

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1605 w/CS Department of Transportation/Reorganization  
**SPONSOR(S):** Waters  
**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 2658 (s)

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Transportation	18 Y, 0 N w/CS	PUGH	MILLER
2) Transportation & Econ. Dev. Apps. (Sub)	12 Y, 0 N	Hawkins	Hawkins
3) Appropriations	39 Y, 1 N w/CS	Hawkins	Hansen
4)			
5)			

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### SUMMARY ANALYSIS

The Florida Department of Transportation (FDOT) is responsible for the construction, maintenance and safety of the state's highways, bridges, and other transportation systems.

HB 1605 w/CS:

- Creates the Strategic Intermodal System program and the 11-member Statewide Intermodal Transportation Council (SITAC), which will recommend to the Legislature projects which promote intermodal connectivity. SIS is funded through the repeal of the Transportation Outreach Program and diversion of its funding, beginning in FY 04-05.
- Substantially rewrites portions of Chapter 316, F.S., that deal with the requirements and penalties for motor carriers. Among the changes is that FDOT's motor carrier officers can place out-of-service commercial trucks and drivers that have been ordered out-of-service in other states or by the federal government.
- Clarifies and streamlines various contracting provisions used by FDOT.
- Substantially rewrites s. 20.23, F.S., which specifies FDOT's organizational structure and amends s. 110.205, F.S., related to career service exemptions, to reflect the aforementioned changes. The bill also amends s. 334.14, F.S., to make FDOT engineers comply with the same registration requirements in chapter 471, F.S., as other agencies' engineers and private-sector engineers, but it also eliminates the requirement that certain positions at FDOT must be held by engineers.
- Streamlines paperwork requirements for licensing and registering public and private airports, and eliminates the current registration fees. These changes take effect October 1, 2003.
- Directs FDOT to implement a "511" traveler telephone information system.
- Corrects a number of glitches in state law caused by changes in federal regulations.

HB 1605 w/CS has an indeterminate, but likely minimal, fiscal impact.

The bill raises no apparent constitutional or legal issues. It takes effect upon becoming law, except where otherwise provided.

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

**STORAGE NAME:** h1605e.ap.doc  
**DATE:** April 30, 2003

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |   |  |   |
|--------------------------------------|---|--|---|
| 1. Reduce government?                | Yes <input checked="" type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. Lower taxes?                      | Yes <input type="checkbox"/>            | No <input 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**

The bill does not reduce government, because Sections 37-39 create a new program within FDOT, the Strategic Intermodal System, and because it establishes a new board – the Strategic Intermodal Transportation Advisory Council – to review FDOT project proposals and to make funding recommendations to the Legislature. This new program will be funded with monies currently earmarked for the Transportation Outreach Program (TOP), which will be repealed.

However, Sections 17-21 serve to reduce government by streamlining the licensing and registration of public and private airports.

#### B. EFFECT OF PROPOSED CHANGES:

#### **FDOT's statutory organizational structure**

##### Current situation

Chapter 20, F.S., includes creation and organization structure of 30 state agencies. The Florida Department of Transportation (FDOT) 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 other requirements. The agency is in the midst of a five-year organizational efficiency plan, where outsourcing and privatization efforts, and other staffing efficiencies will result in 2,779 fewer positions by FY 05-06. According to FDOT, amendments are needed to streamline s. 20.23, F.S., so that the Secretary has the flexibility to address these workforce changes.

##### Effect of Proposed Changes

HB 1605 w/CS extensively amends s. 20.23, F.S., to delete unnecessary instructions on the Secretary's responsibilities and to whom the Secretary may delegate; delete language regarding tasks assigned to other Department officers and supervisors; revise provisions to reflect the organizational efficiency plan; and delete obsolete references in general. Some of these changes reflect how FDOT has operated for many years. In concert with these changes, the bill also amends s. 110.205, F.S., to reflect new job titles and positions that are exempt from state career-service regulations.

As a further effort to streamline and provide consistency, HB 1605 w/CS amends s. 334.14, F.S., which provides lengthy detail regarding FDOT employees who are required to be engineers. The language is streamlined by requiring that each employee performing engineering duties, as defined by Florida law, be a registered engineer. The other effect of the bill is to eliminate requirements that certain jobs at FDOT – supervisors in charge of transportation system design, materials testing, traffic operations, and maintenance, to name a few – no longer have to be engineers. The requirement that FDOT district secretaries and the Turnpike Enterprise Executive Director must be engineers or have advanced degrees in related fields is moved to s. 20.23(4), F.S., under the bill.

## **Contracting issues**

### 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 11 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." The 11<sup>th</sup> exemption – county transportation projects under Chapter 336 -- was added by the Legislature in the 2002 session.

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 cities and other local governmental entities in bidding and contractor qualification requirements. The 2002 Legislature attempted to resolve that uncertainty by passing CS/HB 261, 3<sup>rd</sup> engrossed. The legislation (Chapter 2002-20, Laws of Florida) specified that any contractor who is prequalified by FDOT and eligible to bid on FDOT projects to perform certain work also is prequalified to obtain bid documents and to submit a bid on those same types of projects for any county or expressway authority. A county or expressway authority is able to disqualify a prospective bidder who is at least 10 percent behind on another construction project for that same entity. Appeal processes also were established. By oversight, according to proponents of last year's legislation, municipalities were not included in the bill.

Meanwhile, s. 337.14, F.S., details FDOT's contractor certification process. All contractors who wish to bid on transportation projects costing in excess of \$250,000 must meet FDOT qualifications and be certified. For example, s. 337.14(7), F.S., prohibits a contractor who is qualified with FDOT, or the contractor's affiliate, from also qualifying to perform construction, engineering, and inspection (CEI) services on FDOT construction contracts. This prohibition exists in order to eliminate the possibility of a conflict of interest that would arise from having CEI services on a given project performed by the same or affiliate entity that performs the construction contract. But contracting firms are continuing to broaden their scope, and incorporate other construction activities, such as materials testing, and FDOT attorneys have begun raising new cautions of conflicting interests.

In addition, s. 337.14(1), F.S., requires FDOT to act upon an application for qualification to bid within 30 days after the application is presented. Frequently, however, the application is incomplete. Current law provides a process for FDOT to request information necessary to complete the application, involving two written requests for additional information. If the applicant fails to comply with the initial and second requests within a reasonable period of time as specified, current law provides that the application shall be denied. Although current law implies that the 30-day period is suspended for the "reasonable period of time" within which a contractor is asked to respond to FDOT's requests for additional information to complete an application, that is not expressly stated.

Also, s. 337.14(4), F.S., currently provides that a certificate of qualification is valid for 18 months or "such shorter period as the department prescribes." FDOT attorneys have said this is creating some confusion about the duration of the certificate of qualification.

