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****AS PASSED BY THE LEGISLATURE****
CHAPTER #: 00-266, Laws of Florida

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
TRANSPORTATION
FINAL ANALYSIS**

BILL #: CS/HB 893 (passed as CS/SB 772)
RELATING TO: Transportation
SPONSOR(S): Committee on Transportation and Rep. K. Smith
TIED BILL(S): n/a

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) TRANSPORTATION YEAS 10 NAYS 0
- (2) JUDICIARY W/D
- (3) COMMUNITY AFFAIRS W/D
- (4) CRIME & PUNISHMENT W/D
- (5) FINANCE & TAXATION W/D
- (6) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS YEAS 11
NAYS 0

I. SUMMARY:

This bill addresses transportation related rulemaking authorization and a number of transportation infrastructure issues. The bill also includes a number of issues contained in the Department of Transportation's (DOT) 2000 legislative proposals. Major provisions in the bill:

1. Provide for a refund of diesel fuel taxes paid on fuel used by motor coaches during idling.
2. Improve statewide coordination and control of future investments in seaports and intermodal development. These changes are based on recommendations in an audit of the seaport program recently completed by the Office of the Auditor General.
3. Provide that, in determining the maximum number of lanes for any project, DOT must evaluate all alternatives and seek to achieve the highest degree of mobility for the corridor.
4. Allow counties to use local option gas tax funds to pave existing graded roads for purposes of relieving or mitigating existing or potential adverse environmental impacts.
5. Provide for a set of prevailing principles for DOT to consider in planning transportation systems.
6. Expands the State Fire Marshall's regulatory authority over the use of explosives in construction materials mining activities.
7. Repeals authority for the motor vehicle emissions inspection program.

The motor coach fuel tax refund issue will reduce fuel tax revenue to the State Transportation Trust Fund by \$1 million and will reduce fuel tax revenue to counties and cities by \$700,000. Repeal of the Motor Vehicle Inspection Program will reduce revenues to the state by \$10 million to Highway Safety Operating Trust Fund and \$800,000 to the General Revenue Fund. For more details about these impacts, see the Fiscal Analysis and Economic Impact Statement under Part III.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

Less Government: The bill abolishes the motor vehicle emissions inspection program. See analysis of sections 31-34., below for details.

Lower Taxes: The bill provides that diesel fuel purchased in Florida and consumed by the engine of a qualified motor coach during idle time for the purpose of running climate control systems and maintaining electrical systems is subject to a refund. See analysis of section 2., below for details.

B. PRESENT SITUATION:

Because of the comprehensive nature of the transportation related changes contained in this bill, the present situation relating to each issue is set out in the Section-by-Section portion of this analysis.

C. EFFECT OF PROPOSED CHANGES:

Because of the comprehensive nature of the transportation related changes contained in this bill the effect of each proposed change is set out in the Section-by-Section portion of this analysis.

D. SECTION-BY-SECTION ANALYSIS:

Sections 1, 6, 7, 14, 15, 18, 25, 26, & 27. Rule Authorization Provisions: In 1996, the Legislature enacted s. 120.536, F.S., which eliminates an agency's ability to rely on broad statutory authority for its rules and requires specific statutory authority for the powers exercised in a rule.

Pursuant to s. 120.536, F.S., DOT and the Commission for the Transportation Disadvantaged (Commission) have identified areas of current rule making authority where specific grants of power by the Legislature are necessary to continue implementation of the rules. These provisions of the bill provide statutory authorization for existing DOT or Commission rules which have been identified as necessary but which currently exceed the DOT's or the Commission's rulemaking authority. The bill amends ss. 20.23, 334.187, 334.044, 337.18, 338.155, 339.09, 427.013, 427.0135, and 427.015, F.S., to provide rule authorization language as follows:

-The bill provides specific legislative authority for the DOT to promulgate rules: to delegate authority beyond the assistant secretaries; to establish prepaid escrow accounts; to approve aggregate sources; to provide for prompt settlement or legal defense of claims and disqualification for failure to settle claims; to provide for toll facility operations; and to provide for relocation assistance.

-The bill authorizes the Commission to develop by rule standards for community transportation coordinators and any transportation operator or coordination contractor from whom service is purchased or arranged by the community transportation coordinator, including minimum liability insurance requirements for all transportation services purchased.

-Further, the bill provides specific legislative authority for the Commission to promulgate rules providing that an agency which is a member of the Commission may not serve as the community transportation coordinator.

Section 1. DOT Organizational Structure: The bill amends s. 20.23(2), F.S., to add an additional statutory responsibility for the Florida Transportation Commission. The bill requires the Commission to review DOT's organization, including a review of the Department's current district structure, and to recommend improvements to streamline and optimize the efficiency of DOT. The initial report by the commission must be delivered to the Governor and Legislature by December 15, 2000, and each year thereafter, as appropriate. The bill authorizes the commission to retain experts as necessary to conduct this study, and DOT is responsible for the expenses of such experts.

