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**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS
ANALYSIS**

BILL #: CS/HB 1053

RELATING TO: Transportation

SPONSOR(S): Committee on Transportation and Representative(s) Russell

TIED BILL(S):

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

(1) TRANSPORTATION YEAS 12 NAYS 0
(2) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS YEAS 13 NAYS 1
(3) COUNCIL FOR READY INFRASTRUCTURE
(4)
(5)

I. SUMMARY:

CS/HB 1053 includes numerous transportation issues, ranging from substantive law changes to technical fixes.

Among its substantive revisions of transportation-related statutes are:

- Streamlining airport registration and eliminating airport license fees;
- Raising DOT's bond cap and dollar thresholds for amendments to the Five Year Work Program;
- Allowing DOT to include right-of-way services and road enhancement projects in design-build contracts;
- Directing local governments and expressway/bridge authorities to accept bids from transportation contractors who are prequalified by DOT;
- Creating an arbitration process for local governments and billboard owners who can not reach agreement on compensation for sign removal; and
- Eliminating solicitation of funds at highway rest areas, welcome centers and similar facilities along the State Highway System.

The bill also deletes a number of responsibilities – including regulation of train speeds – which the Florida Statutes assign to DOT, but which actually are governed by federal law.

CS/HB 1053 has a minimal fiscal impact on the DOT.

The bill would take effect July 1, 2001.

- On April 4th, 2001, the Transportation and Economic Development Appropriations Committee adopted four amendments which significantly changed portions of the bill. See page 17 of the bill analysis for an explanation of the amendments.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1. Less Government Yes [X] No [X] N/A []

   CS/HB supports the principle of less government by: streamlining DOT regulation of private airports, eliminating unnecessary rulemaking and licensing requirements, and deleting rail regulations that are duplicative of federal laws. It contradicts the principle of less government by: requiring counties, cities and expressway or bridge authorities to consider DOT-prequalified construction contractors for their local transportation projects, except in a narrow circumstance; limiting the size of advertisements on bus benches, transit shelters and roadside waste receptacles for what appear to be aesthetic reasons; and establishing an arbitration process for local governments and sign owners to work out their differences over relocation and reconstruction agreements.

2. Lower Taxes Yes [] No [] N/A [x]

3. Individual Freedom Yes [] No [] N/A [X]

4. Personal Responsibility Yes [X] No [] N/A []

5. Family Empowerment Yes [] No [] N/A [X]

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

B. PRESENT SITUATION:

Because of the comprehensive nature of the changes in this bill, the “Present Situation” relating to each issue is set out in the “Section-By-Section Analysis.”

C. EFFECT OF PROPOSED CHANGES:

Because of the comprehensive nature of the changes in this bill, the “Effect of Proposed Changes“ relating to each issue is set out in the “Section-By-Section Analysis.”

D. SECTION-BY-SECTION ANALYSIS:

Sections 1 and 2: DOT reorganization

Current situation:

The Department of Transportation has one of the most detailed statutory descriptions of any state agency, in terms of internal organization, the duties and responsibilities of agency officers, and DOT reporting requirements. DOT staff say there are no plans to reorganize the agency, but as staffing and other changes occur through outsourcing efforts and efficiencies, amending s. 20.23, F.S., provides the Secretary the flexibility needed to address these changes.

Effect of Proposed Changes:

CS/HB 1053 heavily amends s. 20.23, F.S., deleting unnecessary instructions on the Secretary’s responsibilities and to whom the Secretary may delegate, the tasks assigned to other DOT officers and supervisors, and obsolete references in general.

Section 2 of the bill corrects a cross-reference in s. 110.205, F.S., necessary because of the changes in s. 20.23, F.S.

Section 3: Right-of-way bonds

Current Situation:
Section 206.46(2), F.S., authorizes that a maximum of 7 percent of the total revenues deposited in the State Transportation Trust Fund be transferred to the Right-of-Way Acquisition and Bridge Construction Trust Fund to pay debt service on bonds issued to buy right-of-way and build/repair bridges. The law also specifies that no more than the amount actually needed to pay debt service, up to a maximum $135 million, shall be transferred.

In fiscal year 2000-2001, 7 percent of the State Transportation Trust Fund revenues equaled $139 million. The actual debt service was $59.3 million.

However, DOT financial projections indicate that by fiscal year 2006-2007, the debt service will be $139.5 million, which exceeds the $135 million statutory cap. Although exceeding the cap is projected to be five years away, DOT staff recommends raising the cap to $200 million now because the agency plans its Work Program in five-year increments.

Effect of Proposed Changes:
The bill amends s. 206.46(2), F.S., to raise the cap on DOT's maximum debt service on right-of-way acquisition and bridge construction bonds to $200 million. DOT staff has said this will help ensure an uninterrupted flow of revenue to pay projected increases in debt service.