Finally, s. 337.18(4)(a), F.S., caps incentive payments, as well as damage penalties, at \$10,000 per calendar day. FDOT and contractors agree that this amount is insufficient to encourage a contractor to complete large, complex, multi-million-dollar contracts within the period established by contract for an incentive. Likewise, the \$10,000 per day damage assessment does not represent a disincentive substantial enough to deter delays for large projects. FDOT has recommended that the cap either be raised or deleted.

### Effect of Proposed Changes

Section 255.20, F.S., is amended to correct an oversight from the 2002 legislation. If HB 1605 w/CS becomes law, then any contractor who is prequalified by DOT and eligible to bid on DOT projects to perform certain work also will be prequalified to obtain bid documents and to submit a bid on those

same types of projects for any municipality or other local government. Any local-government entity will be able to disqualify a prospective bidder who is at least 10 percent behind on another construction project for that same entity. And, it must establish an appeals process to challenge prequalified contractors; a process by which non-qualified contractors can be qualified locally; and an appeals process for those non-qualified contractors who are rejected.

The bill also amends s. 337.14 (7), F.S., by removing the potential for a conflict of interest that exists as a result of having material lab testing services performed by the same or affiliate entity that performs the construction contract. Material labs owned by or affiliated with qualified construction companies will be prohibited from acting as material testing labs on FDOT projects

Section 337.14(1), F.S., is amended to provide that the 30-day period begins once FDOT determines the application for qualification is complete, thereby giving FDOT sufficient time to request and receive from the contractor the information necessary to complete the application. It also gives contractors more time to respond to FDOT requests for information about their applications for qualification.

Section 337.14(4), F.S, is amended to expressly state that submission of an application for qualification shall not affect the expiration of a certification of qualification. According to FDOT attorneys, this change in the law will preclude any assertion that a certificate can be valid for longer than the legislatively mandated period.

HB 1605 w/CS also amends s. 337.18(4)(a), F.S., to delete the \$10,000-per-day limit on incentive payments to a contractor for early completion of a project, the \$10,000-per-day limit on damages assessed against a contractor for delayed completion of a project. Instead, FDOT will have the flexibility to base their incentive payments and damage penalties on a variety of factors individual to each contract.

Finally, the bill exempts FDOT's procurement from the transaction fees imposed by the state's new MyFloridaMarketPlace.com or any successor Internet procurement service.

## **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, airparks, heliports and seaplane landing areas.

FDOT has been trying for three legislative sessions to rewrite the statutes applicable to its aviation program, which agency staff indicates is outdated and in need of update and streamlining. For example, the agency advocates eliminating the airport licensing fees, which cost more to collect than is generated in revenue. 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.

### 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; however, FDOT may continue to inspect and license private airports with 10 or more planes, at the request of the owners of these private airports. This is expected to affect up to 46 private airports or airparks.

The changes include authority and requirements for FDOT 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 allows municipalities to prohibit or otherwise regulated seaplane landings upon adoption of seaplane zoning requirements.

This part of HB 1605 w/CS takes effect October 1, 2003, to give FDOT time to update its rules.

## **R-O-W Acquisition**

### Current Situation

Current law does not provide specific authority to utilize FDOT's condemnation power on county or other local roads. However, s. 336.467, F.S., currently provides that a county may enter into an agreement with FDOT for the state agency to acquire rights-of-way for the county if: the project is funded by the constitutional gas tax allocated to that county, the parcel to be acquired is at least 10 acres, and the total cost of the land is at least \$100,000. This authorization is expressly limited to counties, not cities or other local governments.

FDOT's legislatively approved Five-Year Work Program frequently contains projects that involve the acquisition of rights-of-way as part of local road improvements. For example, FDOT may be widening a state road that intersects with a local road, and to expedite intersection improvements that the local government has agreed to perform, FDOT acquires the right-of-way for both projects. Given current law, such acquisition could be called into question, as FDOT lacks specific authority to conduct the acquisition outside the described circumstances.

### Effect of Proposed Changes

HB 1605 w/CS would authorize, but not require, other local governmental entities besides counties to contract with FDOT to acquire rights-of-way for them. It also will eliminate the narrow circumstances under which counties are currently authorized to contract with FDOT for these services.

## **Permit Delegation**

### Current Situation

The 2002 Legislature granted FDOT the authority to enter into agreements delegating stormwater drainage permitting to a governmental entity in instances where the agency determines that permit issuance is based on requirements that are at least as stringent as its own and will ensure the safety and integrity of FDOT facilities. Such delegation, where possible, produces efficiencies and cost savings through streamlining of the permitting process, especially in cases where applicants must obtain permits from multiple governmental entities.

### Effect of Proposed Changes

HB 1605 w/CS amends s. 337.401, F.S., to allow FDOT to work with other governmental entities, where appropriate, to delegate road-connection permitting and permitting of right-of-way use by utilities. This will expand FDOT's ability to delegate permitting authority in an effort to gain additional efficiencies in time and cost of permitting.

## **General Responsibilities of the MCCO**

### Current Situation

Pursuant to chapters 207 and 316, F.S., FDOT's Motor Carrier Compliance Office (MCCO) enforces state and federal laws and rules regulating the safety of commercial motor vehicles and their drivers, and the weight and size of commercial vehicles operating on the state's highways.

The MCCO officers patrolling Florida's highways perform vehicle safety inspections to determine whether commercial drivers are appropriately licensed, are not under the influence of drugs or alcohol, have maintained required logbooks of their hours of service, and are not operating their vehicles in an unsafe manner. In addition, the MCCO conducts compliance reviews at truck and bus terminals to examine company vehicles and records. In the course of performing these duties, MCCO officers also check to see that other commercial motor vehicle-related laws, such as registration and fuel taxes, are complied with. This program helps to ensure that trucks and buses operating in Florida are

mechanically sound, are licensed, do not exceed size and weight limits, and that vehicle operators are properly qualified, licensed, and driving their vehicles in a safe manner.

Key MCCO tasks are enforcing truck weight and size limits. MCCO's non-sworn weight inspectors weigh trucks and check truck registrations at 21 fixed-scale stations located along Florida's major highways. MCCO sworn officers use portable scales to weigh trucks when the trucks do not pass fixed-scale stations or when drivers deliberately avoid weighing at the fixed-scale stations.

The MCCO has an FY 02-03 budget of \$26.5 million and 448 positions. The office is funded through the State Transportation Trust Fund, so the sources of money financing the office's law enforcement activities are a combination of transportation revenues, such as fuel taxes and motor vehicle registration fees. Motor carrier registration fees and compliance penalties are not specifically earmarked for the MCCO's operating budget. However, included in the office's budget is a \$3 million federal highway safety grant.

