HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/CS/HB 1271 Transportation
SPONSOR(S): Economic Development & Community Affairs Policy Council; Transportation & Economic Development Appropriations Committee, Roads, Bridges & Ports Policy Committee; Horner
TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Roads, Bridges & Ports Policy Committee	12 Y, 0 N, As CS	Johnson	Miller
2)	Transportation & Economic Development Appropriations Committee	10 Y, 0 N, As CS	Fennell	Creamer
3)	Economic Development & Community Affairs Policy Council	14 Y, 0 N, As CS	Johnson	Tinker
4)				
5)				

SUMMARY ANALYSIS

The bill addresses numerous issues related to transportation. Specifically, the bill:

- Codifies the $75 per pay period pay additive for Motor Carrier Compliance Officers who maintain certification by the Commercial Vehicle Safety Alliance.
- Allows the Charter County Transportation Surtax to be used for on-demand transportation service.
- Revises the membership of the Board of Pilot Commissioners.
- Replaces the Pilotage Rate Review Board with the Pilotage Rate Review Committee as part of the Board of Pilot Commissioners, provides for membership, provides that its rate decisions are not appealable to the Board of Pilot Commissioners.
- Requires the Governor to appoint certain members of the Board of Pilot Commissioners by October 31, 2010.
- Provides that certain hold harmless provisions in motor carrier transportation contracts are against public policy and are void and unenforceable.
- Provides for permits to exceed the maximum weight for vehicles transporting agriculture on non-interstate highways and allows for additional weight due to idle reduction devices.
- Requires citations for toll violations to be mailed by first-class mail, return receipt requested.
- Addresses drivers license issues related to toll violations.
- Revises the license tax fees for wreckers to clarify the amounts based on function.
- Revises provisions relating to applications for contractor prequalification to clarify when interim financial statements are needed for contractor qualification applications.
- Provides express authority with regard to DOT's rulemaking related to video billing and the associated post-payment of tolls by toll road users.
- Requires any new public rail system to utilize a universal fare system compatible with certain standards, and any existing public rail system that upgrades or changes fare systems to utilize a universal fare system compatible with certain standards.
- Authorizes the Central Florida Regional Transportation Authority to bond capital leases.
- Authorizes the Tampa-Hillsborough County Expressway Authority to issue its own bonds.
- Creates the Osceola County Expressway Authority.
- Addresses mitigation issues related to the Wekiva Parkway.
- Increases the mitigation fee for mining within the Miami-Dade Lake Belt and adds a sunset date for the annual mitigation fee increase.
- Revises and creates definitions related to outdoor advertising.
- Revises an outdoor advertising pilot program.
- Removes the 3-year rotation and reduces the maximum annual fees related to the logo sign program.
- Provides a method for DOT to collect the cost of removing unpermitted and illegal signs.
- Provides a mechanism for public-use airports to dispose of or remove personal property, derelict or abandoned aircraft or abandoned motor vehicles from the airport's premises.

The Lake Belt Mitigation Trust Fund will receive additional revenues due to the increase in mitigation fees.

The state school fund could lose any revenues currently received from the disposal of abandoned property at airports. Individual airports will now receive these funds.

There may be a loss of revenue in to the State Transportation Trust Fund and the General Revenue Fund due to the changes to the license tax for wreckers.

DOT will see some additional revenue from permitting overweight agricultural vehicles.

DOT and toll agencies may see an increase in costs due to sending toll violations return receipt requested.

DOT may see a reduction in revenues due to a decrease in maximum fees to the logo sign program.

The change in toll provisions may result in fewer court cases related to toll violations.

The bill has an effective date of July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

This bill contains numerous provisions relating to the Department of Transportation (DOT) and other transportation related issues. For ease of understanding, this analysis is organized by topic.

Motor Carrier Certification Program (Section 1)

Current Situation

The Commercial Vehicle Safety Alliance (CVSA) certification program provides a pay incentive for Motor Carrier Compliance Officers. This pay incentive is $75 per pay period for those officers that maintain certification by meeting special training and performance requirements of the CVSA.[1] This pay incentive program has been funded through federal appropriations and authorized through the General Appropriations Act (GAA) beginning in fiscal year 2007-2008 to the current fiscal year 2009-2010. Initially, DOT requested that the funds be distributed to eligible employees with the authority issued by the Department of Management Services (DMS).

Since initial approval, DMS notified DOT that this is not an appropriate method to provide these incentives, as it is not a statutorily authorized pay additive.[2] Subsequently, DOT sought an alternative pay additive that was appropriate to accommodate the issuance of the CVSA pay incentive. DMS, in consultation with Legislative staff, provided DOT authority to use the Temporary Special Duty Pay Additive as a mechanism to continue to issue this authorized pay incentive in fiscal year 2007-2008 through the current fiscal year. Approximately 208 current employees statewide are receiving this pay additive. In its fiscal year 2010-2011 Legislative Budget Request, DOT requested funding contingent on federal appropriation.

Proposed Changes

The bill creates a new s. 20.23(7), F.S., authorizing DOT to continue to grant the $75 per pay period pay additive to MCCO officers who maintain certification by the CVSA.

Charter County Transportation System Surtax (Section 2)

Current Situation

[1] DOT's Motor Carrier Compliances Officers are paid bi-weekly. The annual pay additive for one of these officers is $1,950.

[2] Authorized pay additives are contained in s. 110.2035(6)(c), F.S.

The Charter County Transportation System Surtax, provided in s. 212.055 (1), F.S. allows certain charter counties, as well as a county that is consolidated with one or more municipalities, to levy a maximum 1 percent sales surtax to finance the development, construction, and operation of fixed guideway rapid transit systems, bus systems, and roads and bridges. The proposal to levy the surtax and create a trust fund for surtax proceeds must appear on a ballot and receive the approval of a majority of the county electorate.

A charter county may deposit the surtax revenues into the trust fund, remit the revenues to an expressway, transit or transportation authority, or apply them directly to the permitted uses. The proceeds may also be distributed by interlocal agreement to municipalities or an expressway, transit or transportation authority to finance the permitted uses.

A 2009 statute change, made all 20 charter counties eligible to implement this tax,[3] however, it is currently only implemented in Duval and Miami-Dade counties.

Proposed Change
The bill amends s. 212.055(1), F.S. to permit the Charter County Transportation System Surtax to be used for on-demand transportation services. The bill defines "on-demand transportation services" as transportation provided between flexible points of origin and destination selected by individual users with such service being provided at a time that is agreed upon by the user and the provider of the service and that is not fixed-schedule or fixed-route in nature.

Harbor Pilots (Sections 3 through 7)

Current Situation
To help protect against economic and environmental damages from accidents on Florida waterways, the state requires ships to use state-licensed harbor pilots who have detailed knowledge of local conditions such as water depth, currents, tides, and navigational hazards and how these factors affect ship movements in port channels. Pilots serve as advisors to shipmasters (captains) when taking ships into or out of port, but the shipmasters are ultimately responsible for the safe navigation of their vessels. Harbor pilots serve 11 of Florida's 14 deep-water ports.[4]

The 1975 Legislature established the Board of Pilot Commissioners to oversee statewide licensing and regulation of harbor pilots; the board is administratively housed within the Department of Business and Professional Regulation (DBPR). In 1994, the Legislature established a second board, the Pilotage Rate Review Board, to oversee rate setting for pilot services. Licensing fees and an annual assessment on gross state pilotage revenues support state regulatory costs. DBPR reported that its costs for regulating 94 state-licensed harbor pilots and 4 certified deputy pilots in Fiscal Year 2008-09 were $378,088. The department also reported a deficit of $18,705 at the end of the fiscal year, as its regulatory costs exceeded revenues.

The Board of Pilot Commissioners licenses pilots, determines the number of state-licensed pilots for each port, and administers discipline for the profession. The Pilotage Rate Review Board sets pilotage rates for individual Florida ports. The Department of Business and Professional Regulation provides administrative, investigative, legal, and other support services for both boards. The Governor appoints members of both boards, subject to Senate confirmation. Both boards are experiencing vacancies and many members are serving with expired terms. As of November 30, 2009, the 10-member Board of Pilot Commissioners had one member serving on a current term, one vacancy, and the remaining eight commissioners were continuing to serve although their terms had expired, including the chair, whose term expired in 2006.[5]

[3] Ch. 2009-106, L.O.F. The eligible counties are Alachua, Brevard, Broward, Charlotte, Clay, Columbia, Duval, Hillsborough, Lee, Leon, Miami-Dade, Orange, Osceola, Palm Beach, Pinellas, Polk, Sarasota, Seminole, Volusia, Wakulla.

[4] Office of Program Policy Analysis and Government Accountability Report No. 10-21" Options to Modify Harbor Pilot Oversight Could Improve Regulation and Rate Setting"

[5] Section 20.165(5)(c), F.S., allows a member whose term has expired to continue to serve on the board until a replacement is appointed. The seven-member Pilotage Rate Review Board had four vacancies and the remaining three members were continuing to serve after their terms expired.

