization the Secretary deems to be appropriate.²²

Property Abandoned at Museums

The Legislature has declared that the people of Florida benefit from having property of artistic, historic, cultural, or scientific value loaned to Florida museums.²³ However, problems arise in relation to indefinite or long term loans when museums and lenders fail to maintain contact. In response to these problems, the Legislature has established uniform procedures governing the disposition of unclaimed property²⁴ on loan to museums. The rules are designed to:

- Encourage museums and their lenders to exercise due diligence in monitoring loans;
- Allocate fairly responsibilities between lenders and borrowing museums;
- Establish procedures for lenders to preserve their interests in property loaned to museums for indefinite or long terms; and
- Resolve expeditiously the title to the unclaimed loaned property left in the custody of museums.²⁵

Whenever property is loaned to a museum, the museum is required to:

- Make and retain a written record containing the lender’s contact information, a description of the property, a description of the property’s general condition, and the beginning and ending dates of the loan;
- Provide the lender with a signed receipt or loan agreement;
- Inform the lender of the law; and

¹⁹ Sections 267.16 and 267.161, F.S.

²⁰ Department of State, *2021 Agency Legislative Bill Analysis SB 1404* (February 24, 2021) (on file with the Senate Governmental Oversight and Accountability Committee); *see also* Department of State, Division of Historical Resources, *Florida Folklife Program*, available at <https://dos.myflorida.com/historical/preservation/florida-folklife-program/> (last visited March 11, 2021).

²¹ Section 15.18, F.S.

²² *Id.*

²³ “Museum” is defined to mean a public or private nonprofit agency or institution located in Florida and organized on a permanent basis for primarily educational, scientific, or aesthetic purposes, which owns or utilizes tangible objects, cares for them, and exhibits them to the public on a regular basis. Section 265.565(2)(c), F.S.

²⁴ “Unclaimed property” is defined to mean property which is on loan to the museum and in regard to which the lender, or anyone acting legitimately on the lender’s behalf, has not contacted the museum for at least 25 years from the date of the beginning of the loan, if the loan was for an indefinite or undetermined period, or for at least 5 years after the date upon which the loan for a definite period expired. Section 265.565(2)(f), F.S.

²⁵ Section 265.565(1), F.S.

- Provide the lender with a copy of the law upon request.²⁶

If there is a change in the lender's contact information, change in the ownership of the loaned property, or a change in the duration of the loan is negotiated, the museum must update its records to reflect the change. Whenever a museum renews or updates the records of an existing loan, the museum must inform the lender of the existence of the law and provide the lender with a copy upon the lender's request.²⁷ The museum is also required to give the lender prompt notice of any injury to or loss of property on the loan.²⁸

The lender is responsible for notifying the museum of any change in the lender's address or change in ownership of the property. Failure to provide the required notification could result in the owner's loss of rights to the property.²⁹ Additionally, it is the responsibility of a successor of a lender to document the passage of rights of control of the property that is in the custody of a museum.³⁰

In order to terminate a loan for unclaimed property, the museum must make a good faith and reasonable search for the identity and last known address of the lender from the museum records and other records that are reasonably available to museum staff.³¹ If the museum is able to identify the lender and his or her last known address, the museum must provide notice of termination via certified mail. The notice of termination must include:

- The name of the lender;
- A description of the property sufficient in detail for ready identification;
- The beginning date of the loan, if known;
- The termination date of the loan, if applicable;
- The name and address of the appropriate museum official to contact regarding the loan; and
- A statement that within 90 days the lender is required to remove the property from the museum or contact the designated official in the museum to preserve the lender's interests in the property.³²

If the museum is unable to acquire enough information to send a letter by certified mail, or if a signed return receipt is not received within 30 days, the museum must publish a notice of termination containing all the above required information at least twice in a publication of general circulation in the county in which the museum is located and the county of the lender's last known address. The publications must be at least 60 or more days apart.³³

If the lender fails to respond to the notice of termination sent via certified mail or included in a publication of general circulation within 90 days, the title to the unclaimed property will pass to the museum.³⁴

²⁶ Section 265.565(3)(a), F.S.

²⁷ Section 265.565(3)(b), F.S.

²⁸ Section 265.565(3)(c), F.S.

²⁹ Section 265.565(4)(a), F.S.

³⁰ Section 265.565(4)(b), F.S.

³¹ Section 265.565(5)(a), F.S.

³² Section 265.565(5)(b), F.S.

³³ Section 265.565(5)(c), F.S.

³⁴ Section 265.565(6), F.S.

National Endowment for the Arts

The National Endowment for the Arts (NEA) is an independent, federal agency with substantial discretion to award financial grants to support the arts. The NEA awards grants to groups and individuals whose artistic endeavors have substantial artistic and cultural significance or are otherwise worthy of public support and to state agencies established to serve the same purpose.³⁵ All states have a State Arts Agency recognized by the NEA. The NEA distributes program funding to those State Arts Agencies, with each state devoting its own appropriated funds to support arts programs throughout the state.³⁶ The Division of Cultural Affairs is recognized by the NEA as Florida's official State Arts Agency and receives an annual partnership grant from the NEA.³⁷

III. Effect of Proposed Changes:

Official State History Museum

Section 1 creates s. 15.0455, F.S., to designate the Museum of Florida History, located in Tallahassee, as the official state history museum.

Division of Arts and Culture

Section 2 amends s. 15.18, F.S., to designate the Secretary of State as "Florida's Chief Arts and Cultural Officer" instead of the chief cultural officer.

Section 3 amends s. 20.10, F.S., to rename the Division of Cultural Affairs as the Division of Arts and Culture.

The bill makes several further changes to correct references to the division and to reorganize current duties of the division and the Division of Historical Resources to better align the programs with the proper division.