The bill contains several minor changes to the department's organizational structure related to motor carrier compliance. DOT's Motor Carrier Compliance Office enforces laws relating to the operation of commercial motor vehicles (trucks) within the state. The bill amends s. 20.23(3), F.S., to move the motor carrier enforcement activities for DOT from the Assistant Secretary for District Operations to the Assistant Secretary for Transportation Policy and designates the functions of motor carrier compliance as an office within the department.

Section 2. Motor Coaches/Tax Refund: Section 206.8745, F.S., provides tax refunds for diesel fuel consumed for unloading bulk cargo by pumping; for turning a concrete mixer drum; and for compacting solid waste. Requests for these refunds are processed by the Department of Revenue (DOR) as provided by agency rule. Based on industry conducted studies, DOR established fixed guidelines by rule for the portion of diesel fuel purchased which would be subject to refund. For both the concrete mixing industry and the trash compacting industry DOR rules provide that 35 percent of fuel purchased is subject to refund. For the bulk cargo pumping industry DOR rules provide that 10 gallons of fuel purchased for each load is subject to refund.

This bill amends s. 206.8745, adding a new subsection (8) which provides that diesel fuel purchased in Florida and consumed by the engine of a qualified motor coach during idle time for the purpose of running climate control systems and maintaining electrical systems is subject to a refund. "Qualified motor coach" is defined as a privately owned vehicle designed to carry nine or more passengers with a gross vehicle weight of at least 33,000 pounds, which is used exclusively for transporting passengers for compensation. The motor coach must also have an on-board computer which can measure fuel consumed in Florida during idling, separate from fuel consumed to propel the vehicle.

The bill allows the purchaser to make one refund claim per calendar year which must be submitted prior to April 1 of the year subsequent to the year in which the tax was paid. The purchaser must submit purchase invoices showing the taxes paid or a schedule of purchases containing the information required by s. 206.41(5)(b)1. The purchaser must remit as an offset to the refund, sales tax due under chapter 212 based on the purchase price of the fuel. The bill authorizes DOR to adopt rules to implement this provision.

Sections 3 - 5. Florida Seaport Transportation and Economic Development (FSTED)

Program: The FSTED Program is provided by statute with a minimum of \$8 million funding per year. The funds are used to fund approved port projects on a 50-50 matching basis with any of Florida's deepwater ports. In 1996 the Legislature provided an additional \$15 million of annual funding which may be bonded to fund projects in the Florida seaport program. In 1999 the Legislature provided an additional \$10 million per year for funding seaport intermodal access projects of statewide significance. The revenues may be bonded by the seaports and provisions relating to project eligibility for seaport program funding were modified to authorize the use of FSTED funds for seaport intermodal access projects identified in the 5-year Florida Seaport Mission Plan.

Based on an operational audit of the seaport program recently completed by the Office of the Auditor General (Report Number 13612), there is a need to establish improved statewide coordination and control of investments in seaports and intermodal access roads. The growing importance of trade to Florida's economic prosperity makes the modernization and globalization of Florida's seaports and intermodal access a priority issue.

The bill amends ss. 311.07, 311.09, and 320.20, F.S., to clarify the state's role in seaport planning and financing. The bill improves statewide coordination and control of future investments in seaports and intermodal development by:

- Clarifying that DOT has final audit authority for port projects funded with bonds issued pursuant to s. 320.20, F.S.
- Giving DOT and the Office of Tourism, Trade and Economic Development (OTTED) voting representation on the FSTED Council; and authority to veto any seaport projects submitted by the Council.
- Requiring that seaport program funding be expended in accordance with the competitive negotiation requirements of s. 287.057, F.S., unless subject to similar requirements of a local government.
- Restricting the term of bonds issued to refinance existing bonds to a maturity no later than the existing bonds would have matured; and requiring that future seaport bonds be issued through the Division of Bond Finance pursuant to the State Bond Act.

The bill also amends s. 311.07, F.S., to authorize small ports with operating revenues of less than \$5 million to use seaport program funding to construct and rehabilitate port facilities that create economic development opportunities, such as, channels and turning basins; wharves, docks and piers, and; storage and distribution facilities. Because the purpose of the state seaport program is to facilitate the movement of passengers and cargo, park and recreational facilities are specifically excluded from funding under this provision.

Section 6. Purchasing/Promotional Items: DOT has been notified by the State Comptroller's Office that reimbursement of funds expended to purchase promotional items

will not be allowed because current law does not provide for the purchase of marketing items. DOT and the commuter services, transit agencies, trucking industry and railroad companies with which DOT works rely on using promotional items to educate the public regarding safety issues and alternative transportation modes. The bill amends s. 334.044, F.S., to provide specific statutory authority allowing DOT to purchase promotional items for use in public education and information campaigns.