These vacancies and expired terms may affect stakeholder perspectives on the boards' effectiveness and reduce the expertise and representation intended by state law. For example, the Pilotage Rate Review Board is currently operating without two statutorily mandated members, a certified public accountant and a Coast Guard-licensed unlimited master, which can affect stakeholders' opinions on whether the board possesses the range of expertise intended by the Legislature. Due to vacancies, a majority of the current members of the Board of Pilot Commissioners are licensed pilots, although state law provides that state pilots fill only 5 of 10 board seats.[6]

Proposed Changes
The bill makes several changes to the Board of Pilot Commissioners and creates a Pilotage Rate Review Committee under the Board of Pilot Commissioners and eliminates the current Pilotage Rate Review Board. The bill amends s. 310.011, F.S. to modify the membership of the Board of Pilot Commissioners. While it keeps the five state pilots, it modifies the qualifications of the other five members. Current law requires the membership to include someone actively involved in maritime or marines shipping, a user of piloting services, three not involved in or monetarily interested in the profession. The bill changes those five member so two actively involved in a professional or business capacity in maritime or marine shipping or the commercial cruise industry, a certified public accountant with at least five years experience on financial management, and two who are citizens of the state.

The bill amends s. 310.151, F.S. relating to rates of pilotage to redesignate the Pilotage Rate Review Board as the Pilotage Rate Review Committee. The committee will be part of the Board of Pilot Commissioners. The membership of the committee will be from members of the Board of Pilot Commissioners, and consists of two pilots, appointed by a majority vote of the state pilots serving on the board, and the five non-pilot members of the board.

The bill requires members of the committee to comply with the disclosure requirements in s. 112.3143(4), F.S., if participating in any matter that would result in a special private gain or loss.

The bill clarifies that the decision regarding rates that is set by the committee is not appealable to the Board of Pilot Commissioners.

The bill requires the Governor, by October 31, 2010, to appoint to the Board of Pilot Commissioners two members who are actively involved in a professional or business capacity in maritime or marine shipping or the commercial cruise industry, a member who is a certified public accountant with at least five years experience on financial management and two members who are citizens of the state.

Seaport Loan Program (Section 8)

Current Situation
Section 315.03, F.S., grants various powers to the state's seaports. Section 315.03(12), F.S., authorizes certain entities, with oversight by the Florida Seaport Transportation and Economic Development Council, to establish a loan program that provides for the reuse of loan proceeds for certain program purposes. The law requires the Florida Seaport Transportation and Economic Development Council to submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Proposed Change
The bill repeals an obsolete statutory provision requiring the Legislature to review the seaport loan program during the 2004 Regular Session.

Commercial Motor Vehicle Liability (Sections 9 and 11)

Current Situation

[6] The current Board of Pilot Commissioners includes five harbor pilots and four maritime consumer members. The current membership of the Pilotage Rate Review Board includes a retired administrative law judge and two consumer representatives.

In recent years, many states have adopted statutory prohibitions against certain private contractual provisions in motor carrier transportation contracts and access agreements that seek to require a motor carrier to indemnify a shipper for losses caused by the shipper's own negligence or intentional acts.[7] According to information provided by the Florida Trucking Association, the prohibitions are currently the law in 17 states, with several other considering legislation. The laws typically contain a prohibition against of attempts to contractually indemnify against one's own negligence as being "against public policy…void and unenforceable."[8] These so-called anti-indemnification laws are based upon the view that a shipper should not be allowed to use its superior bargaining power to coerce a motor carrier with whom it contracts into insuring the shipper against its own negligence.

Proposed Change
The bill amends s. 316.003 to define "motor carrier transportation contract." As "a contract, agreement, or understanding covering:

1. The transportation of property for compensation or hire by the motor carrier;
2. Entrance on property by the motor carrier for the purpose of loading, unloading, or transporting property for compensation or hire; or
3. A service incidental to activity described in subparagraph (1) or (2), including, but not limited to, storage of property.

A "motor carrier transportation contract" does not include the Uniform Intermodal Interchange and Facilities Access Agreement administered by the Intermodal Association of North America or other agreements providing for the interchange, use, or possession of intermodal chassis, containers, or other intermodal equipment.

The bill also amends s. 316.302, F.S. to declare any provision of a motor carrier transportation contract requiring the indemnification of the contract's promise for negligence to be against the public policy of the state and void and unenforceable. This provision only applies to contracts entered into or renewed on or after July 1, 2010.

Commercial Motor Vehicle Safety Regulations (Section 9)

Current Situation
Section 316.302(1)(b), F.S. requires that except as otherwise provided, owners and drivers of commercial motor vehicles are subject to various federal rules and regulations as they existed on October 1, 2007.

Proposed Change
The bill changes the date of the applicability of the federal rules and regulations to October 1, 2009.

Truck Weights (Sections 13 and 14)

Idling Devices (Section 13)

Current Situation

Auxiliary Power Units
Section 316.302, F.S., provides a person who operates a commercial motor vehicle may not drive more than 12 hours following 10 consecutive hours off duty or for any period after the end of the 16th hour after coming on duty following 10 consecutive hours off duty. Due to these statutory requirements, truck drivers have long off-hour rest periods, which they often spend inside the cab of their trucks. Cab power is essential in order to control the temperature inside the cab and keep the drivers comfortable during the long rest periods.

[7] Intermodal Association of North America "*IANA's Legislative Report of Most Recent Activity*"
http://www.legislativesolutions.com/legislation/iana-grid.php?billyear=2010 (last visited 4/13/10)

[8] See e.g., Md. Code Ann. §5-401; N.C. Gen. Stat. § 62-212; and Okla. Stat. § 169.7.

The most common way drivers power their cabs is to idle, which means to continuously operate the vehicle's main drive engine while the vehicle is stopped. While idling helps keep the driver comfortable, it has a negative economic and environmental impact. Idling requires a great deal of fuel, increases emissions of greenhouse gases and other pollutants, and it generates a great deal of noise.

As an alternative power source for trucks, idling reduction technology has been explored and Auxiliary Power Units (APUs) were developed. An APU is a portable, truck-mounted system that can provide climate control and power for trucks without idling. Most APUs are small diesel engines with their own cooling and heating systems, generator or alternator system and air conditioning compressor, mounted to a frame rail.

Since APUs add weight to the vehicle, it must carry less revenue-producing cargo weight in order to compensate for the weight of the APU, or risk violating state and federal maximum weight limits.

Florida Law

Section 315.535, F.S., provides the overall gross weight of any vehicle or combination of vehicles may not exceed 80,000 pounds, including all enforcement tolerances. Except as provided, no vehicle or combination of vehicles exceeding the gross weights specified is permitted to travel on the state's public highways.

Section 315.545, F.S., provides penalties for vehicles that exceed the maximum allowable weight limit. All vehicles that exceed the maximum weight limits are presumed to have damaged the state's highways and are subject to economic sanctions.

Both s. 315.535, F.S., and s. 315.545, F.S., are silent on the issue of idle-reduction technology. These sections do not provide a maximum weight exemption for any vehicles that have installed an anti-idling device, such as an APU.

Federal Law

On August 8, 2005, President Bush signed into law the Energy Policy Act of 2005 (Energy Policy Act). Section 756 of the Energy Policy Act, "Idle Reduction and Energy Conservation Deployment Program," amended Title 23 USC 127(a) to allow for a national 400-pound exemption on the maximum weight limit on the interstate system for the additional weight of idling reduction technology on heavy-duty vehicles. The maximum weight for commercial vehicles on the federal highway system is 80,000 pounds. Thus, the exemption allows for 400 pounds in addition to the 80,000-pound maximum weight limit.

A memo from the Federal Highway Administration's Size and Weight Division indicates the exemption in s. 756 of the Energy Policy Act is not a mandate and does not preempt state regulations or compel states to grant the increased weight tolerance. Thus, federal law allows for the waiver of 400 pounds, but does not require it. Each state may determine whether they will honor the exemption. Approximately 22 states allow the 400-pound APU exemption.[9]

Proposed Changes

The bill amends s. 316.545(3), F.S., to provide for an increase in the vehicle's maximum gross vehicle weight of up to 400 pounds to compensate for the additional weight of APUs installed, thus implementing s. 756 of the federal Energy Policy Act in Florida. This will create greater uniformity between federal and state law, which is

[9] Based in information from the Owner-Operator Independent Driver Association, the following states allow the 400-pound APU exemption: Alabama, Alaska, Arkansas, Connecticut Idaho, Illinois Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Michigan, Minnesota, Missouri, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Texas, Utah, Vermont, Virginia, Washington, Wisconsin and Wyoming. The states that do NOT allow the 400-pound APU exemption: California, Colorado, Delaware, District of Columbia, Florida, Georgia, Hawaii, Kentucky, Massachusetts, North Carolina, Rhode Island, Tennessee, and West Virginia. Florida and Massachusetts currently have legislation pending.
.http://www.ooida.com/Education&BusinessTools/Trucking_Info/Vehicle_weight_exemptions_for_APUs.shtml (December 29, 2009).

especially important for truck drivers doing interstate business and would assist regulatory officials by preventing enforcement ambiguities that could cause problems for drivers during inspections.