Sections 4, 21, 22, and 25: Contractor bidding on local government/expressway projects

Current Situation:
The basic process for counties, municipalities, special districts and other political subdivisions of the state to award contracts for construction projects is described in s. 255.20, F.S., and elsewhere in statute. Typically, any construction project with a cost in excess of $200,000, and any electrical project costing more than $50,000, must be competitively awarded. However, s. 255.20, F.S., lists 10 types of projects where a competitive award is not required, such as emergency repair of facilities damaged by hurricanes, riots, or other "sudden unexpected turn of events."
Section 255.20, F.S., also includes a basic definition and framework for the competitive award process, but allows local governmental entities to establish specific procedures for conducting the process. This has resulted in differences among counties, cities, and other local governmental entities in bidding and contractor qualification requirements.

Sections 336.41 and 336.44, F.S., more specifically relate to county road contracting. Each county is required to competitively bid transportation projects, except in emergency situations and for projects that either don't exceed $250,000 or 5 percent of the county's share of the 2-cents-gallon constitutional fuel tax, whichever is greater.

Section 337.14, F.S., details DOT's contractor certification process. All contractors who wish to bid on transportation projects costing in excess of $250,000 must meet DOT qualifications and be certified.

Effect of Proposed Changes:
Section 255.20 (1)(a) is amended to add an eleventh exemption – projects subject to chapter 336, F.S., County Road System -- from the provisions that set competitive bidding thresholds and allow local-government variations in the competitive award process. In effect, any contractor who is prequalified by DOT and eligible to bid on DOT projects to perform certain work also would be prequalified to obtain bid documents and to submit a bid on those same types of projects for any local government or expressway authority. A local government entity would be able to disqualify a

prospective bidder who is at least 10 percent behind on another construction project for that same entity. Sections 336.41 and 337.14, F.S., are similarly amended.

Section 5: Seaport funding issues

Current situation:

In 1990, the Legislature created the Florida Seaport Transportation and Economic Development Program (FSTED). The FSTED Program began with an annual $8 million appropriation in grants. In subsequent years, a total of $25 million in bondable state revenues was provided to the program, on an annual basis. State funding cannot exceed 50 percent of the total cost of a project. In order to be approved, a proposed project must be found consistent with the seaport's comprehensive master plan and the appropriate local government's comprehensive plan, be of demonstrable economic benefit to the state, and be found consistent with DOT's adopted five-year work program. Candidate projects to be financed through bondable funding must also meet statutory eligibility and consistency requirements. Waterside dredging related improvements require a 75-percent port to 25-percent local government match. Off-port access improvements and on-port bonded projects require a minimum 50/50 contribution from recipient ports.

The FSTED Program is managed by the Florida Seaport Transportation and Economic Development Council, which consists of the fourteen deep-water port directors, the Executive Director of the Office of Tourism, Trade and Economic Development, and the Secretaries of the DOT and the Department of Community Affairs. The Council is responsible for preparing a five-year Florida Seaport Mission Plan, which defines the goals and objectives of the seaports. Additionally, the FSTED Council meets semi-annually to review project applications submitted by each of the individual seaports and recommends which projects should be forwarded to the agencies for further review and possibly recommended for funding with state funds.

As Florida's seaports have expanded --in size, in cargo moved, and in international importance -- so have concerns about seaport security.

Florida is home to four of the 20 busiest container ports in the nation and the top three cruise ports in the world, so significant opportunities exist for drug smuggling, cargo theft, and other criminal activities. Recent assessments, including by the Interagency Commission on Crime and Security in U.S. Seaports, concluded that illegal drug trafficking is the single most prevalent crime problem in U.S. ports. In February, the Florida Office of Drug Control and the Florida Department of Law Enforcement completed their review of the preliminary security plans drafted by Florida seaports, and issued a report summarizing the ports' security needs. These plans include security projects valued at an estimated $45 million, some amount of which the ports would contribute.

Governor Bush has recommended in his FY 01-02 budget that $19 million be appropriated for seaport security. The first draft of the House's proposed FY 01-02 budget has $15 million for seaport security while the Senate is initially proposing $17 million. The House and Senate would fund seaport security projects using Transportation Outreach Program (TOP) funds.

Effect of Proposed Changes:

Section 311.07, F.S., is amended to raise the minimum available funding for the FSTED grant program from $8 million a year to $10 million annually, which reflects the amount the Legislature has appropriated in recent years. It also extends eligibility for FSTED funds to seaport security projects, and specifies that funds earmarked for security projects don't have to be matched by the ports, unlike their economic development projects.

Sections 6, 7, 20, 31, 32, and 47: Federal pre-emption issues
Current situation:
DOT has general authority over the State Highway System, certain federally delegated responsibilities for the Interstate System, and general responsibilities for public transportation systems. In terms of federal transportation regulations or federally delegated responsibilities to DOT, Florida Statutes periodically need to be reviewed for compliance and accuracy with federal law.

Effect of Proposed Changes:
HB 1053 makes several adjustments to statutes where either federal law has changed and the state law needs to be updated, or to eliminate references to DOT authority where federal law actually regulates. Specifically, HB 1053:

- Updates s. 316.302 (1), F.S., related to requirements for drivers of commercial motor vehicles. It changes the date of relevant federal rules and regulations from March 1, 1999, to October 1, 2000.

- Corrects s. 316.3025, F.S., by deleting a statutory reference to commercial motor vehicle penalties and replacing it with a reference to 49 Code of Federal Regulations (C.F.R.) s. 390.21.