- **Section 4** amends s. 265.281, F.S., to correct statutory references due to changes made by the bill.
- **Sections 6, 7, and 8** amend ss. 265.286, 265.2865, and 265.701, F.S., respectively, to correct statutory references and update references to the division.
- **Sections 9, 11, 12, 13, and 14** repeal ss. 265.7025, 265.704, 265.705, 265.706, and 265.709, F.S., respectively, relating to the division's powers and duties relating to historic programs.
- **Sections 22 and 23** amend ss. 258.081 and 464.401, F.S., respectively, to make conforming changes.

³⁵ 20 U.S.C. § 954 (2018).

³⁶ Americans for the Arts, *National Endowment for the Arts – Funding for Art Agencies*, available at <https://www.americansforthearts.org/by-program/reports-and-data/legislation-policy/legislative-issue-center/national-endowment-for-the-arts%E2%80%94funding-for-arts-agencies> (last visited March 11, 2021).

³⁷ Department of State, Division of Cultural Affairs, *National Endowment for the Arts*, available at <https://dos.myflorida.com/cultural/about-us/partners/national-endowment-for-the-arts/> (last visited March 11, 2021); National Assembly of State Arts Agencies, *State Arts Agency Directory*, available at <https://nasaa-arts.org/state-arts-agencies/saa-directory/> (last visited March 11, 2021).

The bill transfers the Florida Folklife Program, and its associated council, from the Division of Historical Resources to the Division of Arts and Culture.

- **Section 20** renumbers s. 267.16, F.S., as s. 265.802, F.S., to transfer the duties and responsibilities of the Division of Historical Resources regarding the Florida Folklife Program to the Division of Arts and Culture.
- **Section 21** renumbers s. 267.161, F.S., as s. 265.803, F.S., to transfer the Florida Folklife Council from the Division of Historical Resources to the Division of Arts and Culture.³⁸
- **Section 5** amends s. 265.283, F.S., to update references to the division and adds the definition of “folklife” to reflect the transfer of this program from the Division of Historical Resources to the Division of Arts and Culture.

Division of Historic Resources

The bill transfers the Museum of Florida History from the Division of Arts and Culture to the Division of Historical Resources. **Section 17** transfers and renumbers s. 265.707, F.S., as s. 267.0721, F.S., effectively transferring administration of the Museum of Florida History and its related citizen support organization (CSO) to the Division of Historical Resources. The CSO, Friends of the Museums of Florida, Inc., will support the Museum of Florida History and other museums operated by the division.

Currently, any revenues from sales in museum stores is deposited into the Grants and Donations Trust Fund, and any funds in excess of the amount required to pay state employees may be deposited into a bank account of the museum’s CSO. In **section 17**, the bill allows the proceeds to be used to support both programs of the museums and also museum operations. Additionally, allows the division to deposit grant funding for the Museum of Florida History into the Grants and Donations Trust Fund.

Section 10 amends s. 265.703, F.S., to delete a public record exemption for the Museum of Florida History citizen support organization no longer necessary due to changes made by the bill.

Section 15 amends s. 267.021, F.S., to define the term “historical museum” and remove the definition of “folklife.” The term “historical museum” is defined to mean:

[A] department or a department or an agency of state or local government or a public or private nonprofit organization located in Florida and operating on a permanent basis for the primary purpose of sponsoring, producing, and exhibiting educational programs that are related to the historical resources of Florida.

Section 16 amends 267.071, F.S., to require the Division of Historical Resources to encourage, promote, maintain, and operate the Museum of Florida History and other historical museums.

³⁸ The department indicates that such reassignment of the Florida Folklife Program will bring the program in line with new federal funding program requirements from the National Endowment for the Arts. *See* Department of State, *2021 Agency Legislative Bill Analysis SB 1404* (February 24, 2021) (on file with the Senate Governmental Oversight and Accountability Committee).

The division must also establish professional standards for the preservation, exclusive of acquisition, of each of the collections under state ownership or control and to take appropriate action to foster appreciation of Florida history and culture.

Section 18 transfers and renumbers s. 265.565, F.S., relating to property loaned to museums, as s. 267.0723, F.S. Current law requires a museum to inform a lender of the existence of the statute relating to property loaned to a museum and to provide the lender with a copy of such statutory provisions upon the lender's request. Section 18 removes the requirement for a museum to inform but maintains the requirement that upon a lender's request, a museum must provide a copy of the relevant statutory provisions.

This section amends the notice of termination provision to allow for the required information to be provided on the museum's website and specifies that publication may be by physical or online means. It also removes the requirement to publish the information twice, at least 60 days apart.

This section also provides for the disposition of abandoned property by authorizing a museum to keep, transfer, sell, or dispose of abandoned property. This section defines the term "abandoned property" to mean "property left at or delivered to a museum with no loan, deed of gift, or donation paperwork."

Section 19 amends s. 267.115, F.S., to revise the cost or value threshold that triggers a complete inventory of objects of historical or archaeological value from \$500 to \$1,000. For objects valued or costing less than \$1,000, only a sample inventory is required.

Section 24 amends s. 553.902, F.S., and **Section 25** amends ch. 2020-88, Laws of Florida, to make conforming changes.