If a vehicle is found to be overweight, but is equipped with idle-reduction technology, then the penalty will be calculated by reducing the actual gross vehicle weight or the internal bridge weight by the certified weight of the idle-reduction technology, or 400 pounds, whichever is less. The 400 pound exemption will not be assessed on axle weight. DOT cannot increase the axle weight because Florida was grandfathered in at 22,000 pounds. Florida is already over the federally allowed 20,000 pounds. Furthermore, each qualifying vehicle will not get an automatic exemption of 400 pounds by virtue of having an installed anti-idling device, unless the actual weight of the anti-idling device is 400 pounds or more. The weight limit exemption will depend on the certified weight of the anti-idling device.

The bill has two proof requirements identical to those found in the federal law. If a law enforcement or regulatory officer questions drivers, the driver must: (1) prove the unit is fully functional at all times and (2) present written certification of the weight of the idle-reduction technology.

The bill excludes vehicles described in s. 316.535(6), F.S., from qualifying for the 400 pound exemption. These vehicles, typically called straight trucks, include: dump trucks; concrete mixing trucks; trucks engaged in waste collection and disposal; and fuel oil and gasoline trucks designed and constructed for special type work. These vehicles typically do not carry idle-reduction equipment and the addition of 400 pounds would exceed the weight limit on state and local bridges.

Commercial Vehicle Weights (Section 14)

Current Situation

Section 316.535, F.S., provides for the maximum weights allowed for commercial motor vehicles on the state's highways. However, some roads and bridges have lower weight limits due to their age, condition, or design. A vehicle's weight limit is based on factors such as the number of axles and the distance between two or more consecutive axles, thus, depending on the number of axles and their distribution on the vehicle, a vehicle's maximum allowable gross weight may be less than 80,000 pounds. The weight limits also include a 10 percent enforcement tolerance to allow for a difference in scale weights. For both the interstate and non-interstate highway system, the maximum gross weight limit is 80,000 pounds, including all enforcement tolerances. Except as provided in s. 316.535, F.S., no vehicle or combination of vehicles exceeding the gross weights specified shall be permitted to travel on the public highways within the state. All vehicles exceeding the maximum weight limits are presumed to have damaged the highways of the state and are subject to economic sanctions. Section 315.545, F.S., provides penalties for vehicles exceeding the maximum allowable weight limit.

Section 316.545(2)(a), F.S., provides for the 10 percent enforcement tolerance mentioned above. This paragraph also provides that any gross weight over and beyond 6,000 beyond the maximum weight limit, including the 10 percent enforcement tolerance, to be unloaded and cared for by the owner or operator of the vehicle at the risk of the owner or operator.

Proposed Changes

The bill amends s. 316.550, F.S., to allow DOT or local authorities to issue permits providing commercial vehicles transporting agriculture products off the Interstate Highway a 10 percent increase in the weight limit on a designated route specified in the permit. The route must avoid any bridge that DOT determines cannot safely accommodate the vehicle. The bill also provides that any vehicle exceeding the permitted weight limit must be unloaded and all material shall be cared for by the owner or operator.

<u>Tolls</u> (Sections 10, 15, 16, 19 and 25))

Current Situation

Subject to a few limited exemptions[10] a person may not use any toll facility without paying tolls, and the failure to pay the toll is a noncriminal traffic infraction, punishable as a moving violation, pursuant to s. 316.1001, F.S.

If a toll agency issues a citation for failing to pay a toll, the person has 30 days from when the citation is issued to pay it directly to the issuing toll agency, in which case the citation is never filed with the court.[11] The penalty paid to the toll agency is $25, or such other amount as imposed by the governmental entity owning toll facility, plus the amount of the unpaid toll that is shown on the traffic citation.

If the person does not pay the toll agency within that 30-day period, the citation is no longer treated administratively by toll agency. The toll agency then files the citation with the court.[12] The person then has an additional 45 days to pay the citation to the clerk of the court, but higher civil penalty and delinquent fees, plus court costs, apply.[13]

If the person pays the clerk of the court as indicated above, he or she is deemed to have admitted the infraction and has waived the right to a hearing on the toll violation,[14] and since it is considered a moving violation, three points are assessed against the person's driver's license.[15]

During this entire 75-day period, the person may choose to request a court hearing. If the person requests a court hearing, or is required to appear in court after failing to respond to the citation,[16] the person is deemed to have waived his or her right to the civil penalty provision for toll violations[17] and if the judge or hearing officer then determines that the toll violation was committed, that official may impose a civil penalty up to $500. The person is also subject to applicable court costs, and 3 points are assessed against the person's driver's license for an adjudicated violation.[18]

Section 316.1001(4), F.S., provides that a tolling agency may submit to the Department of Highway Safety and Motor Vehicles (DHSMV) a list of persons having one or more toll violations. If the information is transmitted, s. 320.03(8), F.S., prohibits DHSMV from issuing a license plate or revalidation sticker for any motor vehicle belonging to a person having one or more outstanding toll violations.

According to DOT, for Fiscal Year 2008-2009, the Turnpike Enterprise sent out notices for 22.5 million toll violations. Of those approximately 212,000 uniform traffic citations were issued for nonpayment of tolls. Of the traffic citations issued 89,000 were resolved prior to going to court and 107,000 ended up in court.[19] The ones that ended up in court were less than one-half of one percent of the total toll violations.

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[10] The exceptions are contained in s. 338.155, F.S. and include marked emergency vehicles on official business, state military personnel on official business, funeral processions of law enforcement officers killed in the line of duty, and persons with a certified disability that substantially impairs that person's ability to put tolls in the toll basket.

[11] Prior to issuing the citation, the toll agency may send a notice requesting payment of the unpaid toll.

[12] S. 318.14(12), F.S.

[13] The civil penalty for a toll violation is contained in s. 318.18(7), F.S.

[14] S. 318.14(4), F.S.

[15] S. 322.27(3)(d)7.

[16] S. 318.14(5), F.S.

[17] S. 318.18(7), F.S.

[18] S. 322.27(3)(d)7, F.S.

[19] The difference in the number of uniform traffic citations against the number of cases settled and the number of cases includes items such as dismissals of citations, cases where the defendant does not show up in court, judgments where the defendant does not pay the judgment, and license plate misreads.

In 2009, the Legislature directed the Turnpike Enterprise to "pursue and implement new technologies and processes in its operations and collection of tolls and of other amounts associated with road and infrastructure usage. Such technologies and processes include without limitation, video billing and pricing." DOT has broad rulemaking authority over the turnpike system and establishes and changes its toll rates through the rulemaking process.[20]

Proposed Changes

Generally, the toll enforcement provisions of the bill revise the notification process used by toll agencies and the courts to alert toll violators when citations are issued. The bill also revises penalties for toll violations.

Specifically, the bill amends s. 316.1001, F.S., which prohibits a person from using a toll facility without paying all required tolls. The bill clarifies the notification requirements for citations issued for toll violations by requiring citations for these violations to be sent by first class mail, return receipt requested within 14 days of the issuance of the citation. The bill also specifies the proof of receipt, rather than the proof of mailing, constitutes legal notification.

The bill also allows allow clerks of court, in addition to tolling agencies, to provide information to DHSMV identifying persons who have one or more toll violations. The DHSMV may not issue a license plate or registration revalidation to persons with outstanding toll violations.

The bill amends s. 318.18(7), F.S., to remove the automatic driver's license suspension for a person convicted of ten toll violations within a 36-month period. The bill makes this permissive action and requires court action. Thus, instead of DHSMV automatically suspending a violator's driver's license, such action may only be taken upon the direction of a judge.

The bill amends ss. 318.18(7) and 322.27(3)(d)7, F.S., to address license suspensions for toll violators. Once the toll violator is in court, the bill maintains the current mandatory $100 fine, where no administrative election is made. However, the bill restores the option to pay, $30 plus the unpaid toll amount to the clerk of the court prior to the court hearing, with $25, plus the amount of the unpaid toll going to the governmental entity that issued the citation if the violation was issued by a toll enforcement officer or to the entity administering tolls at the facility if the violation was issued by a law enforcement officer; and $5, plus court costs, being retained by the court. The bill provides that paying the citation in this manner does not constitute adjudication and the assessment of points on a driver's license may only be imposed by the court after a hearing.

The bill amends s. 320.03(8), F.S., to clarify the receipt showing that outstanding fines have been paid may be issued by either the tolling agency or the clerk of court.

The bill amends s. 322.27, F.S., which establishes the driver's license point system for violations of motor vehicle laws, to provide that points are assessed, for toll violations only if they are imposed by a court.

The bill amends s. 338.155(1), F.S., to provide that DOT is authorized to adopt rules relating to the payment, collection, and enforcement of tolls, as authorized in chs. 316, 318, 320, 322, and 338, F.S.,[21] including but not limited to, rules for the implementation of video or other image billing and variable pricing. The bill also removes the obsolete phrase "guaranteed toll account."

Wrecker Registration Fees (Section 17)

Current Situation

[20] S. 338.239, F.S.