- Deletes references in s. 335.141(3) and (4), F.S., to DOT's authority to regulate train speed limits and assess penalties on railroad companies in violation of speed limits. These are federal responsibilities.

- Deletes references in s. 341.051(5), F.S., to DOT developing a major capital investment policy and methodology for funding public transit projects that receive federal dollars. DOT must use already-established federal guidelines.

- Deletes references in s. 341.302(7), (8), and (10), F.S., to DOT's authority to develop and administer state standards on the transporting of hazardous materials by trains and on train speed limits. Again, these are governed by federal regulations.

- Repeals two statutory references. Section 316.327, F.S., requires the location and design of identification stickers on commercial motor vehicles, but says any such vehicle meeting federal identification requirements shall be considered in compliance with this section. To avoid having multiple stickers, the majority of commercial vehicle owners attached the federally required identification. DOT is recommending deleting the state requirement. And, s. 316.610(3), F.S., which allowed the owners of commercial motor vehicles to pay DOT $25 per vehicle safety inspection, is being repealed because of a lack of inspection requests.

Section 8: Height of auto transporters
Current situation:
DOT regulates the height, width and length of motor vehicles, pursuant to s. 316.515, F.S. Subsection (2), for example, establishes a maximum height of 13 feet, 6 inches for a vehicle, regardless of cargo, although it allows automobile transporters to have a maximum height of 14 feet if they obtain a DOT permit. The industry standard for automobile transports is 14 feet high.

Effect of Proposed Changes:
The DOT permit requirement for automobile transporters is repealed because it is unnecessary paperwork.

Sections 9 and 10: Truck weight limits

Current situation:

Section 316.535, F.S., regulates the weights of trucks, based on their axle spacing. During the 2000 legislative session, s. 316.540, F.S., was identified as an obsolete section of law and repealed. However, upon further review in the interim, DOT came to the conclusion that one subsection in the repealed law was necessary, because without it, there would be no weight limits on concrete mixers, septic tank pump trucks, dump trucks and other "special use trucks" that don't comply with the standard axle spacing.

Effect of Proposed Changes:

A new subsection (6) is added to s. 316.535, F.S., to include weight limits on these specialty trucks, and to specify they have to meet all safety and operational requirements under law.

Section 316.545, F.S., is amended to add a cross-reference, in light of the amendment to s. 316.535, F.S.

Sections 11-16: State regulation of airports

Current situation:

Airports, airlines and aircraft are primarily regulated by the Federal Aviation Administration. Chapter 330, F.S., governs the state regulation of public and private airports. DOT's general responsibilities include licensing and inspecting public and private airports; reviewing airport siting plans; and providing funds for expansion or improvements. Florida has 20 commercial service airports, a total of 131 public airports, and in excess of 230 privately operated airports, heliports and seaplane landing areas

Effect of Proposed Changes:

Chapter 330, F.S., is amended throughout. The site and license fees for all airports are abolished. The proposal also replaces the current requirement for physical inspection of private airport sites for approval and licensing with an electronic self-certification registration program. The amendments include authority and requirements for DOT to establish the data system to register private airports, standards to accomplish self-certification for site approval and registration, and requirements for administering and enforcing the new provisions. The amendments also include editorial changes to remove outdated, obsolete, or incorrect language, including airport definitions.

The bill also amends s. 332.004(4), F.S., broadening the definition of "airport or aviation development project" to include off-airport noise mitigation projects as eligible for state funding. These off-site mitigation projects, such as installing noise-buffering insulation in homes around airports, is less expensive than buying out the homeowners. DOT funds have been spent for these type projects in the past, and the agency wanted to ensure that such expenditures are clearly legal.

Section 17: DOT's authority to delegate permitting and to promote scenic highways

Current situation:

DOT's powers and duties are listed in s. 334.044, F.S. Among its responsibilities is the ability to purchase, lease, or otherwise acquire promotional or educational materials on traffic and train safety awareness, commercial motor vehicle safety, and alternatives to single-occupant vehicle travel.

DOT also is authorized to regulate and prescribe conditions for the transfer of stormwater to state right-of-way because of development of, or other manmade changes to, adjacent properties. Pursuant to s. 334.044(15), F.S., DOT is authorized to adopt rules for issuing stormwater management permits. However, the section also directs DOT to accept stormwater permits from

the water management districts, the Department of Environmental Protection, or local governments, provided those permits are based on requirements equal to, or even more stringent than, DOT's requirements. Situations have arisen where a water management district's permit criteria were not equal to or more than stringent than DOT's criteria, yet still would have accomplished the goal of protection of state right-of-way.

Effect of Proposed Changes:
Section 344.044(5), F.S., is amended to include "scenic roads" among the topics for which DOT can purchase promotional materials.

Also, subsection (15) is amended to allow DOT to delegate stormwater permitting to a water management district or other entity, provided that the permit is based on requirements, as determined by DOT, that ensure the safety and integrity of transportation facilities being affected by the runoff.