Effective Date

Section 26 provides that the bill takes effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. 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 shares 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 identified.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The department may experience an indeterminate positive fiscal impact as the reassignment of the Florida Folklife Program brings the program in line with new federal funding program requirements of the National Endowment for the Arts.³⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 265.565, F.S., was created in 1997 by ch. 97-267, Laws of Florida. The act created an undesignated section of Florida law, which was subsequently numbered as s. 265.565, F.S. The bill transfers and renumbers this section as s. 267.0723, F.S. While the current s. 265.565, F.S., references providing a lender of property to a museum with information about a copy “of this act,” it is unlikely that “this act” means the entire chapter in which the statute is located,⁴⁰ but instead the act in which the statute itself was created. This ambiguity could be amended in the bill.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 15.18, 20.10, 265.281, 265.283, 265.286, 265.2865, 265.701, 265.703, 267.021, 267.071, 265.707, 265.565, 267.115, 267.16, 267.161, 258.081, 468.401, and 553.902.

³⁹ *Id.*

⁴⁰ In its current location, the statute is located in the Florida Arts and Culture Act, ss. 265.281 through 265.709, F.S. Under the bill, the statute is transferred to ch. 267, F.S., which is the Florida Historical Resources Act.

This bill creates the following sections of the Florida Statutes: 15.0455, 267.0721, 267.0723, 265.802, and 265.803.

This bill repeals the following sections of the Florida Statutes: 265.7025, 265.704, 265.705, 265.706, and 265.709

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 Subcommittee on Transportation, Tourism, and Economic Development on March 23, 2021:

The committee substitute returns to current law, which requires proceeds from sales at museum stores as well as grant funding, gifts, and donations for the Museum of Florida History to be deposited into the Grants and Donations Trust Fund.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/23/2021	.	
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	.	

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

1 **Senate Amendment (with title amendment)**

2

3 Delete lines 328 - 360

4 and insert:

5 proceeds received from sales must be deposited into the Grants

6 and Donations Trust Fund, or funds in excess of the amount

7 required to pay employees involved in the direct management of

8 the museum store may be deposited into a bank account of a ~~the~~

9 citizen support organization created pursuant to s. 267.17 or



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10 created before July 1, 2021, pursuant to s. 265.703 and may be
11 used only to support operations of the museum stores and the
12 programs of the Museum of Florida History or other museums
13 operated by the division. The museum stores ~~store~~ may enter into
14 agreements and accept credit card ~~credit-card~~ payments as
15 compensation for goods and products sold. The division may
16 establish accounts in credit card ~~credit-card~~ banks for the
17 deposit of credit card ~~credit-card~~ sales invoices and to pay
18 discounts and service charges in connection with the use of
19 credit cards.

20 (3) The division shall support the establishment and
21 operation of a nonprofit organization or association established
22 pursuant to s. 267.17 or established before July 1, 2021,
23 pursuant to s. 265.703 to promote and encourage knowledge and
24 appreciation of Florida history and the programs of the Museum
25 of Florida History and other museums operated by the division
26 and to cooperate with historical societies and other
27 organizations to provide funding and promotional support for the
28 programs of the museum. Such organization or association may,
29 with the consent of the division, operate the museum store or
30 conduct special events and programs in the museum. All proceeds
31 must be used to support the programs of the Museum of Florida
32 History and other museums operated by the division.

33 (4) The division may ~~shall~~ deposit grant funding, gifts,
34 and donations for the purpose of assisting the Museum of Florida
35 History and its programs in the Grants and Donations Trust Fund
36 to be used exclusively for the benefit of programs of the
37

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



39 And the title is amended as follows:

40 Delete lines 36 - 37

41 and insert:

42 organization or association, and the use of certain
43 funds; transferring, renumbering, and amending

By Senator Hooper

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1 A bill to be entitled
 2 An act relating to cultural and historical programs;
 3 creating s. 15.0455, F.S.; designating the Museum of
 4 Florida History as the official state history museum;
 5 amending s. 15.18, F.S.; providing that the Secretary
 6 of State shall be known as "Florida's Chief Arts and
 7 Culture Officer"; conforming a provision to changes
 8 made by the act; amending s. 20.10, F.S.; renaming the
 9 Division of Cultural Affairs as the Division of Arts
 10 and Culture; amending s. 265.281, F.S.; conforming
 11 provisions to changes made by the act; reordering and
 12 amending s. 265.283, F.S.; conforming provisions to
 13 changes made by the act; defining the term "folklife";
 14 amending s. 265.286, F.S.; conforming a cross-
 15 reference; amending ss. 265.2865 and 265.701, F.S.;
 16 conforming provisions to changes made by the act;
 17 repealing s. 265.7025, F.S., relating to definitions
 18 relating to historic programs; amending s. 265.703,
 19 F.S.; conforming provisions to changes made by the
 20 act; repealing ss. 265.704, 265.705, 265.706, and
 21 265.709, F.S., relating to historical museums and
 22 powers and duties of the Division of Cultural Affairs,
 23 state policy relative to historical properties,
 24 objects of historical or archaeological value, and
 25 publications, respectively; reordering and amending s.
 26 267.021, F.S.; deleting the definition of the term
 27 "folklife"; defining the term "historical museum";
 28 amending s. 267.071, F.S.; revising the duties of the
 29 Division of Historical Resources; transferring,

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30 renumbering, and amending s. 265.707, F.S.;
 31 transferring certain responsibilities from the
 32 Division of Cultural Affairs to the Division of
 33 Historical Resources; revising provisions relating to
 34 the Museum of Florida History museum store, the
 35 establishment and operation of a certain nonprofit
 36 organization or association, and the deposit of
 37 certain funds; transferring, renumbering, and amending
 38 s. 265.565, F.S.; defining the term "abandoned
 39 property"; removing the requirement that a museum
 40 inform a lender of certain provisions in certain
 41 circumstances; revising publication requirements for a
 42 termination of loan notice; providing for the
 43 disposition of abandoned property; amending s.
 44 267.115, F.S.; revising the duties of the Division of
 45 Historical Resources relating to objects of historical
 46 or archaeological value; transferring and renumbering
 47 ss. 267.16 and 267.161, F.S., relating to Florida
 48 Folklife Programs and the Florida Folklife Council,
 49 respectively; amending ss. 258.081, 468.401, and
 50 553.902, F.S.; conforming provisions and cross-
 51 references to changes made by the act; amending
 52 chapter 2020-88, Laws of Florida; conforming a
 53 provision to changes made by the act; providing an
 54 effective date.

