

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1455 High Occupancy Vehicle Lanes  
**SPONSOR(S):** Hasner  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 88 (s)

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Transportation Systems</u>	<u>8 Y, 0 N</u>	<u>PUGH</u>	<u>MILLER</u>
2) <u>Transportation</u>	<u></u>	<u></u>	<u></u>
3) <u>Finance &amp; Tax</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

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### SUMMARY ANALYSIS

High-occupancy vehicle (HOV) lanes are defined in s. 316.0741, F.S., as traffic lanes of a public roadway that have been designated for use by vehicles carrying more than one person, unless otherwise authorized by federal law. The Federal Highway Administration administers national policy guidelines and rules for HOV lanes.

Florida has three designated HOV corridors: a 59-mile-long system on I-95 from Linton Boulevard in Palm Beach County south through Fort Lauderdale to State Road 112 in Miami-Dade County; a 30-mile-long stretch of I-4 in the Orlando-Disney World area; and a 3-mile stretch of U.S. 1 SW that is restricted to buses associated with the Miami Metro-Rail line.

Federal law allows certain low-emission vehicles dubbed "ILEVs" to travel in HOV lanes even if they are carrying only one person. However, that law is among the provisions of the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21) that is due to expire September 30, 2003.

HB 1455 amends s. 316.0741, F.S., law to allow "hybrid vehicles," as defined in the bill, to be driven in HOV lanes, regardless of the number of occupants. However, federal law does not allow hybrid vehicles in HOV lanes unless they meet the minimum occupancy requirements. The bill also directs the Department of Highway Safety and Motor Vehicles (DHSMV) to issue decals that the hybrid cars' owners must place on their vehicles if they want to use HOV lanes. These decals must be renewed annually at the time of vehicle registration.

The fiscal impact of HB 1455 is indeterminate. The bill specifies that DHSMV may charge a decal fee that covers the costs of design, production, and distribution, or \$5 per decal, whichever is less. However, revenues and expenditures related to implementation of HB 1455 can't be reliably estimated because the number of hybrid cars registered in Florida is unknown, as is how many might be used on Florida's HOV lanes.

The bill gives DHSMV specific rulemaking authority to implement the new provisions. HB 1455 takes effect October 1, 2002.

**[NOTE: The Transportation Systems Subcommittee on March 26, 2003, adopted one amendment before voting in favor of the bill 8-0. For details, see "Section IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES" below.]**

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h1455a.tr.doc  
**DATE:** March 26, 2003

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |  |   |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |

#### Reduce Government

HB 1455 does not reduce government because it creates a new registration requirement for owners of alternative-fuel vehicles who wish to travel on Florida's HOV lanes without having at least one passenger with them. The decal and registration program also may not generate enough revenues to cover costs.

#### Lower Taxes

The bill does not lower taxes because it creates a decal fee that covers the costs of design, production, and distribution, or \$5 per decal, whichever is less.

#### B. EFFECT OF PROPOSED CHANGES:

##### Background on HOV lanes

Section 316.0741, F.S., defines HOV lanes as a lane of a public roadway designated for use by vehicles in which there is more than one occupant, unless otherwise authorized by federal law. The section requires that more than one occupant must be in a vehicle to lawfully use the HOV lane, during the hours at which the lane serves as an HOV lane. If the HOV lane is not designated as such on a full-time basis, then it must be indicated on a traffic control sign. Motorists who do not comply with this section of law are guilty of a moving violation, punishable by a \$60 fine.

California and Washington are the leaders in HOV lane availability, although states as diverse as Hawaii, Texas, and New York also provide them for motorists. According to the Transportation Research Board's Committee on HOV Systems, Florida has three designated HOV corridors:

- o A 59-mile-long system on I-95 from Linton Boulevard in Palm Beach County south through Fort Lauderdale and ending at State Road 112 in Miami-Dade County. It is restricted to passenger cars with at least two occupants from 7 a.m.-9 a.m. and 4 p.m. to 6 p.m.
- o A 30-mile-long stretch on I-4 in the Orlando-Disney World area. It also is restricted to passenger cars with at least two occupants from 7 a.m.-9 a.m. and 4 p.m. to 6 p.m.
- o A 3-mile stretch on U.S. 1 SW, restricted to 24-hour use for buses that feed into Miami's Metro Rail Service.