Section 8. State Highway System/Maximum Number of Lanes: Section 335.02, F.S., provides DOT with authority to set standards for the number of lanes on the State Highway System, including the Florida Intrastate Highway System. DOT's current policy provides that for limited access highways, the maximum number of lanes that will be constructed is ten lanes, with six of those lanes being general purpose lanes and four of those lanes being 'special use' lanes. Special use lanes include those exclusively for through traffic, for public transit vehicles and for other high occupancy vehicles. DOT's policy also allows exceptions to the policy on a case-by-case basis, with final approval of exceptions by the Secretary of Transportation.

The bill provides that DOT must evaluate all alternatives and consider certain criteria in establishing the number of lanes of a highway. The criteria includes such issues as the economic importance of the corridor, use of the corridor as an evacuation route, traffic volumes, multimodal alternatives, right-of-way costs, and MPO and local comprehensive plans. Further, the bill specifically provides that allowing more than ten lanes on a highway is not precluded, but that DOT must also consider the facility's capacity to accommodate alternative forms of transportation in the future within its right-of-way.

Section 9. Local Option Gas Taxes/Unpaved County Roads: Section 336.025, F.S., authorizes a local option gas tax of up to eleven cents per gallon. One to six cents per gallon of tax may be levied by a simple majority of the county commission, the additional five cents of gas tax may only be levied by a majority plus one of the county commissioners. Alternatively, these local option gas taxes may be levied by a county through a referendum approving the tax.

The use of the revenues from the last five cents of gas tax may only be used for transportation expenditures needed to meet the capitol improvement element of an adopted comprehensive plan, including construction of new roads, or resurfacing or reconstruction of existing paved roads. The bill expands the allowable uses of the five cent gas tax revenues to include paving of unpaved roads only when the paving is necessary to mitigate an adverse environmental impact. This will help some counties address environmental concerns raised by the Department of Environmental Protection concerning run-off from unpaved roads washing into rivers, creeks, and wetlands.

Section 10. Maintenance Contracts/Innovative Highway Projects: Pursuant to s. 337.025, F.S., DOT is authorized to establish a program for highway projects demonstrating innovative techniques of highway construction and finance to control time and cost increases on construction projects. This may include innovative bidding and financing techniques; accelerated construction procedures; and techniques that can reduce project life cycle costs. Prior to using an innovative technique, DOT documents the need for using the technique and identifies anticipated public benefits. Current law provides that DOT may enter into no more than \$120 million in innovative contracts annually. The bill expands the innovative highway project program to allow maintenance of transportation facilities to be undertaken using innovative techniques.

Section 11, 12, 19 & 20. Prevailing Principles/Transportation Planning & Development:

The major elements of Florida's transportation system include: the 12,000 mile State Highway System; more than 100,000 miles of local roads; 2,988 miles of main route rail lines; rail passenger services in north, central and southeast Florida; commuter rail in southeast Florida; 18 local and regional transit systems operating about 10,000 route miles; 22 commercial airports; 14 seaports; and 48 specialized systems serving the transportation disadvantaged.

The planning process for such a comprehensive transportation system involves many different planning agencies at different levels of government including local governments, metropolitan planning organizations (MPOs), regional planning councils and various state agencies. Florida's planning process also provides broad participation to include other key stakeholders, such as the business community, members of the public, and community groups. Each brings different priorities, perspectives and potentially different objectives to the planning of transportation facilities and services.

The DOT's 2020 Florida Transportation Plan focuses on the major themes important to the well-being of residents and visitors. Long range objectives are established, providing specific actions so progress toward achieving them can be measured. DOT currently has a mission statement and four goals which guide the overall planning for state projects.

DOT mission statement:

"The Department will provide a safe, interconnected statewide transportation system for Florida's citizens and visitors that ensures the mobility of people and goods, while enhancing economic prosperity and sustaining the quality of our environment."

Florida Transportation Plan Goals:

Goal 1 - Safe transportation for residents, visitors and commerce.

Goal 2 - Protection of the public's investment in transportation.

Goal 3 - A statewide interconnected transportation system that enhances Florida's economic competitiveness.

Goal 4 - Travel choices to ensure mobility, sustain the quality of the environment, preserve community values and reduce energy consumption.

The bill amends ss. 334.035, 334.046, 339.155, and 339.175, F.S., to provide a set of prevailing principles which will guide state and regional transportation planning. The prevailing principles are: (1) preserving the existing transportation infrastructure; (2) enhancing Florida's economic competitiveness; and (3) improving travel choices to ensure mobility.

Section 334.035, F.S., is amended by the bill to provide that the prevailing principles must be considered in planning and developing transportation systems in the Florida Transportation Code. Section 334.046, F.S., is amended to require the DOT to integrate the prevailing principles in their mission, goals, and objectives, and in the Florida Transportation Plan. The bill also defines the prevailing principles:

(a) Preservation -- Protecting the state's transportation infrastructure investment, including, ensuring that:

1. 80 percent of State Highway System pavement meets DOT standards;
2. 90 percent of state maintained bridges meets DOT standards;

3. DOT achieves 100 percent of the acceptable maintenance standard on state roads.

(b) Economic Competitiveness -- Ensuring the state has a clear understanding of the economic consequences of transportation investments, and how such investments effects the state's economic competitiveness. DOT must develop a macroeconomic analysis of the linkages between transportation investment and economic performance, as well as a method to quantifiably measure the economic benefits of the district work program investments. Such an analysis must analyze:

1. The state and district's economic performance relative to the competition.
2. The business environment as viewed from the perspective of companies evaluating the state as a place to do business.
3. The state's capacity to sustain long-term growth.