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

58 Section 1. Section 15.0455, Florida Statutes, is created to

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59 read:

60 15.0455 Official state history museum.-The Museum of
 61 Florida History, located in Tallahassee, is hereby designated as
 62 the official state history museum.

63 Section 2. Section 15.18, Florida Statutes, is amended to
 64 read:

65 15.18 International and cultural relations.-The Divisions
 66 of Arts and Culture ~~Cultural Affairs~~, Historical Resources, and
 67 Library and Information Services of the Department of State
 68 promote programs having substantial cultural, artistic, and
 69 indirect economic significance that emphasize American
 70 creativity. The Secretary of State, as the head administrator of
 71 these divisions, shall hereafter be known as "Florida's Chief
 72 Arts and Culture ~~Cultural~~ Officer." As this officer, the
 73 Secretary of State is encouraged to initiate and develop
 74 relationships between the state and foreign cultural officers,
 75 their representatives, and other foreign governmental officials
 76 in order to promote Florida as the center of American
 77 creativity. The Secretary of State shall coordinate
 78 international activities pursuant to this section with
 79 Enterprise Florida, Inc., and any other organization the
 80 secretary deems appropriate. For the accomplishment of this
 81 purpose, the Secretary of State shall have the power and
 82 authority to:

83 (1) Disseminate any information pertaining to the State of
 84 Florida which promotes the state's cultural assets.

85 (2) Plan and carry out activities designed to cause
 86 improved cultural and governmental programs and exchanges with
 87 foreign countries.

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88 (3) Plan and implement cultural and social activities for
 89 visiting foreign heads of state, diplomats, dignitaries, and
 90 exchange groups.

91 (4) Encourage and cooperate with other public and private
 92 organizations or groups in their efforts to promote the cultural
 93 advantages of Florida.

94 (5) Serve as the liaison with all foreign consular and
 95 ambassadorial corps, as well as international organizations,
 96 that are consistent with the purposes of this section.

97 (6) Provide, arrange, and make expenditures for the
 98 achievement of any or all of the purposes specified in this
 99 section.

100 Section 3. Paragraph (e) of subsection (2) of section
 101 20.10, Florida Statutes, is amended to read:

102 20.10 Department of State.-There is created a Department of
 103 State.

104 (2) The following divisions of the Department of State are
 105 established:

106 (e) Division of Arts and Culture ~~Cultural Affairs~~.

107 Section 4. Section 265.281, Florida Statutes, is amended to
 108 read:

109 265.281 Florida Arts and Culture Act; short title.-Sections
 110 265.281-265.703 ~~Sections 265.281-265.709~~ may be cited as the
 111 "Florida Arts and Culture Act."

112 Section 5. Section 265.283, Florida Statutes, is reordered
 113 and amended to read:

114 265.283 Definitions.-The following definitions shall apply
 115 to ss. 265.281-265.703 ~~ss. 265.281-265.709~~:

116 (3)(1) "Council" means the Florida Council on Arts and

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117 Culture.

118 ~~(6)(2)~~ "Department" means the Department of State.

119 ~~(7)(3)~~ "Director" means the Director of the Division of

120 Arts and Culture ~~Cultural Affairs~~ of the Department of State.

121 ~~(8)(4)~~ "Division" means the Division of Arts and Culture

122 ~~Cultural Affairs~~ of the Department of State.

123 ~~(12)(5)~~ "Panel" means a grant review panel.

124 ~~(14)(6)~~ "Secretary" means the Secretary of State.

125 ~~(1)(7)~~ "Arts and cultural disciplines" include, but are not

126 limited to, music, dance, theatre, creative writing, literature,

127 architecture, painting, sculpture, folk arts, photography,

128 crafts, media arts, visual arts, programs of museums, and other

129 such allied, major art forms.

130 ~~(11)(8)~~ "Local arts agency" means a public or private

131 nonprofit organization located in Florida and operating on a

132 permanent basis for the primary purpose of strengthening,

133 supporting, and stabilizing the activities of one or more county

134 art and cultural constituencies.

135 ~~(10)(9)~~ "Historical museum" means a department or agency of

136 state or local government or a public or private nonprofit

137 organization located in Florida and operating on a permanent

138 basis for the primary purpose of sponsoring, producing, and

139 exhibiting educational programs that are related to the

140 historical resources of Florida.

141 ~~(13)(10)~~ "Science museum" means a public or private

142 nonprofit organization located in Florida and operating on a

143 permanent basis for the primary purpose of sponsoring,

144 producing, and exhibiting programs for the observation and study

145 of various types of natural science and science technology.

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146 ~~(18)(11)~~ "Youth and children's museum" means a public or

147 private nonprofit organization located in Florida and operating

148 on a permanent basis for the primary purpose of sponsoring,

149 producing, and exhibiting multidisciplinary and participatory

150 programs for visitors who are 6 months to 15 years old, and

151 their families, teachers, and caregivers.

152 ~~(15)(12)~~ "State service organization" means a public or

153 private nonprofit organization located in Florida operating on a

154 permanent basis for the primary purpose of implementing programs

155 that have cultural significance and that emphasize American

156 creativity and the maintenance and encouragement of professional

157 excellence.

158 ~~(2)(13)~~ "Arts in education grants" means grants used to

159 cultivate the learning and artistic development of all students

160 and teachers by promoting, encouraging, and supporting arts and

161 culture as an integral part of education and lifelong learning

162 for residents and visitors.