[21] Ch. 316, F.S., relates to uniform traffic control, ch. 318, F.S., relates to the disposition of traffic infractions, ch. 320, F.S., relates to motor vehicle licenses, ch. 322, F., relates to driver's licenses, and ch. 338, F.S., relates to interstate highways and toll facilities.

A wrecker is any motor vehicle that is used to tow, carry, or otherwise transport motor vehicles and that is equipped for that purpose with a boom, winch, car carrier, or other similar equipment. A replacement motor vehicle is any motor vehicle under tow by a wrecker to the location of a disabled motor vehicle for the purpose of replacing the disabled motor vehicle, thereby permitting the transfer of the disabled motor vehicle's operator, passengers, and load to an operable motor vehicle.[22]

Section 320.08(5)(d), F.S., provides a wrecker used to tow vessels, disabled, abandoned, stolen-recovered, or impounded motor vehicles, or replacement motor vehicles pays an annual license tax of $41.

Section 320.08(5)(e), F.S., provides that Gross Vehicle Weight wreckers pay a flat annual license tax based on the gross vehicle weight rating of what it is towing.[23] This allows the wrecker to tow a motor vehicle, whether it is disabled, nondisabled, a vessel, or any cargo. However, the wrecker may only tow based on the weight of the load for which it has registered.

Proposed Change
The bill amends s. 320.08(5), F.S. allowing an exemption for Gross Vehicle Weight wreckers to tow any disabled motor vehicle, a vessel, as defined in s. 320.08(5)(d), F.S. without any weight restrictions. However, wreckers used to tow items not defined in s. 320.08(5)(d), F.S. would still be required to pay the current fees required for Gross Vehicle Weight wreckers.

United We Stand License Plate (Section 18)

Current Situation
Section 320.08058(32), F.S., creates the United We Stand License plate, with 100 percent of the proceeds allocated to the SAFE Council to fund a grant program to enhance security at airports throughout the state.

Proposed Change
The bill changes the allocation of the proceeds from the United We Stand license plate from the SAFE Council to DOT to fund security related aviation projects.

SAFE Council (Sections 20 and 21)

Current Situation
In 2003, the Legislature created the Secure Airports for Florida Economy (SAFE) Council to address issues relating to airport security. Its members included representatives from various airports, DOT, the Department of Community Affairs, the Department of Law Enforcement, the office of Tourism, Trade, and Economic Development, the airline industry, and the general aviation industry. The council is required to prepare and annually update, a five-year "Master Plan" defining the goals and objectives of the council regarding development of airport facilities in the state. This plan is intended to recommend specific infrastructure projects for the purpose of protecting the safety and security of passengers and cargo, enhancing international trade, promoting cargo flow, increasing enplanements, increasing airport revenues, and providing economic benefit to the state.[24]

Proposed Change
The bill repeals the SAFE Council, which was requested by the council. The bill provides that the funds accrued by the SAFE Council prior to July 1, 2010, are to be retained by DOT. DOT is authorized to use these funds for statewide training purposes relating to airport security and management. DOT is further authorized to use these funds for security related aviation projects pursuant to ch. 332, F.S.

Contractor Financial Statements (Section 22)

[22] S. 320.01, F.S.

[23] These fees range from $118 to $1,322.

[24] S. 332.14, F.S.

Current Situation
DOT has learned that contractors have difficulty understanding that they must submit the currently required audited financial statements and the application for qualification within the currently specified four month period. Contractors often submit one or the other. Then, they miss the deadline and must submit audited interim financial statements. According to DOT, contractors are also confused as to when the audited interim financial statements are due.

Proposed Change
The bill amends s. 337.14, F.S., to clarify interim financial statements are due as it relates to qualification applications for contractors to provide that if the application or annual financial statement show financial information that is more than four months old, interim financial statements are due along with an updated application.

Utilities on Right-of-Way (Section 23)

Current Situation
Section 337.401, F.S., addresses the use of the right-of-way by utilities. Specifically, s. 337.401(1), F.S., provides that DOT and local government entities which have jurisdiction and control of public roads and publically-owned rail corridors are authorized to prescribe and enforce reasonable rules or regulations with reference to the placing and maintaining of any electric transmission lines along, across, or on any road or publicly-owned rail corridors under their respective jurisdictions.

In 2008, section 337.401(1), F.S., was amended to provide that for transmission lines that operate more than 69 kilovolts, and where there is no practical alternative available, DOT rules must provide for placement of, and access to, transmission lines within the right-of-way of any DOT-controlled public roads, including longitudinally within limited access facilities to the greatest extent allowed by federal law, providing that compliance with minimum clear zone and other safety standards established by rules or regulations is achieved.[25] Current law requires compensation to DOT for the use of the right-of-way in a limited-access facility.

Proposed Changes
The bill amends s. 337.401, F.S., to provide that compensation to DOT by an electric utility for the use of the right-of-way only applies to the longitudinal placement of electric utility transmission lines on limited access facilities. The bill also changes DOT's rulemaking authority on non-limited access right-of-way with respect to 69 or more kilovolts aerial and underground electric utility transmission lines. The bill also eliminates DOT's authority to require that these lines be removed from the right-of-way in order to accommodate the expansion or improvement of transportation facilities.

Camping on Right-of-Way (Section 24)

Current Situation
Section 337.406, F.S., provides for the unlawful use of state transportation facility right-of-way. It generally prohibits the use of the right-of-way of a state transportation facility, outside of an incorporated municipality, in a manner that interferes with the safe and efficient movement of people and property. However, there is no specific prohibition against camping on right-of-way.

Proposed Change
The bill amends s.337.406, F.S. to prohibit camping on any portion of the right-of-way of the State Highway System within 100 feet of a bridge, causeway, overpass, or ramp.

Universal Fare Media (Section 26 and 27)

Current Situation
Section 341.051, F.S., authorizes DOT to receive federal grants to support public transit and intercity bus services and authorizes local governments to receive federal grants and apportionments for public transit and

[25] Section 29, Ch. 2008-227, L.O.F.

commuter assistance projects. The statute also requires the DOT to develop a public transit plan. The public transit plan shall be consistent with the local plans developed in accordance with the comprehensive transportation planning process.

Section 341.3025, F.S., states that any entity that owns or operates a public rail system in two or more counties of the state may adopt rules and regulations relating to the operation and management of its rail system, including regulations relating to fares, fees, and charges for the use of the facilities and services of the system. The statute also provides for penalties if such fares, fees, and charges are not paid.

Proposed Changes
The bill requires any new public rail system constructed after December 1, 2010, to use a universal common contactless fare media that is compatible with the American Public Transportation Association's Contactless Fare Media System Standard. This system should allow users to purchase fares at a single-point-of-sale with coin, cash or credit card. Also, any existing rail system that implements a new fare system or an upgrade to their current fare system is also required to use a universal common contactless fare media that is compatible with the American Public Transportation Association's Contactless Fare Media System Standard.

Central Florida Regional Transportation Authority (LYNX) (Section 28)

Current Situation
The Central Florida Regional Transportation Authority (also known as LYNX) services Orange, Osceola and Seminole Counties, an area of over 2,500 square miles. LYNX operates fixed-route and paratransit services in its service area, traveling 52,000 total miles per day using 269 buses to transport more than 24,400,000 total passengers per year. Individual buses can accrue over 500,000 miles in less than seven years, the life span of a bus as outlined by the Federal Transit Administration. LYNX purchases both replacement and new service route buses annually, with the average bus costing roughly $400,000 when purchased under the Florida state contract. Federal, state and local funding are used when purchasing buses. According to LYNX, consistently leasing buses (as opposed to purchasing) would significantly reduce current financing terms and eliminate required insurance premiums. However, unlike other authorities, LYNX does not have authorization to independently enter into capital leases. Instead, LYNX is required by statute to use the State of Florida Division of Bond Finance to enter into leases creating a cumbersome approval procedure.

Proposed Changes
The bill amends s. 343.64, F.S., to authorize LYNX to borrow up to $10 million annually for the costs and obligations of the authority. This would allow the authority to more easily lease rather than purchase buses.

Expressway Authorities (Sections 29 through 35)

Current Situation
Florida expressway authorities are formed either under the Florida Expressway Authority Act[26] or by special act of the Legislature. Most existing expressway authorities were created prior to the Florida Expressway Authority Act being enacted in 1990 and, therefore, are not subject to most of its provisions. The Miami-Dade Expressway Authority is the only authority currently created and governed by the Florida Expressway Authority Act.

The purpose of Florida's expressway authorities is to construct, maintain, and operate tolled transportation facilities complementing the State Highway System and the Florida Turnpike Enterprise. The expressway authorities have boards of directors that typically include a combination of local-government officials and Governor appointees who decide on projects and expenditure of funds.

1. **Tampa Hillsborough County Expressway Authority (THCEA) (Sections 29 through 34)**

Current Situation

[26] Part I of ch. 348, F.S.

The THCEA was established in 1963 to build, operate, and maintain toll-financed expressways in Hillsborough County.[27] The Lee Roy Selmon Crosstown Expressway (including the elevated reversible lanes) is currently the only expressway operated by the THCEA. The THCEA originally planned the neighboring Veterans Expressway which was transferred to, and is operated by DOT.