(c) Mobility -- Ensuring a cost-effective, statewide, interconnected transportation system.

Section 339.155, F.S., is amended to provide the Florida Transportation Plan must be based on the prevailing principles and the planning process must be carried out in conformance with those principles. In addition, 28 planning factors which are no longer required by federal law are deleted. Regional Planning Councils are also required to prioritize regional transportation goals and policies in accordance with the prevailing principles.

Section 339.175, F.S., is amended to require the prevailing principles to be considered in MPO Long-Range Transportation plans, Transportation Improvement Plans, and in the project prioritization process. Further, six planning factors which are no longer required by federal law are deleted.

Public Hearing Notice Requirements: Section 339.155(6), F.S., establishes requirements for DOT procedures relating to public participation in the transportation planning process, including public hearings and notice requirements for such hearings. The bill clarifies current language relating to public participation in transportation planning, to delete the current 14 consecutive day notice requirement, and to require that notice be published twice, with the first publication being at least 15 days and no more than 30 days before the hearing.

Safe Access to Schools: MPOs are required by s. 339.175, F.S., to appoint Technical Advisory Committees to provide the MPO with technical advice concerning transportation planning. The bill requires that these committees consider safe access to schools in reviewing transportation priorities, long-range plans, and improvement programs. Further, each committee is to coordinate with local school boards and other school safety programs and organizations in carrying out this function. The bill deletes provisions related to MPOs voting to classify transportation projects as school safety concerns, and also deletes certain requirements for local governments related to projects so classified.

MPO Coordinating Committees: The bill amends s. 339.175, F.S., to require the continuation of certain committees established to coordinate regionally significant transportation projects affecting multiple MPOs. This provision affects only the MPOs in DOT District 7 (Citrus, Hernando, Hillsborough, Pasco, and Pinellas Counties). The MPOs in this district have established certain coordinating mechanisms in conjunction with DOT, including formation of a "Chairman's Coordinating Committee" (CCC) which meets

quarterly. The CCC provides a means of coordinating transportation activities among the MPOs and DOT. These meetings provide an opportunity for MPO elected officials and staff to cooperatively plan regional activities and share information to help build consensus on regional transportation issues and projects. The bill also requires the CCC to establish a dispute resolution process to address conflicts over regionally significant transportation projects.

Section 13. Retainage: Section 337.175, F.S., provides that DOT must provide in its construction contracts for retaining a portion of the amount due a contractor for work the contractor has completed, until completion and final acceptance of the project by DOT. The section further provides that a contractor has the right to substitute securities, certificates of deposit, or irrevocable letters of credit approved by the DOT comptroller in lieu of retainage. The bill deletes the mandatory requirement that DOT retain a portion of the amount due a contractor for work completed, and allows this as an option for DOT to include in its contracts. In addition, DOT is given discretion as to whether to accept securities, certificates of deposit, or letters of credit from a contractor in lieu of retainage. This change provides DOT with more flexibility concerning retainage requirements for contractors.

Section 16. Advertising Toll Facilities/Turnpike: Currently, s. 338.161(1), F.S., allows DOT to pay for advertising, marketing and promotion of *electronic toll collection products and services*; however, this provision does not specifically allow DOT to pay for advertising, marketing and promotion of the actual *toll facility*. The bill amends this section to allow DOT to pay for advertising, marketing and promotion of toll facilities. This would allow the promotion of the Turnpike and other toll roads and bridges. If these promotions result in increased use of toll facilities, more toll revenues would be collected.

Section 17. Tolls on Interstates/Exceptions: Section 338.165(6), F.S., provides that no tolls may be charged on interstate highways where tolls were not charged as of July 1, 1997. The bill amends this section to exempt high-occupancy toll lanes and express lanes on interstate highways from this prohibition. Charging tolls on interstate highways is a financing mechanism that has been used successfully in other states, and this provision will allow for limited use of these tolls in Florida.

Section 21. Tri-County Rail/Bond Payments: The Tri-County Commuter Rail Authority (Tri-Rail) was created in 1989 to operate a commuter rail system serving Broward, Dade, and Palm Beach Counties. Section 343.56, F.S., prohibits the use of state funds to pay debt service on Tri-Rail bonds. A bond financed improvement project to the Tri-Rail system has been proposed which will construct 44 miles of additional track parallel to the existing single mainline track. This project will finish the double tracking of Tri-Rail's entire 71-mile rail corridor. Tri-Rail anticipates that federal funds will be made available to pay debt service on bonds for the Tri-Rail double tracking project, but these funds will pass through DOT and must be matched with state funds. The bill creates a narrow exemption to the prohibition of using state funds on Tri-Rail bonds, so that federal funds passed through DOT, and the federally required state match, may be used to pay principal and interest on these bonds. Completion of this project will allow for more efficient operations, as trains going in opposite directions will not have to pull on to sidings to allow an oncoming train to pass.