Section 18: Public-private transportation facilities
Current situation:
Section 334.30, F.S., was created in 1991 to allow for the development of private transportation facilities, such as toll roads or passenger rail service, that would serve to reduce burdens on public highway systems. The private entity developing the transportation facility would be able to charge tolls or fares for its use, under agreement with DOT, and DOT could regulate the amount charged, if the proposal was determined to be too unreasonable to users. No state funds were to be expended on these projects, except those with an "overriding state interest," in which case DOT had the discretion to exercise eminent domain and other powers to assist in such projects, and any maintenance, law enforcement, or other services provided by DOT had to be fully reimbursed by the private entity.

According to DOT, this section of law has never been used. However, DOT has recently received a series of unsolicited trial proposals from the Toll Road Corporation of America for an "I-95 Reversible HOT Lane System" in Miami that could be a candidate for this program, if certain legislative changes are made. The proposed project involves the construction of reversible toll lanes in the median of I-95 from its intersection with State Road 112 to north of the Golden Glades Interchange. Typically, HOT (high-occupancy toll) lanes attract motorists willing to pay a fee to use them, because traffic flows quicker.

Effect of Proposed Changes:
CS/HB 1053 rewrites s. 334.30, F.S., throughout. The section is renamed "public-private transportation facilities," and allows DOT to use state "resources" (most likely public right-of-way) for a transportation facility that is either on the State Highway System or which provides increased mobility for the state system. State funds could be used to advance projects that are in the 5-year work program and which a private entity wants to help build. Or, up to $50 million in DOT funds could be spent for partnership projects, statewide, that aren't in the work program. Partnership projects that seek more than the $50 million would have to be approved by the Legislature.

The amended s. 334.30, F.S., also establishes some noticing requirements; allows DOT to participate in funding operating and maintenance costs of partnership projects that are on the State Highway System; allows DOT to participate in the creation of tax-exempt, public-purpose corporations (dubbed chapter 63-20 corporations by the IRS) and to lend toll revenues to these corporations for eligible projects.

Section 19: Safe Paths to Schools Program

Current situation:

Section 335.065, F.S., directs DOT to establish bicycle and pedestrian pathways in conjunction with its state transportation projects, with special emphasis on projects in or within 1 mile of an urban area. DOT is authorized to set construction standards for these paths, and to implement uniform signage. The current law also directs DOT and the Department of Environmental Protection to establish a statewide, integrated system of bicycle and pedestrian paths. The statute does list circumstances when bike or pedestrian pathways aren't required to be established, such as where there is an absence of need or the cost would be prohibitive.

During the 2000 legislative session, a proposal to create a DOT-funded "Safe Paths to Schools" Program was discussed, but it did not pass. In order to determine the extent of the need for such a program, the Department of Education over the interim compiled a survey from county school districts that identifies hazardous walking or biking locations near schools. The Department of Education did not request any legislation based on the survey information, but three bills filed for the 2001 session generally address the issue of hazardous walking or biking conditions near schools. They generally direct county school boards to work with the governmental entities responsible for the hazardous walking or biking conditions on the streets near schools to correct the problem. None of the bills has been voted on in a committee.

Effect of Proposed Changes:

CS/HB 1053 creates s. 335.066, F.S., the "Safe Paths to Schools Program." DOT is directed to consider the planning and construction of bicycle and pedestrian paths to provide safe passageways for children from their neighborhoods to their schools, local parks, and public greenways and trails. DOT is allowed to create a grants program to fund these types of projects, and to adopt rules to administer the new program. However, DOT is not specifically directed to allocate funds for the new program.

Sections 23 and 24: Design-build contracts

Current Situation:

Chapter 337, F.S., describes DOT's contracting and acquisition processes. In particular, s.337.107, F.S., gives DOT the authority to enter into contracts, using state procurement guidelines, to purchase right-of-way or related services for transportation corridors and facilities. Section 337.11, F.S., governs DOT's overall contracting authority; one of its provisions prohibits the advertisement of bids and the publication of bid notices for projects until title to the affected right-of-way has either been vested in DOT or a local government, and all railroad crossing and utility agreements have been executed.

Traditionally, individual phases of a transportation project are separately bid and awarded. Florida's DOT is among a handful of state transportation agencies that are awarding contracts to one provider who agrees to perform multiple project tasks. In Florida, these are called "design-build contracts," because the bidders agree to design and build the entire project. DOT is examining the feasibility of expanding this new type of contract to include even more activities, but lacks specific statutory authority, pursuant to s. 337.11(7)(a), F.S., to combine more than the design and construction phases of buildings (including rest areas and weight stations), a major bridge, or a railroad corridor. In fiscal year 2000-2001, DOT has programmed in its budget to spend $349.4 million on design-build projects, primarily to widen or replace bridges.

DOT also has interpreted s. 337.025, F.S., related to "innovative highway projects," to include design-build contracts for all types of transportation work. DOT is limited to spending no more than $120 million annually for innovative highway projects, so most of these projects have been small

resurfacing jobs. In fiscal year 2000-2001, DOT has programmed into its budget to spend about $74 million on projects in this category.

DOT also is trying to promote "fast-tracking" of small construction and maintenance projects, meaning contracts that don't need to be competitively bid. Currently, s. 337.11(6)(c), F.S., sets the threshold at $60,000 for projects that don't have to go through competitive bid. As construction and materials costs have increased, DOT staff considers the $60,000 cap too low.