Under the State Bond Act,[28] the Division of Bond Finance (DBF) issues revenue bonds for THCEA's projects on behalf of the authority. The State Bond Act includes a number of requirements to ensure the integrity and fiscal sufficiency of bonds issued on behalf of the state. Pursuant to its statutory authority, the DBF independently reviews the recommendations of a paid financial adviser retained by the THCEA. The DBF's review does not focus solely upon the current transaction; it also reviews the issuance in light of the entire bonded indebtedness of the state. The DBF also maintains its own independent in-house legal staff to assist with issues which may arise during the financing. All financings issued through the DBF must be approved by the Governor and Cabinet. Additional state oversight is currently provided by DOT, which may participate through financial contributions to the construction, operation and maintenance of THCEA's expressways. The revenue bonds issued by the DBF, on behalf of THCEA, pledge the toll revenues generated by THCEA's expressway system as repayment. These revenue bonds are not backed by the full faith and credit of the state. In addition to existing facilities, the authority is authorized to issue bonds to finance:

- Brandon area feeder roads,
- capital improvements to the expressway system including the toll collection equipment,
- the widening of the Lee Roy Selmon Crosstown Expressway System, and
- the Crosstown Connector linking I-4 and the Selmon Crosstown Expressway.

The Legislature must approve specific THCEA projects.[29]

Some local-government transportation entities, such as the Miami-Dade County Expressway Authority, the Orlando-Orange County Expressway Authority and the Mid Bay Bridge Authority, have specific authority to issue their own revenue bonds, independent of the DBF.

Proposed Change

The bill amends ss. 348.51, 348.545, 348.56, 348.565, 348.57, 348.70, F.S., to clarify the THCEA's authority to issue its own bonds, without having to seek the state's review and approval as required under the State Bond Act. The cumulative effect of the bill would shift the final decision from the state-wide perspective of the Governor and Cabinet to a local perspective. THCEA would retain the option of going through the DBF. The THCEA does not have the power to pledge the credit or taxing power of the state, the City of Tampa, or Hillsborough County, meaning none of these entities would be legally liable for repaying the bonds.

2. Osceola County Expressway Authority (Section 34)

The bill creates "Osceola County Expressway Authority Law" in part IX of ch. 348, F.S.[30]

The bill creates Osceola County Expressway Authority (authority) as an agency of the state. Its governing body will consist of six members, five of whom must be residents of Osceola County. Three members will be appointed by the governing body of the county and two members appointed by the Governor. The sixth member will be the district secretary of DOT serving the district that includes Osceola County,[31] who serves as an ex officio, nonvoting member. The terms for appointed members are for 4 years, except that the first term of the initial members appointed by the Governor are for 2 years. Appointed member hold office until his or her

[27] It is created pursuant to Part IV of ch. 348, F.S.

[28] This is discussed in chs. 215 and 348, F.S.,

[29] This would be done by amending s. 348.565, F.S.

[30] Part XI of Ch. 348, F.S. will consist of ss. 348.9950 through 348.9967, F.S.

[31] Osceola County is in DOT District 5.

successor has been appointed and qualified. Vacancies are filled only for the balance of the unexpired term. Appointed members are to be persons of outstanding reputation for integrity, responsibility, and business ability. However, officers or employees of any city or of Osceola County are prohibited from being appointed members of the authority. Members of the authority are eligible for reappointment.

The Governor may remove members of the authority from office for misconduct, malfeasance, or nonfeasance in office.

The authority chooses one of its members as chair. The authority also elects a secretary and a treasurer, who may be members of the authority. The chair, secretary, and treasurer hold office at the will of the authority.

Three members constitute a quorum, and the vote of three members is necessary for the authority to take any action. A vacancy does not impair the right of a quorum to exercise all of the rights and perform all of the duties of the authority.

The authority may employ an executive secretary, an executive director, its own counsel and legal staff, technical experts, engineers, and other employees; may determine the qualifications and fix the compensation of such persons, firms, or corporations; and may employ a fiscal agent or agents. The authority is required to solicit sealed proposals from at least three entities for the performance of any services as fiscal agents. The authority may delegate to its agents or employees the powers it deems necessary to carry out the purposes of act, subject to the supervision and control of the authority.

Members of the authority will receive no compensation, but are entitled to receive their travel and other necessary expenses incurred in connection with the business of the authority.[32]

DOT is not required to grant funds to the authority for startup costs; however, the county's governing body may provide funds for startup costs.

The authority is required to cooperate with and participate in any efforts to establish a regional expressway authority.

Purposes and Powers

The bill authorizes the authority to acquire, hold, construct, improve, maintain, operate, own, and lease in the capacity of lessor the Osceola County Expressway System and may construct any extensions, additions, or improvements to the system or appurtenant facilities.[33]

The bill authorizes the authority to exercise all powers necessary, appurtenant, convenient, or incidental to the carrying out of its purposes, including, but not limited to, the following:

- To sue and be sued.
- To adopt, use, and alter a corporate seal.
- To acquire and use any franchise or property necessary or desirable for carrying out the purposes of the authority and to sell, lease, transfer, and dispose of any property or interest in the property.
- To enter into lease agreements not to exceed 40 years.
- To enter into lease-purchase agreements with DOT for terms not to exceed the longer of 40 years or the full payment of bonds secured by a pledge of rentals and any associated refunding.
- To fix, alter, charge, establish, and collect rates, fees, rentals, and other charges (revenues) sufficient to comply with any covenants made with the bondholders; however, the authority may give this right and power to DOT.
- To borrow money for the purpose of financing all or part of the improvement or extension of the system and appurtenant facilities. However, the bonds may not mature more than 40 years after the date of

[32] This is as provided in s.112.061, F.S.

[33] This includes all necessary approaches, roads, bridges, and avenues of access, with such changes, modifications, or revisions of such project as the authority deems desirable and proper

the issuance. The bonds may be secured by pledging any or all of the authority's revenues, including all or any portion of the Osceola County gasoline tax funds (gas tax funds) the authority receives.[34] However, gas tax funds may not be pledged for the construction of any project for which a toll is to be charged unless the board of county commissioners reasonably anticipates the tolls will be sufficient to cover the principal and interest of such obligations.
    - The authority is required to reimburse Osceola County for any sums expended from the gasoline tax funds used for the payment of such obligations. These gas tax funds are to be repaid when the authority deems practicable, along with interest at the highest rate applicable to any obligations of the authority.
    - If the authority decides to fund or refund any bonds prior to their maturity, the proceeds of such funding or refunding bonds must be invested in direct obligations of the United States.
- To make contracts providing for participation in ownership and revenues, and to execute all instruments necessary or convenient for the carrying on of its business.
- To borrow money and accept grants from, and to enter into contracts, leases, or other transactions with, any federal agency, the state, any agency of the state, Osceola County, or any other public body of the state.
- To have the power of eminent domain.[35]
- To pledge, the revenues of the authority, including all or any portion of the gas tax funds as security for all or any of the obligations of the authority.
- To enter into partnerships and other agreements respecting ownership and revenue participation in order to facilitate financing and constructing any project or portions thereof.
- To participate in developer agreements or to receive developer contributions.
- To contract with Osceola County for the operation of a toll facility within the county.[36]
- To do all acts and things necessary or convenient for the conduct of its business and the general welfare of the authority in order to carry out its powers.
- With the consent of the county, to construct, operate, and maintain facilities outside the jurisdictional boundaries of Osceola County, and to construct, operate, and maintain electronic toll payment systems.
- To enter into an interlocal agreement with the Orlando-Orange County Expressway Authority to coordinate and plan for projects in order to avoid any negative impacts on either authority.

The bill prohibits the authority from pledging the credit or taxing power of the state or any political subdivision or agency, including Osceola County. The authority's obligations are not considered to be an obligation of the state or of any political subdivision or agency of the state. Neither the state or any political subdivision or agency of the state, except the authority, is liable for the payment of the principal of or interest on such obligations.

The bill provides that the authority cannot initiate the acquisition of right-of-way for a project which is within the boundaries of any municipality in Osceola County unless and until the governing body of that municipality has approved the project's route. The same requirement applies for projects in unincorporated areas of Osceola County, except that the governing body of Osceola County must approve the route.

The bill prohibits the authority from entering into any agreement that would legally prohibit the construction of any road by Osceola County or by any municipality within Osceola County without the consent of Osceola County or the affected municipality.

The bill provides that notwithstanding any other provision of law, the authority is not entitled to voting membership in a metropolitan planning organization in which Osceola County or any of its municipalities are voting members.

Bond Financing Authority for Improvements

[34] The authority would receive Osceola County gas tax funds pursuant to a lease-purchase agreement it would have with DOT.

[35] This includes procedural powers under chs. 73 and 74, F.S.

[36] Osceola County currently operates the Osceola Parkway.

The bill provides legislative approval for bond financing by the Osceola County Expressway Authority for improvements to toll collection facilities, interchanges, and any other facility appurtenant, necessary, or incidental to the approved system.[37] Subject to terms and conditions of applicable revenue bond resolutions and covenants, such costs may be financed in whole or in part by revenue bonds[38] or by a combination of such bonds, whether currently issued or issued in the future.