Sections 22 - 24. Central Florida Regional Transportation Authority (CFRTA): The CFRTA (also known as LYNX) is an independent special district responsible for providing residents and visitors in Orange, Osceola and Seminole Counties with public transportation services. The CFRTA Board of Directors is composed of nine members representing the three

counties served, the largest city in each of those counties, DOT, and two gubernatorial appointments. The bill amends s. 343.63, F.S., to increase the board to eleven voting members, by increasing the number of appointments by the Governor from two to five members. In addition, the member appointed by DOT (the DOT District Five Secretary) is made a non-voting member. The bill also amends s. 343.64, F.S., to allow CFRTA to expand its service area to include any county that is contiguous to the existing service area, and to allow CFRTA to set the terms and conditions of such a partnership with an adjoining county. Finally, the bill provides that a permanent executive director may not be hired for CFRTA until the appointments to the governing board required by the bill have been filled.

Sections 28 & 29. Permit Exemption/Local Government Signs: Chapter 479, F.S., provides for regulation of outdoor advertising by DOT and local governments. Most outdoor advertising signs located along state highways are required to be permitted by DOT. Section 479.16, F.S., provides that signs located on the premises of an establishment which advertises the establishment are exempt from permitting requirements. These "on-premise" signs must comply with DOT lighting restrictions and other requirements related to location of the signs. The bill would expand the exemption of on-premise signs to include signs owned by a local government, located on local government property, and displaying information regarding governmental services, activities, events or entertainment. To be exempt these governmental signs may not include any commercial, personal or political messages.

Section 30. Construction Materials Mining Regulation: DOT and local governments use large quantities of limestone aggregate and other materials that are mined in Florida for the construction of transportation facilities. Aggregate materials are used for highway embankments, and concrete and asphalt pavements. Explosives are used in blasting these material at various mines around the state. In particular, mines in Dade County are heavily relied on by DOT and other construction industries as sources of limestone aggregate. Dade County has proposed restrictions on mining activities that, according to DOT, would limit blasting and restrict ground vibrations so that there would be a decrease in materials from mines in Dade County. These restriction would increase the cost of these materials with an associated increase in public tax expenditures to construct transportation facilities. This bill preempts local regulation of explosives associated with construction materials mining activities, and provides for statewide regulation by the State Fire Marshal.

Chapter 552, F.S., governs the requirements and the enforcement for the manufacture, distribution, and use of explosives. The Division of State Fire Marshal (SFM) within the Department of Insurance is responsible for enforcing this chapter. The SFM issues licenses for companies and individuals who are manufacturers-distributors, dealers, and users. The SFM solely issues permits for blasters of explosives.

A manufacturer-distributor means a person engaged in the manufacture, compounding, combing, production, or distribution of explosives. A dealer is a person engaged in the wholesale or retail business of buying and selling explosives. A user is a dealer or manufacturer-distributor who uses an explosive as an ultimate consumer or a person who, as an ultimate consumer purchases such explosive from a dealer or manufacturer-distributor. A blaster is a person employed by a user who detonates or otherwise effects the explosion of an explosive.

Licenses and permits issued by the SFM must include minimum statutory information including the purpose for which the license or permit is to be used in relation to explosives and any restrictions placed on the licensee or permittee by the SFM. See s. 552.094, F.S.

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A blaster's permit is valid only for use by the permit holder in the course of his or her employment with a licensed user. There are currently 202 licensed users of explosives.

Once the SFM issues a license to a user of explosives, the SFM does not issue permits to the licensee to prepare explosives or to conduct particular blasting operations. Under state regulations, however, a user or blaster is required to keep an accurate blasting log for each blasting operation if there is even a remote possibility of damage to private or public property. See Fla. Admin. Code R. 4A-2.019. Local governments have adopted ordinances relating to explosives and blasting activities for which permits must be secured from the local county or city in which the specific blasting operation takes place. The SFM does conduct investigations of blasting scenes and storage facilities for explosives to determine compliance with statutes.

The SFM is statutorily required to adopt and enforce rules relating to minimum general standards covering the manufacture, transportation, use, sale, handling, and storage of explosives. See Fla. Admin. Code R. chapter 4A. These regulations must be based on those reasonably necessary for the protection of the health, welfare, and safety of the public and of persons possessing, handling and using explosive materials. In addition, these rules must "be in substantial conformity with generally accepted standards of safety concerning such subject matters." See s. 552.13, F.S. The SFM is also authorized to restrict the "quantity and use of explosives at any location within the state when the SFM deems the use of such explosives is likely to cause injury to life or property." See s. 552.211(3), F.S.