In FY 01-02, the MCCO collected \$8.4 million in overweight penalties, \$2.4 million penalties for safety violations, and about \$88,000 for fuel-tax permit violations, according to the department's budget office.

## **Out-of-Service Orders**

### Current Situation

Under s.316.3026, F.S., the MCCO can prohibit commercial motor vehicles from operating on the highways of Florida if they are found to be in violation of safety and other motor carrier laws. MCCO has estimated that about 20 percent of the vehicles stopped by its officers are placed "out-of-service" until the defects are repaired or the driver is able to continue driving without causing a safety hazard.

According to a Federal Highway Administration database on traffic accidents, from 1998-2001 Florida has ranked third in the nation -- behind Texas and California -- in the total number of fatal crashes involving commercial motor vehicles. Florida's total during the four-year span is 1,984 fatal crashes; of those, 357 occurred in 2001. However, the state's "crash rate" (number of commercial motor vehicles involved in fatal crashes per 100 million vehicle miles traveled) has been declining over that four-year period. The crash rate for 2001 was 3.6.

In at least one such crash last summer, the commercial motor vehicle involved in the multi-fatality accident had numerous safety violations, and its owner and his company had been placed out-of-service in his home state of Georgia, according to a post-crash investigation.

If that truck had been stopped by the MCCO and inspected, it would have been put out of service in Florida because of its existing safety hazards. However, if the truck had been in good working order, MCCO would not have been able to put the vehicle out of service because it didn't have legal authority to reciprocate the Georgia order. Also, the information available on the computerized federal SAFER System was not readily available.

### Effect of Proposed Changes

The bill amends s. 316.3026, F.S., to allow the MCCO to issue out-of-service orders to motor carriers prohibited to operate in other states or by federal order. The motor carrier operating illegally will be assessed a \$10,000 civil penalty, in addition to any other applicable penalties. In addition, any person who knowingly drives, operates, or causes to be operated any commercial motor vehicle in violation of the MCCO's out-of-service order commits a third-degree felony, punishable by up to a five years in prison.

The bill also broadens the MCCO's powers to issue out-of-service orders to include carriers who fail to pay previously assessed fines, who refuse to submit to a compliance review, or who have motor-carrier or insurance violations.

Carriers are able to seek an administrative hearing pursuant to s. 120.569, F.S., to overturn an out-of-service order.

The bill also amends s. 316.545(10), F.S., allowing the MCCO's non-sworn weight-station personnel to detain a commercial motor vehicle with obvious safety defects critical to the continued safe operation of the vehicle, or which is operating in violation of an out-of-service order reported on the Safer System database, until an MCCO officer arrives. The weight inspectors can not detain vehicle drivers, and they must release a detained vehicle once repairs to the safety defects are made, even if an MCCO officer hasn't arrived.

## **Penalties**

### Current Situation

Spread through chapter 316, F.S., are the various penalties MCCO can assess for a variety of motor carrier violations. For example, s. 316.3025, F.S., includes a number of different penalties, ranging from operating a commercial motor that is cited for being out of compliance, to violations discovered during law enforcement audits at commercial terminals, to failing to have the proper cargo shipping documents. Penalties range between \$50 and \$5,000, depending on the violation.

Over the years, as federal regulations have changed and chapter 316, F.S., has been amended, s. 316.3025, F.S., has become very confusing, and the potential exists for MCCO to be legally challenged on some of the penalties it assesses because of this lack of clarity in statute. In addition, the federal government could withhold highway-safety grants received by the MCCO if the penalties are not assessed.

### Effect of Proposed Changes

HB 1605 w/CS amends s. 316.3025, F.S., to clearly list all of the federal violations that are subject to the stated penalties. Among these are new federal regulations relating to hazardous materials out-of-service violations and vehicle operating authority.

The amended section also includes two expanded violations:

- First, each vehicle placed out-of-service shall be subject to a \$100 civil penalty, as drivers are now. MCCO expects this to encourage motor carrier owners to keep their vehicles in better working condition.
- Second, s.316.3025(3)(e), F.S., creates a maximum penalty of \$25,000 in the aggregate for commercial carriers found to be in violation of motor carrier laws during a follow-up compliance review conducted within 24 months of the original inspection. MCCO staff said they selected the \$25,000 figure because that was the average of penalties assessed in the past against carriers where subsequent inspections showed continued violations. The first-time penalty remains at \$5,000.

In addition, changes to s. 316.3025(6), F.S., and s. 316.545(5) and (6), F.S., delete requirements for MCCO officers to give receipts to drivers or owners of commercial motor vehicles cited for penalties. This change will promote MCCO's new policy of detaining commercial motor vehicle violators for shorter periods of time, allowing them to continue to their destination without excessive delay, and allowing MCCO officers to return to patrol. This policy does not apply to vehicles with serious mechanical defects or to impaired drivers.

## **Use of revenues generated by non-Turnpike toll facilities**

### Current Situation

In addition to the Florida Turnpike, FDOT owns and operates five small toll facilities that are not part of the Turnpike system: the Sunshine Skyway Bridge, Alligator Alley (also known as the Everglades Parkway), Beeline-East Expressway, Pinellas BayWay, and Navarre Bridge. The latter three facilities have retired the bonds issued to build them, and even with annual operation and maintenance costs, they have excess revenues.

Section 338.165, F.S., authorizes the continued collection of tolls from users of toll roads or bridges that have paid off the bonds issued to build them. FDOT, any transportation authority, cities, or counties may continue the toll collection, and may even raise the amount of the toll. The toll revenues first must be used to pay the annual costs of operating, maintaining and improving the toll facility that generated it. Excess revenues from a toll facility may be used, on a cash-flow basis, to construct, maintain, or improve any road on the State Highway System within the county or counties where the toll facility is located.

For only one of these facilities, the Alligator Alley toll road, FDOT may request the Division of Bond Finance to issue bonds to pay for transportation projects in the agency's Five-Year Work Program, which also are in the counties through which Alligator Alley traverses.

Currently, toll revenues in the amount of \$3 million annually from the Beeline-East Expressway are being spent by FDOT to widen State Road 520. FDOT has determined that bonding the Beeline-East Expressway toll revenues will result in enough upfront money to complete the State Road 520 project as much as five years early. However, it lacks specific statutory authority to bond the revenues.

#### Effect of Proposed Changes

Section 338.165, F.S., is amended to clarify that the FDOT has specific authority to request the Division of Bond Finance to issue bonds secured by toll revenues collected on the Beeline-East Expressway, Sunshine Skyway Bridge, and Pinellas Bayway toll facilities. The bond proceeds will be used to fund transportation projects on the State Highway System in the counties in which they are located.

This provision will allow FDOT to proceed with its plans to complete the widening of State Road 520 ahead of schedule. Bonding the Beeline-East Expressway toll revenues will generate approximately \$45 million.