Bonds of the Authority

The bill authorizes bonds to be issued on behalf of the authority pursuant to the State Bond Act. Alternatively, the authority is authorized to issue its own bonds at such times and in such principal amount is necessary to provide sufficient moneys for the authority. However, these bonds may not pledge the full faith and credit of the state.

Bonds must be authorized by resolution of the authority. These bonds may not mature more than 40 years from their issuance date. The bonds must bear interest, payable semiannually, and be entitled to such priorities on the revenues of the authority; including any gas tax funds the authority receives.

Any bonds are to be sold at public sale as provided by the State Bond Act. However, if the authority determines that a negotiated sale of such bonds is in the authority's best interest, it may negotiate the sale of such bonds with the underwriter designated by the authority and the Division of Bond Finance for bonds issued pursuant to the State Bond Act or designated solely by the authority for bonds issued by the authority. The authority's determination to negotiate the sale of such bonds may be based, in part, upon the written advice of the authority's financial adviser. Pending the preparation of definitive bonds, the authority may issue interim certificates to the purchasers of such bonds, which may contain such terms and conditions as the authority may determine.

The bill also authorizes the authority to issue its own bonds to refund any bonds previously issued.

The bill provides that any resolution authorizing any bonds may contain provisions which shall be part of the contract with the holders of such bonds, as to:

- The pledging of all or any part of its revenues including all or any portion of the gas tax funds.
- The completion, improvement, operation, extension, maintenance, repair, lease, or lease-purchase agreement of the system and the duties of the authority and others, including the DOT.
- Limitations on the purposes to which the proceeds of the bonds or of any loan or grant by the United States or the state may be applied.
- The fixing, charging, establishing, and collecting revenues for use of the services and facilities of the Osceola County Expressway System.
- The setting aside of reserves or sinking funds or repair and replacement.
- Limitations on the issuance of additional bonds.
- The terms and provisions of any lease-purchase agreement, deed of trust, or indenture securing the bonds or under which the bonds may be issued.
- Any other or additional agreements with the holders of the bonds which the authority may deem desirable and proper.

The bill authorizes the authority to employ fiscal agents or the State Board of Administration may act as fiscal agent in issuing any of the authority's bonds. Upon the authority's request, the State Board of Administration may take over the management, control, administration, custody, and payment of any or all debt services or funds or assets available for any bonds issued. The authority may enter into any agreements with its fiscal agent or with any bank or trust company as security for such bonds and may sign and pledge all or any of the authority's revenues including all or any portion of the gas tax funds it receives. Such deed of trust, indenture, or other agreement may contain such provisions as are customary in such instruments or, as the authority may authorize, including, but without limitation, provisions as to:

[37] This is pursuant to s. 11(f), Art. VII of the state constitution.

[38] These bonds would be issued pursuant to s. 348.9955(1)(a) or (b), F.S.

- The completion, improvement, operation, extension, maintenance, repair, and lease of or lease-purchase agreement relating to the Osceola County Expressway System and the duties of the authority and others, including DOT.
- The application of funds and the safeguarding of funds on hand or on deposit.
- The rights and remedies of the trustee and the holders of the bonds.
- The terms and provisions of the bonds or the resolutions authorizing the issuance of the bonds.

Any of the bonds issued are considered negotiable instruments and have all the qualities and incidents of negotiable instruments under the law merchant and the negotiable instruments law of the state.

The bill provides that each project, building, or facility which has been financed by the issuance of bonds or other evidence of indebtedness under this part and any refinancing thereof is hereby approved as provided for in s. 11(f), Art. VII of the State Constitution.

Remedies of the Bondholders
The bill gives rights and remedies to the bondholders in addition to, and not in limitation of, any rights and remedies lawfully granted to the bondholders by the resolutions providing for the issuance of bonds or by a lease-purchase agreement, or other types of agreements under which the bonds may be issued or secured. This authorization authorizes a trustee appointed to represent bondholders in the event of default to:

- Enforce all rights of the bondholders, including the right to require the authority to fix, establish, maintain, collect revenues adequate to carry out any agreement as to a pledge of the revenues or receipts of the authority, to carry out any other covenants and agreements with or for the benefit of the bondholders, and to perform its and their duties under this part.
- Enforce all rights of the bondholders under or pursuant to any lease-purchase agreement between the authority and DOT, including the right to require DOT to make all rental payments required to be made by it under the provisions of any such lease-purchase agreement, whether from the Osceola County gasoline tax funds or other DOT funds so agreed to be paid, and to require the department to carry out any other covenants and agreements with or for the benefit of the bondholders and to perform its and their duties under this part.
- Bring suit upon the bonds.
- Require the authority or the department to account as if it were the trustee of an express trust for the bondholders.
- Enjoin any acts or things which may be unlawful or in violation of the rights of the bondholders.

The bill provides additional provisions as to the recourse that the bondholders have in the event of default of the bonds, including taking possession of all or part of the Osceola County Expressway System.

Lease-Purchase Agreement
The bill authorizes the authority to into a lease-purchase agreement with DOT relating to and covering the system.

Any lease-purchase agreement where the authority leases the system to DOT shall prescribe the term of such lease and the rentals to be paid, and provide that, upon the completion of the faithful performance under and termination of the agreement; title to the system is to be transferred by the authority to the state.

Any lease-purchase agreement may include such other provisions, agreements, and covenants as the authority and the department deem advisable or required.

DOT is authorized to pay as rentals any moneys accruing to DOT from the operation of the system and the gas tax funds and may also pay any appropriations it receives for the authority. However, the making or continuance of such appropriations is not required, nor do the bondholders have any right to compel the making or continuance of such appropriations.

A pledge of gas tax funds under a lease-purchase agreement may not be made without the consent of Osceola County. The resolution providing consent must provide that any excess of such pledged gas tax funds that are

not required for debt service or reserves for such debt service for any of the authority's bonds shall be returned to DOT for distribution to Osceola County. Before making any application for such pledge of gas tax funds, the authority shall present the plan of its proposed project to the Osceola County Planning and Zoning Commission for its comments and recommendations.

DOT may covenant in any lease-purchase agreement that it will pay, from sources other than the revenues from operating the system and gas tax funds, all or any part of the cost of the operation, maintenance, repair, renewal, and replacement of the system and any part of the cost of completing the system to the extent that the proceeds of bonds are insufficient. DOT may also agree to make such other payments from any moneys available to the county in connection with the construction or completion of the system as the department deems to be fair and proper under such covenants.

The bill provides that the system is to be part of the state road system, and DOT may, upon the request of the authority, expend moneys and use its engineering and other forces as it deems necessary and desirable for the operation of the authority and for traffic surveys, borings, surveys, preparation of plans and specifications, estimates of cost, and other preliminary engineering and other studies However, the aggregate amount of moneys expended for such purposes by the DOT must not exceed $375,000.

Department may be Appointed Agent of Authority for Construction
The bill authorizes the authority to appoint DOT as its agent for the purpose of constructing improvements and extensions to and the completion of the system.

Acquisition of Lands and Property
The bill authorizes the authority to acquire private or public property and property rights, it deems necessary for any purpose, including:

- Any lands needed to secure applicable permits, manage access, borrow pits, drainage ditches, water retention areas, rest areas, replacement access for landowners, and replacement rights-of-way for relocated rail and utility facilities;
- Transportation facilities on the system or in a transportation corridor designated by the authority; or
- Any property needed for screening, relocation, removal, or disposal of junkyards and scrap metal processing facilities.

The authority may condemn any material and property necessary for such purposes.

The bill provides that the right of eminent domain conferred in this part shall be exercised by the authority as provided by law.

When the authority acquires property for a transportation facility or in a transportation corridor, the authority is not subject to any liability for preexisting soil or groundwater contamination due solely to its ownership of the property.[39] This does not affect the rights or liabilities of any past or future owners of the acquired property and does not affect the liability of any governmental entity for the results of its actions which create or exacerbate a pollution source.

Cooperation with Other Units, Boards, Agencies, and Individuals
The bill provides that any political subdivision, board, commission, or individual in or of the state may make and enter into any contract or other agreement with the authority; and the authority may make and enter into any contract or other agreement with any political subdivision, agency, or instrumentality of the state or any federal agency, corporation, or individual for the purpose of carrying out the provisions of this act.

Covenant of the State
The bill provides that the state pledges not to limit or alter certain rights of the authority and DOT until all bonds issued together are paid. In the event a federal agency constructs or contributes funds for the Osceola County

[39] This is pursuant to chs. 376 and 403, F.S.

Expressway System, the state pledges not to alter the rights and powers of the authority or DOT in a way that is inconsistent with an agreement with a federal agency.