Effect of Proposed Changes:
The bill amends s. 337.107, F.S., to add right-of-way services to those activities that can be included in a design-build contract.

Also, s. 337.11(7)(a), F.S., is amended to make "enhancement projects" eligible for design-build contracts. Examples of enhancement projects are sidewalks, bike paths, pedestrian crossings, landscaping, and street lighting. Language also is added to specify that design-build contracts can be advertised and awarded, but that construction cannot begin until title to all necessary right-of-way has vested in DOT or a local government, and all railroad crossing and utility agreements have been executed.

Finally, s. 337.11(6), F.S., is amended by raising from $60,000 to $120,000 the cap on maintenance and construction projects contracted without a competitive bid. DOT expects this will expedite completion of smaller transportation projects that are sometimes held up because of the need to competitively bid out the finishing touches, such as traffic signal improvements.

Section 26: Regulation of benches, transit shelters and waste disposal receptacles within public rights-of-way
Current situation:
Section 337.408, F.S., regulates the placement, size and advertisers' use of bus benches, bus transit shelters, and trash barrels and other "waste receptacles" situated on public rights-of-way. DOT, the cities and the counties are empowered to regulate these structures on their particular rights-of-way. DOT rules establish the size limits on benches, transit shelter and waste disposal receptacles along state right-of-way.

Effect of Proposed Changes:
The section is amended to place in statute maximum dimensions of advertising on bus benches, transit shelters and roadside waste receptacles. For a bus bench advertising display, the maximum size is 72 inches long and 24 inches high; for a transit shelter display, 72 inches high and 60 inches wide; and for a waste receptacle, 36 inches high and 24 inches wide.

Section 27: Utility easements on public right-of-way
Current situation:
DOT or a local government, where applicable, have the authority to allow utilities the use of public right-of-way. Pursuant to s. 337.401, F.S., no utility shall be installed, located or relocated on a public right-of-way unless authorized by a permit issued by the entity owning the right-of-way. By practice, DOT also enters into utility relocation schedules and relocation agreement, which it treats like a utility permit, but this has raised legal issues.

Effect of Proposed Changes:
Section 337.401(2), F.S., is amended to allow DOT and a utility to execute a utility relocation schedule or relocation agreement in lieu of a permit, for activities on state-owned rights-of-way or rail corridors.

This is expected to expedite the process and clear up legal confusion over whether a permit overrides a relocation schedule or agreement.

Section 28: **Unnecessary rulemaking authority**

Current situation:
DOT is directed by s. 339.08, F.S., to expend its funds according to its rules. According to the statute, these rules must restrict the type of expenditures to the 13 categories listed in the statute. DOT has taken the position that the rule is unnecessary, since the statute and other sections of law specifically direct how the agency is to spend its funds.

Effect of Proposed Changes:
References in s. 339.08(1) and (2), F.S., to DOT expenditures being governed by rule are deleted.

Section 29: Local government compensation

Current situation:
Section 339.12, F.S., guides DOT on the acceptance of monetary aid and contributions from federal, local and other governmental entities. There are different accounting processes for handling a situation where a local government is advancing money to DOT in order to expedite a state road project of community importance, and where a local government agrees to expend its own funds and perform the work. In the latter example, local governments are reimbursed their actual costs, pursuant to s. 339.12(5), F.S.

Effect of Proposed Changes:
Section 339.12(5), F.S., is amended so that the words "compensation" and "compensate" replace, where appropriate, the words "reimbursement" and "reimburse." Agency accountants have said the changes more accurately reflect the situation.

Also, a new subsection (10) is added to s. 339.12(5), F.S. The new language seeks to address local governments' concerns about losing future state transportation funding because they raised and spent local tax monies for improvements to the state road system. Counties with at least 50,000 people and at least 15.5 percent of its property off the tax rolls, and which have passed a 1-cent local-option sales tax for transportation projects, are assured of still receiving at least as much state funding as they have in the past, based on a 10-year rolling average. As written, the new provision apparently affects only Leon and Alachua counties.

Section 30: Work Program amendments

Current situation:
As with all state agencies, DOT has to submit a formal request to the Governor's Office of Planning and Budgeting if it wishes to amend its budget during a fiscal year. These budget requests also are reviewed by the House and Senate appropriations chairs. DOT's thresholds for having to submit a budget amendment for its five-year work program are: adding a project estimated to cost more than $150,000; advancing or deferring to another fiscal year a right-of-way project phase, a construction phase, or a public transportation phase in excess of $500,000; and advancing or deferring to another fiscal year a preliminary engineering or design phase costing more than $150,000.

Effect of Proposed Changes:
Section 339.135(7)(c), F.S., is amended to raise the threshold amounts for projects that need to be approved as a budget amendment. The $150,000 threshold for adding a project, and advancing or deferring to another fiscal year the preliminary engineering phase or design phase, is increased to $500,000. The current $500,000 threshold for advancing or deferring to another fiscal year for a right-of-way project phase, the construction phase, or public transportation project phase is increased to $1 million.

In addition, cross-references corrections are made because of changes to DOT's organizational structure, pursuant to Section 1 of the bill.