FDOT has said it has no immediate plans to issue bonds backed by toll revenues from the other toll facilities.

### **Toll Payment Enforcement**

#### Current Situation

Failure to pay prescribed toll is a civil traffic infraction punishable as a moving violation. A governmental entity that owns or operates a toll facility may designate a toll enforcement officer, and authorize that officer to issue a uniform traffic citation for failure to pay a toll. A citation issued by such an officer may be issued, within 14 days, by certified mail, return receipt requested, to the address of the registered owner of the vehicle. If the vehicle is jointly owned, the citation must be mailed to the first person named on the registration.

In addition to the citation, notification must be sent to the owner describing a payment option that results in a withheld adjudication and prevents points from being assessed against the owner's driver's license. To elect this option, the owner must pay \$30 to the clerk of the court. Upon payment, the clerk retains \$5 for administrative purposes, and the balance is forwarded to the governmental entity that issued the citation to be used for any lawful purpose related to the operation or maintenance of a toll facility.

The owner is responsible for paying the citation unless he or she can establish that the vehicle was in the control of another person at the time of the violation.

A governmental entity may supply the Department of Highway Safety and Motor Vehicles with data listing persons who have three or more such violations, and those persons will be entered upon a roll maintained by DHSMV of persons who may not be issued a license plate or revalidation sticker for any motor vehicle.



The original and one copy of the citation, or in the case of an automated citation issuance system an electronic facsimile, must be deposited with the court having jurisdiction over the alleged infraction, or with its traffic violations bureau, within 5 days of issuance to the violator.

#### Effect of Proposed Changes

HB 1605 w/CS authorizes governmental entities issuing toll enforcement citations to mail those citations by first class mail, in addition to certified mail, and provides that the mailing of the citation constitutes the required notification to the owner specifying the remedies that are available.

The bill provides an additional remedy. The person cited may elect to pay a fine of up to \$25 directly to the governmental entity that issued the citation, within 30 days after issuance of the citation. If the person cited instead elects to pay the court under the existing remedy, he or she has 45 days from the date of issuance. The bill provides for deposit of the citation with the court within 45 days after issuance.

In the case of a jointly owned vehicle, if the first name appearing on a registration is a business organization, the citation may be sent to the second person named on the registration.

### **The Florida Strategic Intermodal System Plan**

#### Current Situation:

FDOT and other transportation experts say design and construction of roads, bridges, seaports, airports, rail lines, and other transportation facilities should be considered comprehensively as “systems” that move people and commerce across regions, even states. FDOT’s recently updated *2020 Long-Range Transportation Plan* identified dynamic changes that will occur over the next 20 years. Florida’s future economic growth will depend on a system that can successfully move growing numbers of residents and tourists, and transport goods within Florida, as well as to and from the United States and international markets. According to the *2020 Plan*, Florida will add about 5 million new residents in the next two decades; imports and exports are expected to double, and the number of tourists is expected to reach nearly 85 million annually. To meet the needs generated by such dynamic growth will require investments of statewide funds in a well-planned transportation system that efficiently connects the various forms of travel.

In February 2002, a 41-member Steering Committee was formed to oversee development of a SIS designation process. The Steering Committee represented FDOT and 31 statewide stakeholders from a wide variety of interests, including tourism, agriculture, development, growth management, environment, and commerce. The Steering Committee held workshops throughout the state during the summer of 2002, and spent the fall incorporating citizen recommendations into its report, and fine-tuning the SIS criteria.

In a December report to the FDOT Secretary, the Steering Committee recommended that Florida’s transportation system should be planned and managed as two major elements:

- o **SIS facilities and services** are transportation system elements of statewide or interregional significance. These elements include the facilities and services that play a critical role in moving people and goods to and from other states and nations. The criteria and thresholds recommended for designating the SIS are indicators of the strategic importance each element has to Florida’s overall transportation system and economy.
- o **Supporting facilities and services** are those transportation system elements that are not designated as part of the SIS. These facilities and services can be further divided into “Emerging” and “Other” facilities and services. “Emerging” facilities and services are of statewide or interregional significance but do not currently meet the criteria and thresholds for SIS designation. These facilities and services are candidates for future SIS designation. Facilities can be designated as “Emerging” based on their size (using the same measures of activity as SIS facilities, but with lower thresholds) or based on measures of economic connectivity to emerging economic regions and rural areas (such as a location in or adjacent to

a fast-growing county, and service to clusters of transportation-dependent industries not served by SIS facilities).

The facilities recommended for initial designation in the SIS:

- o More than 3,700 miles of highways accounting for 70 percent of all truck traffic on the State Highway System and 32 percent of all traffic in Florida;
- o Seven commercial service airports that account for 93 percent of Florida's commercial enplanements and 98 percent of Florida's air freight and air mail tonnage;
- o Spaceport Florida, which accounts for all commercial and military space launch activity;
- o Seven deepwater seaports serving virtually all cruise passengers and over 98 percent of all waterborne freight;
- o The Atlantic and Gulf Intracoastal Waterways and shipping lanes;
- o More than 1,600 miles of railroads carrying 62 percent of all rail freight, along with 16 passenger rail stations serving all rail passengers in Florida and 4 freight rail terminals serving 85 percent of rail freight passing through intermodal terminals;
- o The constitutionally mandated high-speed rail system; and
- o Five intercity bus stations, and five existing or planned intermodal passenger terminals.

Meanwhile, the emerging facilities include five commercial service airports; three deepwater seaports; over 300 miles of inland waterways; five intercity bus stations; approximately 340 miles of railroads; two freight rail terminals; and approximately 500 miles of highways.

#### Effect of Proposed Changes:

HB 1605 w/CS implements the Steering Committee's framework. It creates a Part II in chapter 339, F.S., for the "Florida Strategic Intermodal System," and specifies the original system's components:

- o The Florida Intrastate Highway System established pursuant to s. 338.001, F.S.;
- o The National Highway System;
- o Certain airport, seaport and spaceport facilities that meet the criteria referenced in the report;
- o Rail facilities that meet the specified criteria;
- o Terminals, intermodal facilities, roads, and transit facilities that link the above-mentioned facilities; and
- o Existing or planned corridors that serve a statewide or inter-regional purpose.

The legislation incorporates by reference the Steering Committee's December 2002 final report, and specifies the criteria listed in it are to be used to determine initial SIS facilities. It also empowers the FDOT Secretary to amend the SIS facilities list, either deleting facilities or adding them, based on the adopted criteria. The bill does not address how often the SIS can be amended, creating a great deal of flexibility for the FDOT Secretary.