163 ~~(4)(14)~~ "Cultural support grants" means grants that provide

164 support for general programs and specific cultural projects.

165 ~~(16)(15)~~ "State touring program grants" means grants used

166 to provide performances, activities, and exhibitions by Florida

167 artists to communities.

168 ~~(17)(16)~~ "Underserved arts community assistance program

169 grants" means grants used by qualified organizations under the

170 Rural Economic Development Initiative, pursuant to ss. 288.0656

171 and 288.06561, for the purpose of economic and organizational

172 development for underserved cultural organizations.

173 ~~(5)(17)~~ "Culture Builds Florida grants" means grants used

174 for the purpose of connecting the arts to key areas of the

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175 division's long-term strategic plan.

176 (9) "Folklife" means the traditional expressive culture
 177 shared within the various groups in Florida: familial, ethnic,
 178 occupational, religious, and regional. Expressive culture
 179 includes a wide range of creative and symbolic forms, such as
 180 custom, belief, technical skill, language, literature, art,
 181 architecture, music, play, dance, drama, ritual, pageantry, and
 182 handicraft, which forms are generally learned orally, by
 183 imitation, or in performance and are maintained or perpetuated
 184 without formal instruction or institutional direction.

185 Section 6. Paragraph (a) of subsection (5) of section
 186 265.286, Florida Statutes, is amended to read:

187 265.286 Art and cultural grants.—

188 (5) The division shall fund:

189 (a) Grants for general program support for science museums,
 190 youth and children's museums, historical museums, local arts
 191 agencies, state service organizations, and organizations that
 192 have cultural program activities in any of the art and cultural
 193 disciplines defined in s. 265.283 s. 265.283(7).

194 Section 7. Subsection (6) of section 265.2865, Florida
 195 Statutes, is amended to read:

196 265.2865 Florida Artists Hall of Fame.—

197 (6) The Division of Arts and Culture Cultural Affairs of
 198 the Department of State shall adopt rules necessary to carry out
 199 the purposes of this section, including, but not limited to,
 200 procedures for accepting nominations to, making recommendations
 201 for, selecting members of the Florida Artists Hall of Fame, and
 202 providing travel expenses for such recipients. Notwithstanding
 203 ~~the provisions of s. 112.061, the Secretary of State may approve~~

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204 first-class travel accommodations for recipients of the Florida
 205 Artists Hall of Fame award and their representatives for health
 206 or security purposes.

207 Section 8. Subsections (1) and (5) of section 265.701,
 208 Florida Statutes, are amended to read:

209 265.701 Cultural facilities; grants for acquisition,
 210 renovation, or construction; funding; approval; allocation.—

211 (1) The Division of Arts and Culture Cultural Affairs may
 212 accept and administer moneys appropriated to it for providing
 213 grants to counties, municipalities, and qualifying nonprofit
 214 corporations for the acquisition, renovation, or construction of
 215 cultural facilities.

216 (5) The Division of Arts and Culture Cultural Affairs shall
 217 adopt rules prescribing the criteria to be applied by the
 218 Florida Council on Arts and Culture in recommending applications
 219 for the award of grants and rules providing for the
 220 administration of ~~the other provisions of~~ this section.

221 Section 9. Section 265.7025, Florida Statutes, is repealed.

222 Section 10. Subsection (3) of section 265.703, Florida
 223 Statutes, is amended to read:

224 265.703 Citizen support organizations; use of state
 225 administrative services and property; audit.—

226 (3) ANNUAL AUDIT.—The citizen support organization shall
 227 provide for an annual financial audit in accordance with s.
 228 215.981. ~~Information of the Museum of Florida History citizen~~
 229 ~~support organization which is confidential and exempt pursuant~~
 230 ~~to s. 267.17 shall retain its confidential and exempt status.~~

231 Section 11. Section 265.704, Florida Statutes, is repealed.

232 Section 12. Section 265.705, Florida Statutes, is repealed.

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

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233 Section 13. Section 265.706, Florida Statutes, is repealed.
 234 Section 14. Section 265.709, Florida Statutes, is repealed.
 235 Section 15. Section 267.021, Florida Statutes, is reordered
 236 and amended to read:

237 267.021 Definitions.—For the purpose of this act, the term:
 238 (2)(1) “Division” means the Division of Historical
 239 Resources of the Department of State.

240 (1)(2) “Agency” means any state, county, or municipal
 241 officer, department, division, board, bureau, commission, or
 242 other separate unit of government created or established by law.

243 (5)(3) “Historic property” or “historic resource” means any
 244 prehistoric or historic district, site, building, object, or
 245 other real or personal property of historical, architectural, or
 246 archaeological value, and folklife resources. These properties
 247 or resources may include, but are not limited to, monuments,
 248 memorials, Indian habitations, ceremonial sites, abandoned
 249 settlements, sunken or abandoned ships, engineering works,
 250 treasure trove, artifacts, or other objects with intrinsic
 251 historical or archaeological value, or any part thereof,
 252 relating to the history, government, and culture of the state.

253 (8)(4) “Preservation” or “historic preservation” means the
 254 identification, evaluation, recordation, documentation,
 255 analysis, recovery, interpretation, curation, acquisition,
 256 protection, management, rehabilitation, restoration,
 257 stabilization, maintenance, or reconstruction of historic
 258 properties.

259 (6)(5) “National Register of Historic Places” means the
 260 list of historic properties significant in American history,
 261 architecture, archaeology, engineering, and culture, maintained

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262 by the Secretary of the Interior, as established by the National
 263 Historic Preservation Act of 1966, as amended.