Section 33: Expressway authorities
Current situation:
Chapter 348, F.S., deals with the creation and regulation of expressway authorities. Part I of the chapter, created by the Legislature in 1990, specifies the process for a county or counties to create and operate an expressway authority, including appointment of members. Parts II through IX refer to specific expressway authorities that were legislatively created. But other than the requirement that all the voting members of an authority must live in the county served by the expressway, no other qualifications for authority members are listed in statute.

Effect of Proposed Changes:
CS/HB 1054 amends s. 348.003(2)(d), F.S., to give a charter county, as defined by s. 125.011(1), F.S., the authority to establish qualifications, terms of office, and the obligations and rights of appointees to an expressway authority within its jurisdiction. Although there are several charter counties in Florida, only Miami-Dade County meets all of the conditions relevant to the section being amended. So, only the Dade County Expressway Authority will be impacted by the law change.

Sections 34-40: Orlando-Orange County Expressway Authority
Current situation:
The Orlando-Orange County Expressway Authority (OOCEA) was created by the Legislature in 1963; it's first project, the Beeline Expressway (State Road 528) opened to traffic four years later. Comprising the system are 90 total centerline miles, 11 main toll plazas, 42 ramp toll plazas, and 186 total toll lanes. More than 186 million motorists used the toll lanes in fiscal year 2000. OOCEA has adopted a 2025 Expressway Master Plan that includes expansions of the current system to better link with I-4, adding new lanes, and upgrading its toll plazas.

OOCEA's 2000 Annual Report indicated that for the seventh year in a row, the expressway authority experienced double-digit traffic and revenue growth. For example, total system revenues grew from $112.4 million in 1999 to $125.55 million in 2000. Forty-eight percent of the expressway authority's 2000 revenues were earmarked to pay debt service.

Pursuant to state laws, bonds for OOCEA's projects are issued by the State Board of Administration's Division of Bond Finance on behalf of the authority.

Effect of Proposed Changes:
Sections 348.0012, 348.754, 348.7543, 348.7544, 348.7545, 348.755, and 348.765, F.S., are amended in various ways to give the OOCEA authority to issue its own bonds. A specific amendment to s. 348.755, F.S., says these bonds "shall not pledge the full faith and credit of the state."

Section 41: Wetlands Mitigation Requirements for expressway and bridge authorities
Current Situation:
Many DOT projects involve the dredging and filling of wetlands, Florida's environmental "kidneys" that filter surface water runoff before it is absorbed into the ground, help hold floodwaters, and provide natural habitat. Since the 1970s, the state's environmental agencies have required "mitigation" for damage done to wetlands by human development. Originally, this mitigation was either done on-site, or adjacent to the damaged area, by trying to create or restore a wetland area, or to leave existing green space untouched. But a wealth of biological studies in the early 1990s indicted that this piece-meal, project-by-project approach to mitigation was largely unsuccessful in

restoring an ecosystem. Florida and other states began developing regional or basin approaches to mitigating for wetlands damage.

In 1996 the Legislature created s. 373.4137, F.S., detailing a process by which DOT could pay a per-acre sum of money to the Department of Environmental Protection (DEP) and the water management districts (WMDs) for their staffs to perform basinwide mitigation to offset the adverse environmental impacts of road projects. Currently, DOT, DEP and the WMDs match up transportation projects with wetlands impacts, and develop environmental impact inventories for each WMD region of the state. Based on a current $80,000 per acre of impact cost, DOT makes quarterly deposits in a special escrow account within the State Transportation Trust Fund, and DEP can withdraw funds from it to pay for the mitigation projects within the basins overseen by each WMD. Much of the funds have been spent over the years to acquire and preserve lands from future development.

From DOT's perspective, this has proven to be a cost-effective and environmentally sound approach.

Effect of Proposed Changes:
Section 373.4137, F.S., is amended throughout to allow expressway authorities to utilize the process developed for DOT to pay mitigation funds into escrow accounts, managed by DEP, which finance WMD mitigation projects to offset the adverse environmental impacts of expressway projects.

Sections 42 and 44: Local government regulation of outdoor advertising signs
Current situation:
Chapter 479 governs billboards and other forms of outdoor advertising. Advertising companies and other owners of outdoor signs must be licensed by DOT and obtain permits, regulating height, size and other characteristics of the billboards. The majority of the provisions relate to DOT's duties and authority as they relate to permitting, removing, and otherwise regulating billboards along the interstate highway system and the federal–aid primary highway system, which includes state roads. Because federal dollars helped build or maintain these roads, DOT must adhere to federal guidelines, as first expressed in the Highway Beautification Act of 1965.

A recurring issue is what to do about billboards that were lawfully erected, but are now classified as "non-conforming," because the zoning, land-use, lighting and similar regulations have changed since they were permitted.

If DOT orders the removal of a legally erected, but now nonconforming, sign along the interstate or a federal-aid primary highway, it must pay the billboard owner just compensation. But Florida's local governments are not required to pay just compensation to billboard owners when they remove, or force the removal of, legal but nonconforming signs along local roads. Currently, 44 Florida counties or municipalities have ordinances that specify amortization schedules and/or removal provisions for non-conforming signs, based on information provided by the Florida Outdoor Advertising Association. An "amortization schedule" is a set period of time during which it is assumed the value of a billboard depreciates. A typical time-frame for amortization is five to seven years. For example, a local government would not owe compensation for the removal of a billboard that has been in use past the amortization period.