FDOT also is directed to develop, in coordination with metropolitan planning organizations, regional planning councils, local governments, and other transportation providers, a "Strategic Intermodal System Plan." The SIS Plan must be consistent with the Florida Transportation Plan and updated every five years. Included in the SIS Plan will be a needs assessment; a project prioritization process; a map that shows the SIS facilities and the emerging facilities; and a finance plan based on revenue projections that can reasonably be expected to occur, and which is computed over a 10-year period and a 20-year period.

HB 1605 w/CS also creates the 11-member Statewide Intermodal Transportation Advisory Council (SITAC), which will review project proposals from FDOT offices, by November 14, 2003. Serving on the SITAC are:

-- Five gubernatorial appointees: two representing airports; one representative from a fixed-route, local-government transit system; one representative from an intercity bus company providing

regularly scheduled bus travel as determined by the federal government; and one representative from a seaport.

-- Three appointees by the Senate President: one representative from a major-line railroad; one representative from an Atlantic coast Florida seaport; and one representative of an intermodal trucking company.

-- Three appointees by the Speaker of the House of Representatives: one representative from a short-line railroad; one representative from a Gulf Coast Florida seaport; and one representative of an intermodal trucking company, working for a company different from the one chosen by the Senate President.

FDOT will provide staff for the SITAC.

The bill also designates a number of "statewide transportation corridors" that include railways, highways connecting to transportation terminals, and intermodal service centers. The specified corridors are:

- The Atlantic Coast Corridor, including I-95, and linking Jacksonville to Miami.
- The Gulf Coast Corridor, from Pensacola to St. Petersburg and Tampa, including U.S. 98, U.S. 19 and S.R. 27.
- The Central Florida North-South Corridor, from the Florida-Georgia border to Naples, Florida Lauderdale and Miami, including I-75.
- The Central Florida East-West Corridor, from St. Petersburg to Tampa and Titusville, including I-4 and the BeeLine Expressway.
- The North Florida Corridor, from Pensacola to Jacksonville, from I-10 and U.S. 231, S.R. 77, and S.R. 79.
- The Jacksonville to Tampa Corridor, including U.S. 301.
- The Jacksonville to Orlando Corridor, including U.S. 17.
- The Southeastern Everglades Corridor, linking Wildwood, Winter Garden, Orlando, West Palm Beach via the Florida Turnpike.

Finally, the bill repeals the Transportation Outreach Program, s. 339.137, F.S., and transfers its funding, beginning in FY 04-05, to the new intermodal program.

Of the estimated \$100 million available with the repeal of TOP, 75 percent will go to finance SIS projects on the SIS. The remaining 25 percent will be spent on projects that are on the statewide corridors, but are not part of the SIS, although they may in the future. If less than \$100 million is available, then those funds shall be distributed on the same 75 percent -25 percent format.

FDOT is directed to solicit proposals for eligible projects, and after review and approval by the Governor, submit to SITAC by November 14, 2003, a list of projects totaling 150 percent of the funds estimated to be available during FY 04-05 through FY 08-09. The SITAC will review the list based on a number of factors, then submit a prioritized list of projects to the legislature by January 16, 2004. The Legislature shall approve the final list of projects up to the available funding in FY 04-05 in the General Appropriations Act. The Senate President and the House Speaker shall jointly approve in writing a final list of projects, per year, from FY 04-05 through FY 08-09, subject to future appropriations. Each subsequent year, additional projects are added to the next outer year.

These projects are not subject to FDOT's work program, transportation planning, and public transit funding requirements.

## **Transportation Outreach Program (TOP)**

### Current Situation

Created in s. 339.137, F.S., TOP was intended to fund transportation projects of a high priority that would enhance Florida's economic growth and competitiveness, preserve existing infrastructure, and improve travel choices to ensure mobility. Projects for this program are selected by a seven-member advisory council made up of representatives of private interests directly involved in transportation or

tourism; the Governor appoints four members, while the Senate President and the Speaker of the House of Representatives each appoints three. The final project selection is made by the Legislature.

The drafters of TOP intended for the program to receive approximately \$60 million a year for the next 10 fiscal years, in funds that originally were set aside for the now-defunct FOX high-speed rail project, which was terminated by Governor Bush in 1999. Additionally, s. 339.1371, F.S., specifies that any of the general revenue funds remaining after Mobility 2000 project needs are met, must be appropriated to the TOP program.

TOP received a total FY 01-02 appropriation of \$116.3 million, although the Governor later vetoed \$32.75 million worth of TOP projects. The program's projected FY 02-03 appropriation was an estimated \$92 million. No TOP funding was approved in FY 03-04.

According to s. 339.137, F.S., the key criterion is that a TOP project must be consistent with the "prevailing principles" of preserving the existing transportation infrastructure, enhancing economic growth and competitiveness, and improving the public's travel choices to ensure mobility. Other criteria, which can be waived under certain circumstances, are that the project:

- Is able to be made production-ready within five years;
- Is listed in an outer year of the DOT Five-Year Work Program, but could be made production ready and advanced to an earlier year;
- Is consistent with a current transportation system plan;
- Is not inconsistent with a local government comprehensive plan, or if inconsistent, documentation must be provided of why the project should be undertaken.

TOP has been criticized by legislators, local government officials, and others. The FY 01-02 and FY 02-03 lists of recommended projects have been criticized as regionally unbalanced because no project proposal from the populous DOT District 4, which includes Dade, Broward and Palm Beach counties, has made those lists. During both project cycles, legislators also have expressed serious concerns over the lack of public records to document how the TOP Advisory Council made its selections.

Legislative attempts to revamp the program over the last two years have been unsuccessful. No TOP funds were included in the Governor's Budget Recommendation for FY 03-04. The Governor's recommendation transfers the \$100 million associated with TOP to General Revenue. The House and Senate both followed the Governor's Recommendation in their respective general appropriations bills, HB 1789 and SB 2500.

#### Effect of Proposed Changes

HB 1605 w/CS repeals TOP, and diverts its funding to the new SIS program.

#### **Creation of "511" System**

##### Current Situation:

The USDOT in 1999 petitioned the Federal Communications Commission (FCC) to designate an abbreviated dialing code for traveler information. The FCC in July 2000 designated 511 as the national traveler information phone number. The FCC ruling made the 511 phone number available only to public transportation agencies. However, any public transportation agency can utilize 511 to deliver information on their particular transportation issue. Therefore, under the current situation, for example, agencies could provide differing information via 511 utilizing different service providers. The information a caller accesses could depend on the caller's service provider, or the needed information may not be offered by the caller's service provider. Significant concern exists that should a central coordination agency not be authorized and empowered, confusion, conflicting standards, qualitative

and quantitative differences will emerge as various state, county, local, quasi-governmental or private entities pursue establishment of 511 services on an independent or patchwork basis.