264 ~~(6) “Folklife” means the traditional expressive culture~~
 265 ~~shared within the various groups in Florida: familial, ethnic,~~
 266 ~~occupational, religious, and regional. Expressive culture~~
 267 ~~includes a wide range of creative and symbolic forms such as~~
 268 ~~custom, belief, technical skill, language, literature, art,~~
 269 ~~architecture, music, play, dance, drama, ritual, pageantry, and~~
 270 ~~handicraft, which forms are generally learned orally, by~~
 271 ~~imitation, or in performance and are maintained or perpetuated~~
 272 ~~without formal instruction or institutional direction.~~

273 (3)(7) “Florida history museum” means a public or private
 274 nonprofit institution which is established permanently in this
 275 state for the purpose of promoting and encouraging knowledge and
 276 appreciation of Florida history through the collection,
 277 preservation, exhibition, and interpretation of artifacts and
 278 other historical properties related to Florida history and the
 279 primary role of which is to collect and care for artifacts and
 280 other objects of intrinsic historical or archaeological value
 281 and exhibit them regularly through a facility or facilities
 282 owned or operated by the institution.

283 (7)(8) “Official Florida Historical Marker” means any
 284 marker, plaque, or similar device awarded, approved, or
 285 administered by the Division of Historical Resources for the
 286 purpose of recognizing and informing the general public about
 287 historic properties, persons, events, and other topics relating
 288 to the history and culture of the state.

289 (4) “Historical museum” means a department or an agency of
 290 state or local government or a public or private nonprofit

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291 organization located in Florida and operating on a permanent
 292 basis for the primary purpose of sponsoring, producing, and
 293 exhibiting educational programs that are related to the
 294 historical resources of Florida.

295 Section 16. Subsection (2) of section 267.071, Florida
 296 Statutes, is amended, and subsection (4) is added to that
 297 section, to read:

298 267.071 Historical museums.—It is the duty of the division
 299 to:

300 (2) Encourage, promote, maintain, and operate historical
 301 museums, including the Museum of Florida History, but not
 302 limited to, mobile museums, and other Florida history junior
 303 museums.

304 (4) (a) Establish professional standards for the
 305 preservation, exclusive of acquisition, of each of the
 306 collections under state ownership or control.

307 (b) Take such other actions as are necessary or appropriate
 308 to locate, acquire, preserve, operate, interpret, and promote
 309 the location, acquisition, protection, preservation, operation,
 310 and interpretation of historical artifacts and resources to
 311 foster an appreciation of Florida history and culture.

312 Section 17. Section 265.707, Florida Statutes, is
 313 transferred, renumbered as section 267.0721, Florida Statutes,
 314 and amended to read:

315 267.0721 ~~265.707~~ Museum of Florida History and programs;
 316 other historical museums.—

317 (1) The division is authorized to operate the Museum of
 318 Florida History and other historical museums.

319 (2) The division shall establish and administer a museum

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320 store ~~for in~~ the Museum of Florida History to provide
 321 information and materials relating to Florida history, museum
 322 exhibits, collections, and programs to the public and may
 323 operate additional stores associated with the museum. The stores
 324 ~~store~~ may produce, acquire, and sell craft products, clearly
 325 marked replicas and reproductions of artifacts, documents, and
 326 other merchandise relating to historical and cultural resources
 327 and may make a reasonable charge for such merchandise. All
 328 proceeds received from sales must be deposited into ~~the Grants~~
 329 ~~and Donations Trust Fund, or funds in excess of the amount~~
 330 ~~required to pay employees involved in the direct management of~~
 331 ~~the museum store may be deposited into a bank account of a the~~
 332 citizen support organization created pursuant to s. 267.17 or
 333 created before July 1, 2021, pursuant to s. 265.703 and may be
 334 used only to support operations of the museum stores and the
 335 programs of the Museum of Florida History or other museums
 336 operated by the division. The museum stores ~~store~~ may enter into
 337 agreements and accept credit card ~~credit-card~~ payments as
 338 compensation for goods and products sold. The division may
 339 establish accounts in credit card ~~credit-card~~ banks for the
 340 deposit of credit card ~~credit-card~~ sales invoices and to pay
 341 discounts and service charges in connection with the use of
 342 credit cards.

343 (3) The division shall support the establishment and
 344 operation of a nonprofit organization or association established
 345 pursuant to s. 267.17 or established before July 1, 2021,
 346 pursuant to s. 265.703 to promote and encourage knowledge and
 347 appreciation of Florida history and the programs of the Museum
 348 of Florida History and other museums operated by the division

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349 and to cooperate with historical societies and other
350 organizations to provide funding and promotional support for the
351 programs of the museum. Such organization or association may,
352 with the consent of the division, operate the museum store or
353 conduct special events and programs in the museum. All proceeds
354 must be used to support the programs of the Museum of Florida
355 History and other museums operated by the division.

356 (4) The division ~~may shall~~ deposit grant funding, gifts,
357 and donations for the purpose of assisting the Museum of Florida
358 History and its programs and other museums operated by the
359 division in an appropriate in the Grants and Donations trust
360 fund to be used exclusively for the benefit of programs of the
361 museum and in a manner consistent with any terms or conditions
362 agreed to by the division in accepting such grants, gifts, and
363 donations.

364 Section 18. Section 265.565, Florida Statutes, is
365 transferred and renumbered as section 267.0723, Florida
366 Statutes, and present paragraphs (a) through (f) of subsection
367 (2) of that section are redesignated as paragraphs (b) through
368 (g), respectively, a new paragraph (a) is added to that
369 subsection and subsection (13) is added to that section, and
370 paragraphs (a) and (b) of subsection (3), paragraph (c) of
371 subsection (5), and subsections (6) and (12) of that section are
372 amended, to read:

373 267.0723 ~~265.565~~ Property loaned to or abandoned at
374 museums; obligations to lenders; notice; loan termination;
375 acquisition of title; liens; conservation or disposal.-

376 (2) DEFINITIONS.-

377 (a) "Abandoned property" means property left at or

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378 delivered to a museum with no loan, deed of gift, or donation
379 paperwork.