The SFM, however, has not adopted specific rules relating to prescribed minimum set-back distances between residential structures or buildings and the use of explosives. However, the SFM has adopted in rules a distance schedule relating to the storage of explosives. See Fla. Admin. Code R. 4A-2.006. There are no specific rules relating to limits on the ground vibration, air blast or flyrock from use of explosives. Essentially, the SFM responds on a complaint-by-complaint basis to specific complaints regarding the use of explosives near residential structures. Typically, the SFM enters into stipulation agreements with the users of the explosives to establish conditions for their use such as placing limitations on the maximum ground vibrations relative to distance, restrictions on the time of day for the explosions, and other related conditions.

The bill creates s. 552.30, F.S., which gives the SFM sole and exclusive authority to regulate the use of explosives in mining activities for construction materials such as limestone and sand. The SFM regulatory authority includes the operation, handling, licensure, and permitting of explosives. Further, the SFM will set standards or limits for ground vibration, frequency, intensity, blast pattern and air blast, as well as time, date, occurrence, and notice restrictions. The statewide ground vibration limits set by the SFM must conform to certain U.S. Bureau of Mines limits. The monitoring and enforcement of SFM blasting regulations may be delegated to local governments, including authority to collect reasonable fees to be used for carrying out local regulatory activities.

Sections 31 - 34. Motor Vehicle Emissions Inspections Program Repeal: Currently, the Motor Vehicle Inspection Program (MVIP) exists in six Florida counties: Broward, Dade, Duval, Hillsborough, Palm Beach, and Pinellas counties. In 1987, the Environmental Protection Agency (EPA) declared these six counties to be "ozone nonattainment areas", as defined in s. 325.202(10), F.S. In 1995 and 1996, the state requested that the six counties be re-designated to "attainment status" based on the improved air quality. The EPA approved the re-designation with the stipulation of an approval of "maintenance plans" for 10 years after the date of re-designation, as required by the Clean Air Act.

According to the Department of Environmental Protection (DEP), air monitoring data suggests that four counties, Broward, Dade, Duval, and Palm Beach, will be declared to be in compliance with the new ozone standards. Therefore, the MVIP would no longer be needed in these four counties. Hillsborough and Pinellas counties, however, are not expected to be in compliance with the new ozone standards. The EPA is expected to make its determinations regarding which counties are to be designated in "attainment status" in July 2000.

As set forth in s. 325.2135, F.S., when an area meets "attainment status" the Department of Highway Safety and Motor Vehicles (DHS&MV) may cancel a contract with six month's notice to the contractor.

Effective July 1, 2000, the bill eliminates the MVIP in Florida, and makes conforming statutory changes. Further, the bill directs the Department of Environmental Protection to work with the U.S. Environmental Protection Agency to revise the State Implementation Plan for program areas. This would relieve motorists in Florida from having to obtain a vehicle emissions test prior to initial registration and registration renewals.

The EPA posted a revised SIP in the Federal Register which proposes to eliminate Florida's program in Dade, Palm Beach, Duval and Broward counties. However, this plan would still require Hillsborough and Pinellas to comply with the vehicle emissions program. The bill's provisions appear to be inconsistent with the EPA's proposed plan. However, prior to the imposition of any federal sanctions, the Environmental Protection Agency would have to make a finding that the state had violated the State Implementation Plan. This would then trigger an 18-month period of review during which the state would need to demonstrate how it would achieve the reduction credits currently associated with the program and modify the State Implementation Plan accordingly.

If after this 18-month period of review, the Environmental Protection Agency determined that the state had failed to meet these requirements, sanctions could be imposed. Potential sanctions include the withholding of highway funds and imposition of emissions offset requirements. The withholding of highway funds would be applicable to the relevant non-attainment area, not the entire state. The emissions off-set requirements provide for a 2 to 1 ratio of emissions reductions to increased emissions for new or modified sources or emissions units for which permitting is required.

Section 35. Effective Date: The bill becomes effective upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See D. Fiscal Comments, below.

2. Expenditures:

See D. Fiscal Comments, below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See D. Fiscal Comments, below.

2. Expenditures:

See D. Fiscal Comments, below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Section 2. Motor Coaches/Tax Refund: Owners of motor coaches with on-board computers with the capacity to measure diesel fuel consumed in Florida during idling, separate from diesel fuel consumed to propel the vehicle, will benefit from the tax refund provided in the bill. The overall impact on the motor coach industry is estimated to be \$1.7 million in refunds of fuel taxes paid on diesel fuel.

Sections 31 - 34. Motor Vehicle Emissions Inspections Program Repeal: The following fiscal impacts assume that if this bill did not pass the inspection program would continue in all six of the currently impacted counties, and that vehicle inspections would be required every other year for a \$19 fee with the first three vehicle model years exempt. It is also assumed that the proportion share of revenues going to the private sector would remain the same.