FDOT staff say designation of the agency as the lead agency for implementation and administration of 511 services would ensure a statewide plan with standards regarding quality, content, and consistency, and result in a more cost effective and efficient system.

#### Effect of Proposed Changes:

HB 1605 w/CS lays the groundwork for FDOT to develop and coordinate an interactive telecommunications system to keep travelers informed about not only transportation construction updates, but other public-service information. The bill defines 511 services and interactive voice response, and other terms. FDOT would become responsible for developing uniform standards and criteria for collection and dissemination of traveler information using 511 services, and all other entities would be required to coordinate with and comply with FDOT's standards and criteria to implement 511 services. At this point, FDOT will use its existing Information Technology revenues to get the program going.

#### **Other Transportation-related Issues**

HB 1605 w/CS also addresses the following issues:

- During the 2002 legislative session, s. 339.12(10), F.S., was created to give preference for any transportation grants to local governments that met certain criteria: they had more than 50,000 residents and either levied the full 6 cents of local-option fuel taxes pursuant to s. 206.41(1)(e) or 206.87(1)(c), F.S. or dedicated at least 35 percent of its discretionary sales surtax to transportation infrastructure. Twenty-five counties were eligible for the preference at the time of passage. Proviso in the FY 02-03 General Appropriations Act delayed implementation until FY 03-04. However, questions continue to be raised on how FDOT would determine the preference and what grants would be eligible, so the bill repeals the provision.
- State law includes provisions for FDOT and other agencies to accept unsolicited bids. Although not specifically excluded, the Turnpike Enterprise has been reluctant to act on any proposal for goods or services that it received without explicit authority. HB 1605 w/CS amends s. 338.235, F.S., to allow the Authority to review unsolicited bids and to give notice to other potential vendors to participate.
- Amends s. 95.361, F.S., to address a deficiency in current law related to public road dedications. The law is silent as to the ownership status of roads, built by private developer or whose origin is unknown, but which have been maintained for many years by a public entity. Based on 1982 case law, the law has been interpreted to prevent dedication of a road to a public entity unless it can be definitively proved that the road was constructed by a public entity.

In Florida where roads were constructed many years ago and records have been lost or destroyed, but a city or county has been maintaining these roads, title insurers have refused to ensure access to property over these publicly maintained roads. Without title insurance, property owners have had difficulty obtaining loans to build on their land adjacent to these type of roads.

HB 1605 w/CS specifies that a road which has been maintained by a public entity for at least seven years will vest to the maintaining public entity. Any person, firm, corporation or entity having or claiming any interest in these roads of unknown origin has one year from the effective date of this act to file a claim, or for a period of seven years from the initial date of regular maintenance or repair of the road in question to file a claim, whichever is greater.

- Periodically, FDOT encounters hurdles created by local ordinances, such as tree-cutting prohibitions, when widening or maintaining roads or bridges on the State Highway System. HB 1605 w/CS clarifies that notwithstanding any general law or special act to the contrary, no local

regulations of counties, cities, or special districts shall apply to existing or future transportation projects on the State Highway System.

- During special session in 2001, the Legislature provided some funding flexibility for Florida's airports necessary to meet the federal requirements for security enhancements. Airports can request FDOT to allow them to use their state capital-improvement grants for operations, maintenance, and security enhancements, through June 30, 2004, under current law. In the last two years, Florida airports have requested diverting about \$28 million in capital funds for security-related projects. HB 1605 w/CS extends that deadline to June 30, 2007.
- Section 334.071, F.S., explains the process for honorary designations of state-owned roads and bridges in Florida. As of 1922, some 969 of these designations have been approved. Some roads and bridges have multiple or overlapping designations.

HB 1605 w/CS adds the requirement that erection of any road or bridge honorary marker shall be contingent on the passage by the relevant city or county commission of a resolution in support of the designation.

- Every year, FDOT learns that passage of federal legislation or regulations leaves its laws out of compliance, and ask the Florida Legislature to make substantive or technical changes.

HB 1605 w/CS accomplishes a substantive change by repealing s. 316.3027, F.S., which specifies now-obsolete vehicle identification requirements superseded by new federal regulations in chapter 49 C.F.R. However, it retains and clarifies the exemption for vehicles engaged in hauling forestry, agricultural, or horticultural products, in s. 316.302(2)(e), F.S.

Among the technical changes are replacing the phrase "terminal audits" with "compliance reviews;" changing the date reference to federal law from 2001 to 2002; and adopting the federal length standards for semitrailers specialized for use in hauling vehicles to motorsports events.

- The bill deletes s. 316.610(3), F.S., which authorized the MCCO to inspect, upon request of the owner, commercial motor vehicles, for a fee of \$25. The provision was rarely used, so the MCCO requested that it be deleted.
- The bill also recognizes that many common fluids and tools of business trades are defined by the federal government as "hazardous materials," and that commercial motor vehicles carrying large amounts must have clearly visible "HazMat" placards. It makes clear that commercial motor vehicles operating strictly in intra-state commerce can transport hazardous materials in amounts too small, under federal regulations, to require placarding.
- Section 338.155, F.S., lists a number of exemptions from having to pay tolls on the Florida Turnpike and expressway authorities' toll facilities. These exemptions include military personnel and law enforcement personnel on official business, as well as disabled motorists who meet certain requirements.

HB 1605 w/CS creates s. 348.7546, F.S., which specifies that in addition to the existing toll-paying exemptions, the Orlando-Orange County Expressway Authority will exempt from tolls any person traveling as part of a law enforcement officer's or firefighter's funeral.

- Finally, the bill corrects a glitch created by 2002 legislation allowing the Florida Highway Patrol (FHP) to employ traffic accident investigator, with a required level of training. These investigators are not allowed to carry weapons or to make arrests. The provision was erroneously placed in the wrong paragraph of s. 316.640(1), F.S., and was being interpreted by some attorneys as preventing the FHP, the MCCO, and all other state law enforcement officers from carrying firearms and arresting suspects. The provision creating traffic accident investigators is moved to a more appropriate location in s. 316.640, F.S.

C. SECTION DIRECTORY:

Section 1: Amends s. 20.23, F.S., extensively to reflect internal organization and operations of FDOT. Deletes obsolete provisions.

Section 2: Amends s. 95.361, F.S., to clarify a road dedication issue..

Section 3: Amends s. 110.205, F.S., to correct cross-references and name changes of FDOT positions that are exempt from career service provisions.