380 (3) OBLIGATIONS OF MUSEUMS TO LENDERS.-

381 (a) For property loaned to a museum after the effective
382 date of this act, the museum shall:

383 1. Make and retain a written record containing, at a
384 minimum, the lender's name, address, and telephone number, a
385 description of the property loaned in sufficient detail for
386 clear identification, including a description of the general
387 condition of the property at the time of the loan, the beginning
388 date of the loan, and the expiration date of the loan.

389 2. Provide the lender with a signed receipt or loan
390 agreement containing, at a minimum, the record set forth in
391 subparagraph 1.

392 3. ~~Inform the lender of the existence of the provisions of~~
393 ~~this act and~~ Provide the lender with a copy of ~~the provisions of~~
394 this act upon the lender's request.

395 (b) Regardless of the date of a loan of property, the
396 museum shall:

397 1. Update its records if a lender informs the museum of a
398 change of address or change in ownership of property loaned, or
399 if the lender and museum negotiate a change in the duration of
400 the loan.

401 2. ~~Inform the lender of the existence of the provisions of~~
402 ~~this act~~ When renewing or updating the records of an existing
403 loan, ~~and~~ provide the lender with a copy of ~~the provisions of~~
404 this act upon the lender's request.

405 (5) TERMINATION OF LOANS.-

406 (c) If the museum is unable to identify sufficient

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407 information to send notice pursuant to paragraph (b), or if a
 408 signed return receipt of a notice sent by certified mail
 409 pursuant to paragraph (b) is not received by the museum within
 410 30 days after the notice is mailed, the museum shall publish the
 411 notice of termination of loan containing all the information
 412 available to the museum provided in paragraph (b) on its website
 413 and at least twice, 60 or more days apart, in a publication of
 414 general physical or online circulation in the county in which
 415 the museum is located and the county of the lender's last known
 416 address, if known.

417 (6) MUSEUM GAINING TITLE TO LOANED PROPERTY; CONDITIONS.—As
 418 of the effective date of this act, a museum acquires title to
 419 unclaimed property under any of the following circumstances:

420 (a) For property for which a museum provides notice to a
 421 lender in accordance with paragraph (5) (b) and a signed receipt
 422 is received, if the lender of the property does not contact the
 423 museum within 90 days after the date notice was received.

424 (b) For property for which notice by publication is made
 425 pursuant to paragraph (5) (c), if the lender or anyone claiming a
 426 legal interest in the property does not contact the museum
 427 within 90 days after the date of the ~~second~~ publication.

428 (12) LIABILITY.—If a museum applies conservation measures
 429 to or disposes of a property pursuant to subsection (11), the
 430 museum shall have a lien on the property and on the proceeds
 431 from any disposition thereof for the costs incurred by the
 432 museum, and the museum shall not be liable for injury to or loss
 433 of the property if:

434 (a) The museum had a reasonable belief at the time the
 435 action was taken that the action was necessary to protect the

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436 property on loan or other property in the custody of the museum,
 437 or that the property on loan constituted a hazard to the health
 438 and safety of the public or the museum's staff.

439 (b) The museum exercised reasonable care in the choice and
 440 application of conservation measures.

441 (13) DISPOSITION OF ABANDONED PROPERTY.—A museum may keep,
 442 transfer, sell, or dispose of abandoned property.

443 Section 19. Subsection (1) of section 267.115, Florida
 444 Statutes, is amended to read:

445 267.115 Objects of historical or archaeological value.—The
 446 division shall acquire, maintain, preserve, interpret, exhibit,
 447 and make available for study objects which have intrinsic
 448 historical or archaeological value relating to the history,
 449 government, or culture of the state. Such objects may include
 450 tangible personal property of historical or archaeological
 451 value. Objects acquired under this section belong to the state,
 452 and title to such objects is vested in the division.

453 (1) Notwithstanding s. 273.02, the division shall maintain
 454 an adequate record of all objects in its custody which have a
 455 historical or archaeological value. Once each year, on July 1 or
 456 as soon thereafter as practicable, the division shall take a
 457 complete inventory of all such objects in its custody the value
 458 or cost of which is \$1,000 ~~\$500~~ or more and a sample inventory
 459 of such objects the value or cost of which is less than \$1,000
 460 ~~\$500~~. Each inventory shall be compared with the property record,
 461 and all discrepancies shall be traced and reconciled. Objects of
 462 historical or archaeological value are not required to be
 463 identified by marking or other physical alteration of the
 464 objects.

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465 Section 20. Section 267.16, Florida Statutes, is
 466 transferred and renumbered as section 265.802, Florida Statutes.

467 Section 21. Section 267.161, Florida Statutes, is
 468 transferred and renumbered as section 265.803, Florida Statutes.

469 Section 22. Section 258.081, Florida Statutes, is amended
 470 to read:

471 258.081 Stephen Foster State Folk Culture Center.—The
 472 division shall maintain and operate the Stephen Foster State
 473 Folk Culture Center facility in such manner that the performing
 474 arts component of the Florida Folklife Programs provided in s.
 475 265.802 ~~s. 267.16~~ shall have priority use of the facility.