One of the conditions of accepting federal-aid transportation funds is that the Florida Department of Transportation (FDOT) agrees to manage, operate, and maintain its HOV lanes as they were originally planned, designed, constructed and approved. If certain changes are made by a state to the operation of HOV lanes, then federal approval is required. Changes to the minimum number of people in a vehicle in order to use HOV lanes, or small adjustments to when HOV restrictions begin or end, are not considered significant changes, and do not trigger federal review. A proposal to significantly adjust the hours of operation or to convert an HOV lane to a general-purpose lane is considered a significant change in the original project design concept or scope and would require further review by the Federal Highway Administration.

### ILEVs and hybrid vehicles

The U.S. Clean Air Act (42 U.S.C.) defines emission standards for vehicles. California is allowed to establish emission standards stricter than the federal government's, and other states are allowed to adopt California's alternative standards. New York, Massachusetts, and Vermont have done so. California adopted its first standards 1994, and has passed legislation phasing in "zero-evaporative emission standards by 2005" – a deadline that has been extended at least once.

23 USC 102(a)(1) requires a state highway department to establish the occupancy requirements of vehicles operating on HOV lanes, although no fewer than two occupants per vehicle may be required, with three exceptions. Those exceptions are: motorcycles, bicycles, and any vehicle certified as an ILEV. Seven states currently allow ILEVs to travel in HOV lanes: Arizona, California, Colorado, Georgia, Hawaii, Virginia, and Utah.

ILEVs are a subcategory of clean-fuel vehicles that have essentially no fuel vapor emissions. Vehicles powered only by electricity, compressed natural gas, bio-diesel, or ethanol typically would qualify as ILEVs. The Nissan Altra-EV, the Solectria Citivan and the Toyota RAV-4 EV are examples of all-electric vehicles that qualify as ILEVs.

It is unknown how many ILEVs are owned by Floridians for personal use. There are no special vehicle registration requirements for ILEVs, or other energy-efficient vehicles, so DHSMV cannot track them. The Department of Revenue also has no way to track these type vehicles, because they do not qualify for any sales, use, or fuel tax exemptions.

A January 2001 report by the Clean Fuel Florida Advisory Board noted that there are about 5,725 alternative fuel vehicles in use in 25 Florida counties. It is unknown how many of these vehicles qualify as ILEVs. About 33 percent of the vehicles are part of federal government fleets; 3 percent are used by state agencies; and 13 percent are operated by energy providers, such as electric utilities. The remaining 51 percent are operated by local-governments, typically in their mass transit or law enforcement fleets, as well as by private businesses (such as propane and natural-gas dealers) and individuals. However, a 2000 report by the U.S. Department of Energy's Alternative Fuels Data Center, 13,351 alternative fuel vehicles in Florida, twice as many as the Clean Fuel Florida report indicated.

Hybrid vehicles, another type of low-emission vehicle, have two sources of power: a gasoline engine and an electric motor. Some hybrids substitute the pure gasoline engine for one powered by gasoline blended with ethanol or methanol.

According to an October 2002 report prepared for FDOT by Cambridge Systematics, EPA does not consider hybrid vehicles ILEVs because they can not meet the strict evaporative emission requirements. Among the examples of hybrid vehicles available for purchase are the Toyota Prius and the Honda Insight. As with ILEVs, it is unknown how many hybrid cars are in use in Florida, because there is no special registration category for such vehicles.

The Cambridge Systematics report done at FDOT's request concluded that allowing ILEVs to travel in the I-95 HOV lanes will not create congestion problems. If at some point, HOV lanes are opened to allow other types of alternate-fueled vehicles, such as hybrids, the usage should be monitored.

### TEA-21's expiration

Congress passes a new transportation funding and regulatory act every six years, and the current Transportation Equity Act for the 21<sup>st</sup> Center (TEA-21) expires Sept. 30, 2003. Since the regulation allowing ILEVs to travel in HOV lanes is part of TEA-21, that provision also expires in six months, according to recent correspondence from the Federal Highway Administration's Office of Transportation Management to the Senate Committee on Commerce, Economic Opportunity & Consumer Services.