Section 4: Amends s. 255.20, F.S., to allow counties, municipalities, special districts under Chapter 189, F.S., and other local governmental entities to require that contractors seeking to perform transportation projects costing in excess of \$250,000 be certified or qualified to perform such work. Specifies that contractors pre-qualified by FDOT to perform comparable state projects shall be presumed to be qualified to perform the local project. The local governmental entity may develop a process to appeal that presumption in court. Specifies that a local government may declare as ineligible any contractor who is at least 10 percent behind schedule on an existing project for local government. Directs local governmental entities to establish and publish prequalification criteria and procedures to deal with contractors not prequalified by FDOT. Specifies requirement for an appeals process.

Section 5: Amends s. 316.1001, F.S., to clarify notification of toll violations.

Section 6: Amends s. 316.302, F.S., to correct obsolete references to updated federal regulations. Clarifies certain motor carrier's exemption from having HazMat placarding based on less-than threshold amounts of hazardous materials.

Section 7: Amends s. 316.3025, F.S. Reorganizes the penalties section to clarify which commercial vehicle violations are subject to certain fines. Deletes requirement that law enforcement officers collecting penalties from a motor carrier owner or operator provide a receipt.

Section 8: Amends s. 316.3026, F.S., throughout. Specifies that the MCCO may issue out-of-service orders to motor carriers that, after proper notice, have failed to pay penalties of fine assessed by the MCCO or its agent; refused to submit to a compliance review and provide safety records; or for being in violation of safety or insurance requirements. Specifies that pursuant to such out-of-service orders, carriers can not operate in Florida until they have complied. Specifies that only the MCCO director or designee may issue an out of service order under these provisions. Provides for a s. 120.569, F.S., administrative hearing. Also, specifies that a motor carrier enjoined or prohibited from operating in Florida, another state, or by the federal government, shall not operate in Florida until it has been authorized to resume its operations by the entity originally putting the carrier out-of-service. Provides that such violators are subject to a \$10,000 civil penalty, in addition to any other penalties that may be assessed. Provides that if any person who knowingly drives, operates, or causes to be operated in Florida an out-of-service vehicle commits a third-degree felony. Allows FDOT to petition the circuit courts to enjoin a motor carrier that fails to comply with out-of-service orders.

Section 9: Repeals s. 316.3027, F.S., to delete motor carrier identification requirements subsequently superseded by federal law.

Section 10: Amends s. 316.515, F.S., to exempt from maximum length regulations semitrailers used exclusively or primarily to transport vehicles in connection with motorsport competitions, as long as the length does not exceed 46 feet from the kingpin to the center of the rear axles.

Section 11: Amends s. 316.545, F.S., to add cross-reference to out-of-service provisions and to delete the receipt requirement for penalties paid to an officer. Allows an FDOT weight inspector to detain a commercial motor vehicle that has obvious safety defects, or which is operating in violation of

an out-of-service order, until a law enforcement officer can arrive at the weigh station. Specifies that a detained motor vehicle can leave if the defect is repaired before an officer arrives.

Section 12: Repeals s. 316.610(3), F.S., to delete a voluntary inspection program never used by FDOT's motor carrier compliance officers.

Section 13: Amends s. 316.640, F.S., to relocate provisions related to traffic accident investigators to a more appropriate location in the section.

Section 14: Amends s. 316.650, to reflect changes to automated traffic citation provisions.

Section 15: Amends s. 316.70, F.S., to specifically provide for MCCO compliance reviews of nonpublic sector buses.

Section 16: Amends s. 318.14, F.S., to reflect changes to automatic traffic citation provisions.

Sections 17-21: Effective October 1, 2003, amends ss. 330.27, 330.29, 330.30, 330.35, and 330.36, F.S., related to FDOT's aviation programs. Makes numerous technical changes throughout. Eliminates or updates obsolete definitions. Directs FDOT to establish and maintain a state aviation facility data system for registration purposes. Specifies conditions for site approvals for public airports and for private airports. Clarifies that licenses are issued for public airports and registrations for private airports. Specifies requirements. Eliminates airport licensure and registration fees. Eliminates inspections and licensure for private airports, except that private airports with 10 or more based aircraft may be licensed and inspected at their request. Allows municipalities to prohibit or otherwise regulate seaplane landings, upon adoption of zoning requirements.

Section 22: Amends s. 332.007, F.S., to extend by three years, to June 30, 2007, capital grant funding flexibility for Florida's airports.

Sections 23, 24 and 27: Amends s. 334.03 and 334.044, F.S., to provide for FDOT implementation of a "511" traveler telephone information service. Creates s. 334.60, F.S., to specify FDOT as the lead state agency for the "511" system, and to specify FDOT's responsibilities.

Section 25: Amends s. 334.071, F.S., to add the requirement that all honorary road and bridge designations be approved by local-government resolution before legislative approval.

Section 26: Amends s. 334.14, F.S., to require FDOT engineers to be registered in accordance with the provisions of chapter 471, F.S., as all other agencies' engineers are. Deletes requirements that certain FDOT employees be engineers.

Section 28: Amends s. 335.02, F.S., to specify that no local-government ordinance shall apply to existing or future transportation projects on the State Highway System.

Section 29: Amends s. 336.467, F.S., to broaden FDOT's authority to enter into an agreement with any other governmental entity to acquire rights-of-way for that other entity.

Section 30: Amends s. 337.11, F.S., to exempt FDOT procurements from transaction fees imposed by contract, rule, or statute for MyFloridaMarketplace.com, or any successor Internet procurement services.

Section 31: Amends s. 337.14, F.S., to specify that a contractor's application for qualification will be acted upon by FDOT within 30 days after it is deemed complete, not when it is delivered to the agency. Specifies submission of an application shall not affect the certificate of qualification's expiration date. Adds to the list of contractor affiliates those entities that provide testing services.



Section 32: Amends s. 337.18, F.S., to specify process and time-frames for actions against contractors or subcontractors. Specifies performance bonds. Deletes the \$10,000-per-day cap on incentive payments or damages to transportation contractors

Section 33: Amends s. 337.401, F.S., to allow FDOT to enter into a permit-delegation agreement with another governmental entity, based on requirements that FDOT's facilities will be handled with safety.

Section 34: Amends s.338.165, F.S., to provide for the ability to bond and use the toll revenues of certain non-Turnpike facilities for projects within the counties where located.

Section 35: Amends s. 338.2216, F.S., Makes a technical correction.

Section 36: Amends s. 338.235, F.S., to allow the Florida Turnpike Enterprise to accept unsolicited proposals for goods and services.