The Florida Supreme Court has not addressed the issue of amortization of legally erected, but non-conforming, outdoor signs that must be removed. However, the Fifth District Court of Appeals has ruled that local governments are not constitutionally required to compensate billboard owners, and may amortize nonconforming signs, as long as the amortization period is reasonably long enough to

allow the sign owner to recoup his investment. [See *Lamar Advertising Associates, Ltd. V. Daytona Beach*, 450 So.2d 1145, 1150 (Fla. 5th DCA 1984]

Effect of Proposed Changes:
The bill creates s. 70.20, F.S., to establish a process by which local governments and sign owners are encouraged to enter into relocation and reconstruction agreements that balance the public policy interests of both groups. "Relocation and reconstruction agreement" is defined as a "consensual, contractual agreement between a sign owner and municipality, county, or other governmental entity for either the reconstruction of an existing sign or removal of a sign and the construction of a new sign to substitute for the sign removed."

The new section of law specifies that no local governmental entity may remove, cause to be removed, or alter any lawfully erected sign along any portion of the interstate, federal-aid primary or other highway system, or any other road, without first paying just compensation as determined by the agreement, or through eminent domain proceedings.

Local governmental entities must give sign owners notice of a public project or goal that would impact such signs. Both parties then have 30 days to meet, negotiate and try to execute a relocation and reconstruction agreement. If that fails, within 120 days, either party may request mandatory nonbonding arbitration to try and resolve their differences. Each party will select one member of the arbitration panel, and those two shall select a third. The parties will share the costs of arbitration if an agreement is reached; if not, the party that rejects the arbitration has to bear the full costs. If no agreement is reached, and the local governmental entity decides to move forward with its project, then it must pay the sign owner just compensation.

The new s. 70.20, F.S., also establishes other conditions whereby just compensation must be paid to a sign owner whose sign is either relocated, removed, or altered. It is applicable only to lawfully erected, off-premise signs.

DOT is exempt form the provisions of this section because it follows federal requirements.

CS/HB 1053 also amends s. 479.15, F.S., to include a definition of "federal-aid primary highway system."

Section 43: Addressing impacts of noise barriers or similar obstructions on billboards
Current situation:
Chapter 479, F.S., does address ways to accommodate billboard owners whose signs are affected by highway beautification projects, such as planting of vegetation. However, the chapter does not address the issue of other types of obstructions, such as concrete sound barriers along highways and roads, intended to reduce the noise level in nearby neighborhoods.

Effect of Proposed Changes:
Section 479.25, F.S., would be created, to specify that governmental entities may enter into agreements with sign owners allowing a lawfully erected billboard to be raised when a sound barrier, visibility screen, or other highway improvement blocks the billboard from being seen. The increase in height shall only be sufficient to achieve the same degree of visibility the billboard enjoyed prior to construction of the blocking object. The agreement must be approved by the Federal Highway Administration if the billboard in question is located on a federal-aid primary or interstate highway.

Sections 45 and 46: Solicitation of funds at certain public transportation facilities
Current situation:
Chapter 496, F.S., regulates solicitation of funds by charitable and other organizations. Section 496.425, F.S., contains specific regulations on solicitation of funds within airports, railroad and bus stations, ports, rest areas, and similar facilities. For example, a soliciting organization must obtain a permit from the entity responsible for the transportation facility.

Once common, fund-raisers and fund soliciting at highway rest areas and welcome stations have declined in recent years. This can be attributed to a number of reasons; among them security concerns and competition from the variety of soda and snack machines now on site.

Effect of Proposed Changes:
Section 496.425(1), F.S., is amended to delete highway rest areas, roadside welcome centers and highway service plazas from the types of transportation facilities where fund solicitation can occur .

Also, s. 496.4256, F.S., is created, specifying that any governmental entity or authority that owns or operates welcome centers, wayside parks, service plazas, or rest areas on the state highway system are not required to issue a solicitation permit.

Section 48: Provides this act shall take effect July 1, 2001.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Eliminating the airport license fees, as proposed in Section 13 of the bill, will have a minimal fiscal impact. The airport license fee generates an estimated $90,000 a year, but DOT has estimated it costs the agency at least $100,000 annually to administer the collection program. The annual license fees currently are: $100 for public airports; $70 for private airports; $50 for a limited use airport; and $25 for a temporary airport.

2. Expenditures:

DOT expects the expense of developing an on-line registration system for private airports, as proposed in Section 13 of the bill, and periodically reviewing the data to be minimal.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

It is possible the “just compensation” standard, as proposed in Section 44 of the bill, will be more expensive for cities and counties who require the removal or relocation of outdoor advertising signs.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Elimination of the airport registration/inspection fee should have a positive economic impact on private airports.

Advertising companies that have oversized advertising signs on bus benches, transit shelters or waste receptacles may incur a cost in removing or reducing those signs.

The ability of outdoor advertisers to receive "just compensation" rather than accept an amortized value, should have a positive economic impact on sign owners required to remove their billboards.