States, local governments, transportation contractors, automobile manufacturers, and other interested groups have been lobbying Congress and its staff for more than a year on what the next act should include. These groups have focused primarily on transportation funding formulas and related issues. It appears likely that September 30 will pass before TEA-21's replacement is adopted, according to an FDOT staff person who is closely following the reauthorization. Also, it is unclear whether Congress will pass a law as the deadline looms to continue all or some of the provisions in TEA-21.

#### Effect of HB 1455

The bill as drafted:

- Amends s. 316.0741, F.S., law to allow "hybrid vehicles," as defined in the bill, to be driven in HOV lanes, regardless of the number of occupants.
- Generally defines hybrid vehicles as motor vehicles that are propelled by an internal combustion or heat engine using combustible fuel and a rechargeable energy storage system. It also includes specific EPA and State of California emissions standards for older and newer models of passenger vehicles and light trucks.
- Directs DHSMV to issue decals that the hybrid cars' owners must place on their vehicles if they want to use HOV lanes without passengers. These decals must be renewed annually at the time of vehicle registration.
- Specifies that DHSMV may charge a decal fee that covers the costs of design, production, and distribution, or \$5 per decal, whichever is less.
- Gives DHSMV specific rulemaking authority to implement the provisions.

HB 1455 proposes amending state law to allow "hybrid vehicles," as defined in the bill, to be driven in HOV lanes, regardless of the number of occupants. However, federal law does not allow hybrid vehicles in HOV lanes unless they meet the minimum occupancy requirements. The sponsor plans to file an amendment that would, among other things, allow single-occupant hybrid vehicles to travel in HOV lanes upon receipt of authorization from the federal government.

The bill takes effect October 1, 2003, which raises another issue. The federal law that allows certain alternative fuel vehicles to travel in HOV lanes, regardless of the number of occupants, expires September 30, 2003.

#### C. SECTION DIRECTORY:

Section 1: Amends s. 316.0741, F.S., to allow hybrid vehicles to travel in HOV lanes, regardless whether two or more people are in the cars. Defines "hybrid vehicle." Directs the Department of Highway Safety and Motor Vehicles to issue decals to eligible vehicles at the time of annual registration. Sets maximum of \$5 cost for each decal. Specifies rulemaking authority.

Section 2: Provides for an effective date of October 1, 2003.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

Indeterminate. HB 1455 gives the DHSMV authority to charge a fee for the decals, at a price not to exceed the costs of designing, producing, and distributing each decal, or \$5 each, whichever is less. However, there is no reliable documentation on how many hybrid vehicles are in use in Florida because current vehicle registration forms don't require them to be identified

##### 2. Expenditures:

Indeterminate. Without knowing the number of hybrids owned and operated in Florida, it is difficult for DHSMV to estimate whether the revenues generated by sale of the decals will defray the decals' cost.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Indeterminate, but likely minimal. Only those owners of hybrid vehicles who live near HOV lanes, or who travel in the areas of Florida where they are located would purchase the decals.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

Not applicable.

**B. RULE-MAKING AUTHORITY:**

HB 1455 gives DHSMV new authority to promulgate rules to implement its provisions.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

HB 1455's sponsor plans to file a strike-everything-after-the-enacting clause amendment to address some of the unresolved issues in the bill.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

At its March 26, 2003, meeting, the Transportation Systems Subcommittee adopted without objection a strike-everything-after-the-enacting-clause amendment filed by the sponsor. The amendment made significant changes to the bill, including:

- Specified that ILEVs, and not "hybrid vehicles," can travel in Florida's HOV lanes, regardless of occupancy.
- Provided that hybrid vehicles also could use HOV lanes if the State of Florida receives written notification from the proper federal regulatory agency authorizing such use.
- Included a simpler definition of "hybrid vehicle."
- Changed the effective date from October 1, 2003, to July 1, 2003.

The subcommittee then voted 8-0 in favor of the bill.