Exemption from Taxation
The bill exempts the authority from taxation or assessments of any kind upon its property, any monies it receives, and the bonds it issued, including any profits from a sale of bonds. However; this does not apply to any corporate income tax imposed on interest, income, or profits on debt obligations owned by corporations.[40]

Eligibility for Investments and Security
The bill provides that any bonds or other obligations issued pursuant to this part shall be legal investments for banks, savings banks, trustees, executors, administrators, and all other fiduciaries and for all state, municipal, and other public funds and shall also be securities eligible for deposit as security for all state, municipal, or other public funds, notwithstanding the provisions of any other law to the contrary.

Pledges Enforceable by Bondholder
The bill provides that any pledge by DOT of rates, fees, revenues, gas tax funds, or other funds, as rentals, to the authority, or any related covenants or agreements, may be enforceable against the authority or directly against the DOT by any holder of bonds issued by the authority.

This Part Complete and Additional Authority
The bill provides that this act is in addition to any authority that the State Board of Administration, including the Division of Bond Finance and DOT currently has, and supersedes any law in direct conflict as it related to the Osceola Expressway Authority. The act also does not have any impact on the Osceola County Charter.

Osceola County Auditor
The bill authorizes the Osceola County Commission Auditor to conduct financial and compliance, economy and efficiency, and performance audits of the authority with written reports to be submitted to the authority and the governing body of Osceola County.

Automatic Dissolution
The bill provides that if prior to January 1, 2020, the authority has not encumbered any funds to further its purposes and powers to establish the system, the authority is dissolved.

<u>Wekiva Parkway</u> (Section 36)

Current Situation
The Wekiva Basin, consisting of the Wekiva River, the St. Johns River and their tributaries along with associated lands in Central Florida, is part of a large wildlife corridor that connects northwest Orange County with the Ocala National Forest. The Wekiva River and its tributaries have been designated an Outstanding Florida Water, a National and Scenic River, a Florida Wild and Scenic River, and a Florida Aquatic Preserve. The Wekiva Parkway is a limited access highway or expressway constructed between State Road 429 and Interstate 4, specifically incorporating the corridor alignment recommended by the Wekiva River Basin Area Task Force and the S.R. 429 Working Group. The Wekiva Parkway and related transportation facilities must follow the design criteria contained in the recommendations of the Wekiva River Area Task Force adopted by reference by the Wekiva River Basin Coordinating Committee, subject to reasonable environmental, economic and engineering considerations.

In 2004, the Legislature enacted the Wekiva Parkway and Protection Act, part III, ch 369, F.S. The act implemented the recommendations of the Wekiva River Basin Coordinating Committee's Final Report of March 16, 2004, and provides legislative intent and a legal description of the Wekiva Study Area. The majority of the land within the Study Area contributes groundwater recharge to the Wekiva River and springs. The act required each local government within the Study Area to adopt a master stormwater management plan and a wastewater facility plan for joint planning areas and utility service areas where central wastewater systems are not readily available.

[40] Chapter 220, F.S.

The act directs that funds expended by DOT and Orlando-Orange County Expressway Authority to purchase interests in certain lands shall be eligible as environmental mitigation for road construction related impacts in the Wekiva Study Area. The act specifies the offset of road construction impacts as the only use of mitigation credits. Currently, there is a surplus of mitigation credits available to mitigate the Wekiva parkway expansion that cannot be used for other mitigation purposes within either the Wekiva Study Area or the Wekiva parkway alignment corridor.

Proposed Changes
The bill amends s. 369.317, F.S., providing that if certain lands within the Wekiva Study Area or the Wekiva parkway alignment corridor are used as environmental mitigation to offset certain impacts, then the activity is considered to meet the cumulative impact upon surface water and wetlands requirements in s. 373.414(8)(a), F.S. This change will allow the use of mitigation credits for other projects or developments within the study area or expansion corridor.

Lake Belt Mitigation (Section 37)

Current Law
Part IV of ch. 373, F.S. codifies the Lake Belt Plan which guides limestone operations in the Lake Belt Area of Miami-Dade County. The Lake Belt plan is designed to protect the Everglades from encroaching development while maintaining the economic benefits of the state's limestone industry. Under this plan, the Lake Belt mining companies pay a "mitigation" fee of 24 cents per ton of mined material to acquire, restore, and preserve environmentally sensitive lands and fund other environmental projects. The limestone operations in the Lake Belt Region require a dredge-and-fill permit from the U.S. Army Corps of Engineers (Corps).

After performing a comprehensive 3-year environmental study on the potential impacts of mining in the Lake Belt, the Corps, on January 29, 2010, issued a "Record of Decision" authorizing new permits for continued authorizations. The new permits require that the current mitigation fee of 24 cents per ton be increased to 45 cents per ton on or before December 31, 2011. These funds are deposited in the Lake Belt Mitigation Trust Fund which is administered by the South Florida Water Management District.[41] This fee is currently indexed pursuant to s. 373.41492(5), F.S.

Proposed Change
The bill amends s. 373.41492, F.S., to increase the lake belt mitigation fee to 45 cents per ton, beginning on December 31, 2011. The bill also adds a sunset date of December 31, 2011 to the annual increase of 2.1 percent plus a cost growth index, in the per-ton mitigation fee. The bill also changes the frequency from five years to two years the length of time the interagency committee established in s. 373.41492(6)(B),F.S., is to report to the Legislature any needed adjustments in the Lake Belt Mitigation Fee, including the annual price escalator, to ensure that the revenue the fee brings in reflects the actual cost of mitigation.

Adopt-A-Highway (Section 38)

Current Situation
Section 403.4131, F.S., requires DOT to establish an "adopt-a-highway" program to allow local organizations to be identified with specific highway cleanup and beautification projects. The statute requires DOT to annually report to the Governor and Legislature the projects achieved and the savings from the "adopt-a-highway" program.

Proposed Change
The bill removes DOT's required annual report on the "adopt-a-highway" program.

Outdoor Advertising (Sections 39 through 44)

Current Situation

[41] S. 373.14195, F.S.

Chapter 479, F.S., relating to outdoor advertising, provides for the control and permitting of signs adjacent to the highways of the state. This chapter allows DOT to recoup the costs incurred in removing illegal or unpermitted signs by assessing the owner of the sign. In many instances, an illegal or unpermitted sign does not display the name of the sign owner and DOT is unable to make identification resulting in a negative fiscal impact to the department.

Proposed Changes
The bill designates existing sections of ch. 479, F.S., as Parts I and II.

1. Definitions (Section 39)

Federal law only allows signs such as billboards to be permitted by DOT in areas zoned for commercial or industrial use. The bill amends some definitions relating to ch. 479, F.S., regarding outdoor advertising to address issues related to zoning. The bill amends the definition of "commercial or industrial zone" and creates definitions for "allowable uses," "commercial use," "industrial use," and "zoning category." The effect of these changes is to clarify where these signs may be located.

Sections 479.07(1) and (5)(a) and 479.11(2), F.S. address the issue of signs or sign permits being visible from the "main-traveled way." Main-traveled way is defined as the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separate roadways for traffic in opposite directions is a main-traveled way. It does not include facilities as frontage roads, turning roadways, or parking areas. The bill also modifies the definition of "main-traveled way" to clarify that it does not included interstate on-ramps or off-ramps.

2. Pilot Program (Section 40)

DOT has a pilot program in Orange, Hillsborough, and Osceola Counties and in the City of Miami under which the distance between permitted signs on the same side of the interstate highway may be reduced to 1,000 feet if:

- The local government has adopted a plan, program, resolution, ordinance, or other policy encouraging the voluntary removal of signs in a downtown, historic, redevelopment, infill, or other designated area which also provides for a new or replacement sign to be erected on an interstate highway within that jurisdiction if a sign in the designated area has been removed;
- The sign owner and the local government mutually agree to the terms of the removal and replacement; and the local government notifies DOT of its intention to allow such removal and replacement as agreed upon.

DOT is required to maintain statistics tracking the use of the pilot program based on the notifications it receives from local governments.[42]

For the pilot program, the bill provides the new or replacement sign to be erected on an interstate highway within the area of the pilot program that is to be located on a parcel specifically designated for commercial or industrial use under both the future land use map of the comprehensive plan and the land use development regulations.[43] Also, the parcel shall not be subject to an evaluation to determine whether or not it is in an unzoned or commercial or industrial area pursuant to the criteria set forth in statute.[44]

3. Logo Sign (Section 41)

Signs on the right-of-way of the interstate highway system are regulated and approved by the Federal Highway Administration (FHWA). Section 479.261(1), F.S., requires DOT to establish a Logo Sign Program for the interstate highway system rights of way. The program provides information to motorists about available gas,

[42] S. 479.07(9)(c), F.S.

[43] These are adopted pursuant to ch. 163, F.S.

[44] S. 479.01(26), F.S.

food, lodging, camping, and attraction services at interstate interchanges. The department is required to establish permit fees in an amount sufficient to offset the total cost of administering the logo sign program. In 2009, legislation passed which authorized FDOT to implement a 3-year rotation program to allow for the removal and addition of business logos in areas where demand exceeds availability. The 2009 legislation also capped permit fees at $5,000 in urban areas and $2,500 elsewhere.[45]

The bill amends s. 479.261, F.S. to provide for the maximum the annual permit fees for logo signs. These permit fees not exceed $3,500 inside an urban area and $2,000 for locations outside an urban area. The bill also removes DOT's authorization to implement a 3-year rotation for the removal and addition of participating businesses.