D. FISCAL COMMENTS:

DOT estimates that raising the debt service cap, as proposed in Section 3 of the bill, will generate $800 million of net proceeds (bond proceeds less debt service) over the next five years, to acquire right-of-way and repair or build bridges.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

The mandates provision is not applicable to an analysis of CS/HB 1053 because the bill does not require cities or counties to expend funds, or to take actions requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

CS/HB 1053 does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

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

CS/HB 1053 does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

House Bill Drafting had suggested that HB 1053 contains more than one subject, and may be in violation of the constitutional single-subject rule. No additional written comments were provided by House Bill Drafting for CS/HB 1053, but since the amendatory process added more transportation-related subjects, the same comment could be applicable to the committee substitute.

B. RULE-MAKING AUTHORITY:

Section 12 of the bill gives DOT authority to develop an on-line registration of private airports.

Section 28 deletes the requirement that DOT include in rule all of the activities on which it can spend its appropriated funds, because the statute is explicit.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 20, 2001, the Committee on Transportation adopted 18 amendments to the bill. A brief synopsis of these amendments follows:

- Amendment 1 – Lengthy amendment that deletes unnecessary details about DOT's organizational structure; deletes the position of Assistant Secretary for District Operations; creates the Office Management & Budget and the Office of Comptroller; makes technical changes.
- Amendment 2 – Clarifying; replaces the word "documents" with "documentation" to allow DOT to accept on-line registration forms from private–airport owners.
- Amendment 3s -- Adds a provision allowing local government to disqualify a DOT-prequalified contractor from bidding on a new project if the contractor is 10 percent or more behind on completing an existing project for that entity.
- Amendment 4s - Deletes provision making the changes in contractor qualification applicable to county and other local-government projects available for contracting after July 1, 2001.
- Amendment 5 – Technical; adds a cross-reference.
- Amendment 7 – Officially allows airports to use state aviation funds for off-airport noise mitigation projects.
- Amendment 8s - Places in statute the acceptable dimensions of advertising on bus benches, transit shelters and waste barrels on public right-of-way. Directs DOT to adopt rules to implement this section.
- Amendment 8sa - Adds a sentence preventing multiple advertising displays on these structures from facing in the same direction, at any one location.
- Amendment 9s – Defines "federal aid primary highway system" for the purposes of outdoor sign regulation. Allows local governments and other entities to enter into agreements with outdoor sign owners to elevate those signs which have been blocked by noise walls, visibility screens, etc. Creates in s. 70.20, F.S., a process for sign owners and governmental entities to work out their differences on sign relocation. DOT is not subject to the process elaborated in s. 70.20, F.S.
- Amendment 12 —Gives a county governing board authority to establish certain membership criteria for members of an expressway authority in its jurisdiction
- Amendment 13 - Allows the Orlando-Orange County Expressway to sell bonds, rather than the bonds be issued through Division of Bond Finance. Also allows the OOCEA to use its bond funds to acquire lands or facilities necessary to the expressway, and to equip or refurbish its system.
- Amendment 14 – Allows expressway authorities to utilize a process developed for DOT where they pay DEP/the WMDs a sum of money to conduct the necessary per-acre wetlands mitigation caused by expressway expansion or other projects.
- Amendment 15 – Revamps existing statute (s 334.30, F.S.) on private entities building transportation projects that benefit the public system. Specifies that private entities may obtain state resources to build the project, under certain conditions.
- Amendment 15a -- Clarifying; makes it clear that private entities that build facilities not on the SHS will reimburse 100% DOT for any services that agency provides.
- Amendment 16s —Directs DOT to consider planning and developing a "Safe Paths to School Program." Gives DOT discretion to adopt rules, if necessary.
- Amendment 17 – Raises minimum funding for seaports program from $8 million to $10 million annually. Allows the funds to be used for seaport security improvements. Exempts seaport security projects from the 50-50 match requirement.
- Amendment 20 – Counties with at least 50,000 people and at least 15.5% of its property off the tax rolls, and which have passed a 1-cent local-option sales tax for transportation projects, are

assured of still receiving at least as much state funding as they have in the past, based on a 10-year rolling average. Amendment apparently affects only Leon and Alachua counties.

- Amendment 21 -- Basically the same language in the bill now, but adds a provision allowing expressway and bridge authorities to disqualify a DOT-prequalified contractor from bidding on a new project if the contractor is 10 percent or more behind on completing an existing project for that entity.

On April 4th, 2001, the Transportation and Economic Development Appropriations Committee adopted four amendments which did the following:

- Deleted a provision which increased to $10M from $8M, the amount provided to Seaports for their Chapter 311 grant program.
- Removed language increasing threshold amounts of work program project amount changes, above which a work program budget amendment must be submitted for notice and review by the Legislature and Governor.
- Deleted language which raised the debt service cap for right-of-way and bridge construction bonds issued by the DOT.
- Deleted language that specifies dimensions of advertising on bus benches, transit shelters, and roadside waste receptacles.

VII. SIGNATURES:

COMMITTEE ON TRANSPORTATION:

Prepared by:	Staff Director:
Joyce Pugh	Phillip B. Miller

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

Prepared by:	Staff Director:
Eliza Hawkins	Eliza Hawkins