Direct private sector costs: The emission inspection station contractors would experience a revenue reduction of approximately \$ 22 million annually. The motor vehicle repair industry would also experience an indeterminate negative fiscal impact resulting from fewer repairs to meet emission inspection requirements.

Direct private sector benefits: Owners of vehicles subject to emission inspections will save the costs of inspections (\$19 every other year). These costs would reach approximately \$34 million annually.

D. FISCAL COMMENTS:

Section 1. DOT Organizational Structure: The bill requires the Transportation Commission to recommend to the Governor and the Legislature improvements to DOT's organization, including a review of the department's current district structure, in order to streamline and optimize the efficiency of DOT. The initial report by the commission must be delivered to the Governor and Legislature by December 15, 2000, and each year thereafter as appropriate. The bill authorizes the commission to retain experts as necessary to conduct this study, and DOT is responsible for the expenses of such experts. Proviso language in the General Appropriations Act authorizes the Governor to release up to \$500,000 from funds appropriated from the STTF for use by the commission to carry out this study.

Section 2. Motor Coaches/Tax Refund: There will be an estimated loss of \$1 million in fuel tax revenue to the State Transportation Trust Fund and an estimated loss of \$700,000 in fuel tax revenue to county and municipal governments as a result of the estimated fuel consumed by qualified motor coaches that would be subject to refund authorized by the bill.

Section 9. Local Option Gas Taxes/Unpaved County Roads: The bill expands the allowable uses of the five cent gas tax revenues to include paving of unpaved roads when necessary to mitigate an adverse environmental impact. This will provide additional resources to allow counties to address environmental concerns raised by the Department of Environmental Protection concerning run-off from unpaved roads washing into rivers, creeks, and wetlands.

Section 16. Advertising Toll Facilities/Turnpike: The bill allows DOT to pay for advertising, marketing and promotion of toll facilities. This would allow the promotion of the Turnpike and other toll roads and bridges. If these promotions result in increased use of toll facilities, more toll revenues would be collected.

Section 19. Public Hearings/Transportation Planning: The bill deletes the current 14 consecutive day notice requirement for public hearings and requires the hearings to be noticed twice between 30 and 15 days before the meeting. The current cost in advertising to the Department for one public hearing per district per year is estimated to range from \$123,475 - \$143,908, depending on hearing site location and the general circulation newspaper used. By reducing the number of days that notice must be published, the bill would provide a cost savings to the Department.

Sections 31 - 34. Motor Vehicle Emissions Inspections Program Repeal: Repeal of the entire Motor Vehicle Inspection Program will have annual negative fiscal impacts of \$10 million to Highway Safety Operating Trust Fund and \$800,000 to GR. These fiscal impacts assume that if this bill did not pass the inspection program would continue in all six of the currently impacted counties, and that vehicle inspections would be required every other year for a \$19 fee with the first three vehicle model years exempt. It is also assumed that the proportion share of revenues going to the private sector would remain the same.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

This bill was considered the Committee on Transportation on March 14, 2000. The committee adopted an amendment to the bill and a series of amendments to the amendment as follows:

Amendment 1: This strike everything amendment was a conforming amendment incorporating many of the provisions in the Senate companion bill [CS/SB 1368].

The amendment deleted the following provisions which were in HB 893 but which were not in the Senate bill:

-Language for the State Infrastructure Bank and the Fast Track programs, these were covered in HB 1965, the funding package voted out of committee on March 7, 2000.

-Language for using 50 percent of SCETS revenues on FIHS; HB 1965 provides additional funding for the Intrastate System.

-Language on DUI and Open Container laws, these provisions are not in the Senate companion and are more appropriate for the legislative package of the Department of Highway Safety & Motor Vehicles. Committee Substitute for House Bill 1911 includes both of these issues.

The amendment incorporated technical changes and revisions contained in the Senate bill to the following issues which were in HB 893:

-DOT Motor Carrier law enforcement officers: Changes references from "weight and safety" officers to "law enforcement" officers to conform to other statutes; and, restores language removed in a drafting error in 1995 regarding removal of unsafe vehicles.

-Design-Build Contracts: Clarifies that eminent domain authority is not delegated; requires right-of-way to be acquired prior to construction.

-Public Hearing Notice for Transportation Planning: Deletes the 14 consecutive-day notice requirement to clarify notice requirements for public hearings.

The amendment added the following issues that were included in the Senate Bill but were not in HB 893 as filed:

-Authorizes the Transportation Commission to make recommendations concerning organization improvements to DOT.

-Deletes the requirement that an automobile transporter must acquire a permit from DOT to operate a vehicle with of height of 14 feet.

- Allows off-site airport noise mitigation projects to be included as aviation projects.
- Provides criteria for DOT to use in determining the maximum number of lanes for a project; requires evaluation of alternatives.
- Provides that contractor prequalification by DOT is presumed to qualify a contractor to bid on county and expressway authority projects; provides due process protections and chapter 120 rights.
- Allow counties to use local option gas tax funds to pave graded roads when undertaken to mitigate adverse environmental impacts.
- Makes retainage optional rather than mandatory, this gives DOT more flexibility concerning retainage requirements for contractors.