Section 37: Designates ss. 339.61, 339.62, 339.63, and 339.64, F.S., as "Part II" of chapter 339., F.S. Designates the SIS provisions as "Part II." Creates s. 339.61, F.S., expressing legislative intent about the SIS. Creates s.339.62, F.S., listing the components of the SIS. Creates s. 339.63, F.S., specifying the initial system designation as the transportation facilities listed in the Strategic Intermodal Steering Committee's final report, entitled "Recommendations for Designating Florida's Strategic Intermodal System," dated December 2002. Authorizes the FDOT Secretary to periodically add to or delete facilities from the initial system, based on adopted criteria. Creates s. 339.64, F.S., directing FDOT, in cooperation with other appropriate entities, to develop a Strategic Intermodal System Plan. Specifies the plan shall be consistent with the Florida Transportation Plan, and shall be updated at least once every five years. Directs FDOT to provide adequate opportunity for agency and public involvement in the plan's updates. Specifies that the plan shall include a needs assessment; a project prioritization process; a map of SIS facilities and of emerging facilities; and a finance plan with 10-year and 20-year cost-feasible components.

Section 38: Creates s. 339.1372, F.S., establishing funding for intermodal funding. Allocates \$100 million annually from former Transportation Outreach Program (TOP) for intermodal projects. Recognizes that in those years of revenue shortfalls, less money will be available to fund these projects. Sets aside 75 percent of available funds for projects that are part of the SIS. Sets aside the remaining 25 percent of available funds for intermodal projects that aren't currently part of the SIS but which are part of the statewide transportation corridors and which may be "emerging facilities" for the SIS. Specifies 25 percent match for projects that are not part of the State Highway System. Specifies criteria. Specifies FDOT process to solicit proposals for intermodal funding beginning in FY 04-05. Creates Statewide Intermodal Transportation Advisory Council (SITAC). Specifies membership and duties.

Section 39: Creates s. 341.0532, F.S. to designate "statewide transportation corridors."

Section 40: Amends s. 339.08, F.S., to reflect repeal of TOP and creation of SIS.

Section 41: Amends. s. 339.1371, F.S., to reflect repeal of TOP.

Section 42: Repeals s. 339.137, F.S, the Transportation Outreach Program (TOP).

Section 43: Repeals the transportation grant preference program.

Section 44: Creates s.348.7546, F.S., to add to toll-paying exemptions participants in funeral processions for firefighters and law enforcement officers, only at facilities owned by the Orlando-Orange County Expressway Authority.

Section 45: Provides that except as otherwise provided, this act takes effect upon becoming a law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

Section 8: Indeterminate. The MCCO likely will collect more penalty revenue once the provisions of 1605 w/CS are implemented, but it is difficult to determine how much, since that depends on the number of violators caught. Changes to the out-of-service regulations are being requested to improve safety, not to raise revenues for the MCCO.

Section 19: FDOT expects a minimal loss of revenue. FDOT collects on the average about \$90,000 a year in the airport registration fees, but has estimated it costs the agency at least \$100,000 annually to administer the collection program.

Section 34: FDOT has indicated that if HB 1605 w/CS becomes law and market conditions are favorable, the Division of Bond Finance may in calendar year 2004 issue \$45 million in revenue bonds, backed by toll revenues of the Beeline-East Expressway. The bond revenue will finance improvements to State Road 520 in Orange and Brevard counties

#### 2. Expenditures:

Section 19: Indeterminate, but minimal. FDOT will incur some expense in setting up the electronic registration for private airports, but the added convenience and data accessibility will have many benefits.

Sections 38-42: Creates the Strategic Intermodal System which is authorized to generate a list of intermodal projects for the FY 04-05 budget cycle. Funding of these projects is subject to appropriation in the FY 04-05 General Appropriations Act.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

Section 38: Local governments may receive funds directly to help construct intermodal projects that are not part of the SIS, but which are on statewide transportation corridors or are emerging facilities that could be part of the SIS in the future.

#### 2. Expenditures:

Section 29: Local governments may experience some savings in time and money if FDOT acquires rights-of-way on their behalf in order to complete local road projects connected to state projects.

Sections 38-42 – Creates the Strategic Intermodal System which is established to generate a list of intermodal projects for the FY04-05 fiscal year. Funding of these projects is subject to appropriation in the FY 04-05, General Appropriations Act.

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

Transportation contractors and related businesses may experience some cost-savings and time savings because of several contracting provisions in HB 1605 w/CS, and may be able to bid for intermodal projects, beginning in FY 04-05.

Private airports may experience some savings in time and money by using the electronic registration process in Section 19.

However, the bill may result in greater penalties for commercial motor vehicle carriers who operate out-of-service or refuse to participate in compliance reviews. These carriers also will have a loss of revenues from their vehicles being parked rather than hauling their cargoes to their destinations. These fiscal impacts are indeterminate, and depend on whether the penalties deter motor carriers from operating illegally.

D. FISCAL COMMENTS:

The transfer to the new intermodal program of funds currently dedicated to TOP commences in FY 04-05.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. HB 1605 w/CS does not require cities or counties to expend funds or take actions to expend funds; reduce the revenue-raising authority of cities or counties, in the aggregate; or reduce the percentage of state tax revenues shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

FDOT has sufficient existing rule-making authority to implement the provisions of HB 1605 w/CS.

C. DRAFTING ISSUES OR OTHER COMMENTS:

In section 38 of the bill, the newly created s. 339.1372(2)(a), F.S., references funding for SIS projects established "in accordance with part II of this chapter." Chapter 339, F.S., has no part II; this erroneous reference was to an earlier version of the SIS provisions.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

#### Transportation Committee

At its April 9, 2003, meeting the Transportation Committee adopted without objection three largely technical amendments. The first amendment deleted a reference to a proposed "Office of Modal Development," and the second amendment officially added modal development to the responsibilities of the current State Public Transportation Administrator. That administrator currently oversees modal development projects. Finally, the third amendment restored mistakenly deleted language.

The committee then voted 18-0 in favor of HB 1605, as amended.

#### Appropriations Committee

At its April 21, 2003, meeting the Appropriations Committee adopted a strike-all amendment and seven amendments to that amendment. The strike-all amendments incorporated, by and large, the texts of HB 1205, HB 1373, and HB 1605. The individual amendments did the following:

- Amendment #1 added the provision that municipalities may regulate or prohibit seaplane landings, upon adoption of zoning requirements. This provision was part of FDOT's original aviation statutes rewrite.

- Amendment #2 added the 511 traveler telephone information system language.
- Amendment #3 added the provision allowing the Turnpike Enterprise to accept unsolicited bids for goods and services.
- Amendment #4 added the requirement that honorary road and bridge designations must be the subject of an adopted local-government resolution.
- Amendment #5 exempted FDOT's contracts from the transaction fees imposed by MyFloridaMarketPlace.com or other Internet procurement systems.
- Amendment #6 exempted from paying tolls on the Orlando-Orange County Expressway Authority those participants in funerals for firefighters or law enforcement officers.
- Amendment #7 created the Strategic Intermodal System program and the SITAC, repealed TOP, and earmarked TOP funding for SIS beginning in FY 04-05.

The committee then passed the bill by a vote of 39-1.