476 Section 23. Subsection (4) of section 468.401, Florida
 477 Statutes, is amended to read:

478 468.401 Regulation of talent agencies; definitions.—As used
 479 in this part or any rule adopted pursuant hereto:

480 (4) "Engagement" means any employment or placement of an
 481 artist, where the artist performs in his or her artistic
 482 capacity. However, the term "engagement" shall not apply to
 483 procuring opera, music, theater, or dance engagements for any
 484 organization defined in s. 501(c)(3) of the Internal Revenue
 485 Code or any nonprofit Florida arts organization that has
 486 received a grant from the Division of Arts and Culture ~~Cultural~~
 487 ~~Affairs~~ of the Department of State or has participated in the
 488 state touring program of the Division of Arts and Culture
 489 ~~Cultural Affairs~~.

490 Section 24. Paragraph (d) of subsection (2) of section
 491 553.902, Florida Statutes, is amended to read:

492 553.902 Definitions.—As used in this part, the term:

493 (2) "Exempted building" means:

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494 (d) A historical building as defined ~~described~~ in s.
 495 267.021 ~~s. 267.021(3)~~.

496
 497 The Florida Building Commission may recommend to the Legislature
 498 additional types of buildings which should be exempted from
 499 compliance with the Florida Building Code-Energy Conservation.

500 Section 25. Subsection (1) of section 2 of chapter 2020-88,
 501 Laws of Florida, is amended to read:

502 Section 2. The Secretary of State is directed to:

503 (1) In coordination with the Division of Historical
 504 Resources ~~Cultural Affairs~~ of the Department of State, determine
 505 how the Museum of Florida History and other state museums will
 506 promote the history of the 1920 Ocoee Election Day Riots through
 507 exhibits and educational programs.

508 Section 26. This act shall take effect July 1, 2021.

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The Florida Senate

Committee Agenda Request

To: Senator George Gainer, Chair
Appropriations Subcommittee on Transportation, Tourism, and Economic
Development

Subject: Committee Agenda Request

Date: March 11, 2021

I respectfully request that **Senate Bill # 1404**, relating to Cultural and Historical Programs, be placed on the:

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

A handwritten signature in black ink, appearing to read "Ed Hooper", written over a horizontal line.

Senator Ed Hooper
Florida Senate, District 16

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

3/23/21

Meeting Date

1404

Bill Number (if applicable)

Topic Cultural and Historical Programs

Amendment Barcode (if applicable)

Name Brittany Dover

Job Title Legislative Affairs Director

Address 500 South Bronough Street

Phone 850-245-6509

Street

Tallahassee

FL

32399

Email Brittany.Dover@DOS.myflorida.

City

State

Zip

Speaking: For Against Information

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

Representing Department of State

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.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/23/21

Meeting Date

SB 1404

Bill Number (if applicable)

Topic Cultural and Historical programs Amendment Barcode (if applicable)

Name Amy Maguire

Job Title Principal

Address 101 East Kennedy Blvd.
Street

Phone 727-656-8413

Tampa FL 33602
City State Zip

Email amaguire@shumakeradvisors.com

Speaking: For Against Information

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

Representing Shumaker Advisors Florida

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.

S-001 (10/14/14)

CourtSmart Tag Report

Room: SB 110

Case No.:

Type:

Caption: Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development Judge:

Started: 3/23/2021 8:30:11 AM

Ends: 3/23/2021 9:13:23 AM

Length: 00:43:13

8:30:25 AM Sen. Gainer (Chair)
8:32:15 AM S 1404
8:32:31 AM Sen. Hooper
8:33:17 AM Am. 146764
8:35:06 AM Brittany Dover, Legislative Affairs Director, Department of State (waives in support)
8:35:24 AM Amy Maguire, Principal, Shumaker Advisors Florida (waives in support)
8:35:48 AM Sen. Hooper
8:36:56 AM S 138
8:37:05 AM Sen. Brandes
8:37:27 AM Sen. Cruz
8:37:55 AM Sen. Brandes
8:38:31 AM Am. 210172
8:40:17 AM Jeffery Sharkey, President, Capitol Alliance Group (waives in support)
8:40:19 AM Lena Juarez, President, Chargepoint (waives in support)
8:41:26 AM S 140
8:41:30 AM Sen. Brandes
8:45:50 AM Sen. Cruz
8:46:16 AM Sen. Brandes
8:46:31 AM Sen. Cruz
8:46:52 AM Sen. Perry
8:47:03 AM Sen. Brandes
8:48:13 AM Sen. Perry
8:48:44 AM Sen Brandes
8:49:48 AM Sen. Perry
8:49:58 AM Sen. Brandes
8:50:35 AM Sen. Mayfield
8:52:08 AM Sen. Brandes
8:53:56 AM Sen. Mayfield
8:54:34 AM Sen. Brandes
8:55:38 AM Sen. Cruz
8:56:02 AM Sen. Brandes
8:57:52 AM Sen. Cruz
8:58:00 AM Sen. Brandes
8:58:26 AM Sen. Boyd
8:58:57 AM Sen. Brandes
9:00:26 AM Sen. Ausley
9:00:56 AM Sen. Brandes
9:01:38 AM Sen. Ausley
9:01:49 AM Sen. Brandes
9:02:11 AM Sen. Gainer
9:02:22 AM Sen. Brandes
9:02:25 AM Sen. Gainer
9:02:31 AM Sen. Brandes
9:02:47 AM Am. 490740
9:02:56 AM Sen. Brandes
9:03:35 AM Bob McKee, Deputy Director of Public Policy, Florida Association of Counties (waives in support)
9:04:31 AM Lena Juarez, President, Chargepoint (waives in support)
9:04:45 AM Sen. Hooper
9:06:20 AM Sen. Perry
9:06:38 AM Sen. Mayfield
9:07:58 AM Sen. Wright
9:08:43 AM Sen. Brandes

9:11:00 AM S 1104
9:11:04 AM Sen. Rodriguez