Amendments to the Amendment:

Amendment A1: Rule Authorization Language [CS/SB 772] this amendment provided legislative authorization for existing agency rules.

Amendment A2: This amendment included maintenance contracts in the innovative contracting program.

Amendment A3: Train Whistles - This amendment allowed train whistles to sound based on time and distance from a rail crossing (20 seconds or 1500 feet whichever is less).

Amendment A4: DCA review of the Work Program- This amendment provided that DCA will review the first three years of the work program for consistency with local comp plans. Also the review will not include the PD&E phase of projects.

Amendment A5: This amendment provided that the \$75,000 per acre amount used by DOT in its environmental mitigation program for wetlands is not admissible as evidence of full compensation in inverse condemnation proceedings.

Amendment A6: This amendment addressed Seaport Program issues raised by the Auditor General.

Amendment A7: This amendment required log and pole trucks to display an amber strobe light on the end of projecting logs; the amendment has a delayed effective date until July 1, 2001.

Amendment A8: This amendment revised the membership of the Central Florida Regional Transportation Authority to include additional representatives appointed by the Governor. Also, the amendment allowed the authority to partner with contiguous counties to expand its service area.

Amendment A9: This amendment gave boat trailer haulers the same load extension limits as is currently allowed for boat haulers.

Amendment A10: This amendment provided a tax exemption for "travel center/truck stops."

Amendment A11: This amendments was withdrawn.

Amendment A12: This amendments was withdrawn.

Amendment A13: This amendment set out additional requirements relating to prequalification of contractors for county transportation projects.

Amendment A14: This amendment set out additional requirements relating to prequalification of contractors for expressway and transportation authority transportation projects.

The bill as amended was reported favorably as a committee substitute.

On April 26, 2000, the Transportation and Economic Development Appropriations Committee adopted a strike-all amendment to HB 893. The strike-all included the following changes and additions from the original bill:

Continues M.P.O.'s Chairmen's Coordinating Committees which have been established to coordinate the planning of transportation projects within contiguous M.P.O. areas.

Modifies Seaport Audit Recommendations to address issues raised by the Seaports and the Division of Bond Finance.

Adds a provision which will allow placement of 4-way stop signs in Private Communities.

Adds language which allows local government signs which advertise government services and activities to be located on local government property.

Modifies Spaceport Management Council provisions to require a report on council recommendations to the Governor and affected agencies, to allow various federal agencies to have official liaisons to the council, and to make a number of technical and clarifying changes to council authorizing provisions.

Modifies a provision of the bill related to Contractor Prequalification to address concerns expressed by local governments.

Allows federal money passed through DOT to Tri-Rail and state matching funds to be used to pay Tri-Rail bonds.

Creates authority for tolls on Interstate Highways for the limited purpose of implementing High Occupancy Toll (HOT) lanes and Express lanes.

Allows DOT to cooperate with local governments and state agencies to implement Safe Paths to Schools.

Allows Orlando-Orange County Expressway Authority to issue its own bonds to refinance bonds used to finance Expressway Authority projects.

Five amendments to the strike all amendment were also adopted on April 26, 2000 as follows:

Amendment #1 requires locals to pay compensation for amortizing of, or requiring alterations to, billboards.

Amendment #2 authorizes a county who owns and operates a deepwater port, which is located within the boundaries of a municipality, to contract the boundaries of the port

property by ordinance of the county commission and to enter into an interlocal agreement with such municipality for a reasonable payment in lieu of any ad valorem taxes lost to the municipality. The amendment also repeals two special acts relating to the port, but authorizes the board of county commissioners to adopt any necessary provisions of those acts by ordinance. This is in conformance with the general law of this state which already authorizes county governments to own and operate deepwater ports. See, Section 125.01(1)(l), Florida Statutes.

Amendment #3 requires that the qualifications, the terms of the office and the obligations and rights of members of the authority shall be determined by resolution or ordinance of the governing body of the county in a manner that is consistent with certain requirements.

Amendment #4 provides that public works contracts having a formal procedure for dispute resolution that authorizes one of the parties to unilaterally decide the dispute is inoperative and unenforceable.

Amendment #5 provides that through mutual agreement between the department and a municipality, county or authority; the period for general aviation airports for reimbursing the department for projects costs may be extended.

The bill as amended was reported favorably.

VII. SIGNATURES:

COMMITTEE ON TRANSPORTATION:

Prepared by:

Phillip B. Miller

Staff Director:

John R. Johnston

AS FURTHER REVISED BY THE COMMITTEE ON TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS:

Prepared by:

Eliza Hawkins

Staff Director:

Eliza Hawkins

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON TRANSPORTATION:

Prepared by:

Phillip B. Miller

Staff Director:

John R. Johnston