4. Removal of Unpermitted and Illegal Signs (Section 44)

The bill creates part III of chapter 479 to provide liability and jurisdiction related to the removal of unpermitted and illegal signs.

The bill creates s. 479.310, F.S., to provide legislative intent relating to unpermitted and illegal signs located within the right-of-way of and controlled areas adjacent to the State Highway System (SHS), interstate highway system, and federal-aid highway system. This intent is to relieve DOT of the financial burden related to the removal of these signs and place the financial burden on those benefitting from location and operation of these signs. This gives DOT the authority to recover its costs associated with removing these signs.

The bill creates s. 479.311, F.S., to provide that within the amounts of its jurisdictional limitations, the county court has concurrent jurisdiction with the circuit court to consider claims filed by DOT. The venue for purposes of these claims is Leon County.

The bill creates s. 479.312, F.S., to provide that all costs that DOT incurs in removing an unpermitted sign is to be assessed against and collected from the sign's owner, the advertiser on the sign, or the owner of the property where the sign is located. For a sign that does not display the name of the sign's owner, the sign is presumed to be owned by the owner of the property where the sign is located.

The bill creates s. 479.313, relating to the cost of removing signs if a permit is revoked. In that case, the cost of removing the sign will be assessed and collected from the permittee.

The bill creates s. 479.315, F.S., to provide that costs in connection with removing sighs on the right-of-way are to be assessed and collected from the owner of the sign and the advertiser displayed on the sign.

<u>Abandoned Property at Airports</u> (Sections 45 through 48)

Current Situation

Currently, s. 705.18, F.S., addresses the disposal of personal property lost or abandoned at public use airports.[46] However, the statute primarily addresses personal property, and provides that all moneys received from the sale, after associated expenses, are deposited into the state school fund, unless another use is required by federal law.[47]

The Florida Airports Council estimates that annually over 100 aircraft and 1,000 motor vehicles are abandoned on airport property. The airports currently use various statutes and local ordinances to remove derelict or

[45] Ch. 2009-85, L.O.F.

[46] Section 332.004(14), F.S., defines "public use airport" as any publically owned airport which is used or to be used for public purposes.

[47] According to the Florida Airports Council, any public use airport that receives federal funds must use any revenue it receives for certain airport related purposes.

abandoned aircraft and motor vehicles; however, the law does not clearly give them ability to remove this property and to recover the costs associated with its removal.

Proposed Changes
The bill amends ch. 705.18, F.S., relating to the disposal of personal property lost or abandoned on university and community college campuses or certain public-use airports to remove references to abandoned property at public use airports. Any proceeds from the disposal of abandoned property at airports will no longer go to the state school fund, but will go to the airport to cover its cost of disposing of the abandoned property.

1. Abandoned Personal Property (Section 46)

The bill creates s. 705.182, F.S., relating to the disposal of personal property, except for motor vehicles and aircraft, found on the premises of public-use airports. The airport's director (director) or designee is required to take charge of the property and record the date it was found.

If, after 30 calendar days, or a longer period as deemed appropriate under the circumstances, the property is not claimed by its owner, the director or designee may:

- Retain the property for use by the airport or by the state or unit of local government owning or operating the airport;
- Trade the property to another unit of local government or state agency;
- Donate the property to a charitable organization;
- Sell the property; or
- Dispose of the property through an appropriate refuse removal or salvage company that provides salvage service for the type of personal property found.

Prior to the property's disposal, the airport must notify the property owner, if known, that the property was found at the airport and that the airport intends to dispose of it.

If the airport decides to sell the property, it must do so at a public auction either on the Internet or at a specified physical location. The airport must, at least 10 days prior to the sale, provide notice of the time and place of the sale in a publication of general circulation within the county where the airport is located. This is following written notice to the property owner, if known, via certified mail, return receipt requested. This notice is considered sufficient if it refers to the airport's intention to sell all of its then-accumulated found property, and it is not required to identify each individual item that will be sold. Prior to the sale, the owner may reclaim the property by presenting to the airport's director or designee acceptable evidence of ownership. The proceeds from the property's sale of property are retained by the airport to be used in any lawfully authorized manner.

The airport is not precluded from allowing a domestic or international air carrier or other airport tenant from establishing its own lost and found procedures for personal property and from disposing of such personal property.

The purchaser or recipient in good faith of the personal property sold or obtained takes the property free of the rights of persons then holding any legal or equitable interest in the property, whether or not the interest is recorded.

2. Abandoned Aircraft (Section 47)

The bill creates s. 705.183, F.S., relating to the disposal of derelict or abandoned aircraft on the premises of public use airports. The provisions apply whether or not the premises is under lease or license to a third party. When one of these aircraft is found, the airport's director or designee must record the date the aircraft was found or determined to be present on airport property.

"Abandoned aircraft" is defined as an aircraft that has been disposed of in a public-use airport in a wrecked, inoperative, or partially dismantled condition or an aircraft that has remained in an idle state on the premises owned or controlled by the operator of a public-use airport for 45 consecutive calendar days.

"Derelict aircraft" is defined as any aircraft that is not in flyable condition, does not have a current certificate of air worthiness issued by the Federal Aviation Administration (FAA) and is not in the process of actively being repaired.

The airport director or designee is required to contact the FAA Aircraft Registration Branch to determine the name and address of the last registered aircraft owner. The airport is also required to conduct a diligent search of the appropriate records, or a contact with an aircraft title search company to determine the name and address of any person having an equitable or legal interest in the aircraft.

Within 10 business days of receiving information related to persons with interest in the aircraft, the director or designee must notify, by certified mail, return receipt requested, all persons having an equitable or legal interest in the aircraft. This notice must advise them of the location of the derelict or abandoned aircraft, that fees and charges accrued for the use of the airport by the aircraft, the amount of these fees, that the aircraft is subject to a lien for the accrued fees and charges for use of the airport and for the transportation, storage, and removal of the aircraft, that the lien is subject to enforcement pursuant to law, and that the airport may cause the use, trade, sale, or removal of the aircraft. If the director or designee determines that the aircraft poses a danger to the health and safety of airport users, the notice may require the removal of the aircraft in less than 30 calendar days.

If the owner of the aircraft is unknown, or cannot be found, the director or designee is required to place a laminated notice, in a specific form, on the aircraft. The notice provides the same information that was provided in the notice mailed to those with an equitable or legal interest in the aircraft. The notice must be weatherproof and at least 8 inches by 10 inches.

If, after 30 calendar days from the date the notice is received or posted on the aircraft, the aircraft has not been removed from the airport upon payment in full of all accrued fees and charges for the use of the airport and for the transportation, storage, and removal of the aircraft by the owner or any person with an interest in the aircraft, or shown reasonable cause for failure to do so, the director or designee may cause the use, trade, sale, or removal of the aircraft.

If the airport elects to sell the aircraft, the sale must be a public auction after giving at least 10 calendar days notice of the time and place of the sale. The notice must be in a publication of general circulation within the county where the airport is located and after providing written notice to all parties known to have an interest in the aircraft.

If the airport elects to dispose of the aircraft, the airport may negotiate with the refuse or removal company[48] for the price for the aircraft, or if circumstances warrant, a price to pay the company to dispose of the aircraft. All information pertaining to the price and the justification for the prices shall be prepared and maintained by the airport, and the negotiated price is considered a reasonable price.

If the sale or negotiated price is less than the airport's then current charges and costs against the aircraft, or the airport is required to pay a salvage company for its services, the owner of the aircraft remains liable for the airport's costs that are not offset by the sale or negotiated price, in addition to the owner's liability for payment to the airport of the price the airport was required to pay any salvage company. All costs incurred by the airport in the removal, storage, and sale of any aircraft are recoverable against the aircraft's owner.

The airport shall have a lien on derelict or abandoned aircraft for all fees and charges for the use of the airport by the aircraft and for all fees and charges incurred by the airport for the transportation, storage, and removal of the aircraft. Prior to perfecting the lien, the director or designee must serve notice of the lien on the last registered owner and all persons having an equitable or legal interest in the aircraft. Service of the notice does not dispense with recording the claim of lien. This claim of lien must contain the following information:

- The name and address of the airport.

[48] The bill references s. 705.182(2)(e), which relates to the disposal of personal property found at in the premises of public use airports and references refuse removal and salvage companies

- The name of the last registered aircraft owner and all persons having a legal or equitable interest in the aircraft.
- The fees and charges incurred by the aircraft for the use of the airport, and the fees and charges for the transportation, storage, and removal of the aircraft.
- A description of the aircraft sufficient for identification.

The claim of lien is required to be signed and sworn to by the airport's director or designee. The claim of lien is sufficient if it is substantially the form provided in the bill. However, the negligent inclusion or omission of any information in the claim of lien, which does not prejudice the last registered owner, does not constitute a default that operates to defeat an otherwise valid lien.

The claim of lien is required to be served on the aircraft's last registered owner and all persons having an equitable or legal interest in the aircraft, and shall be served before it is recorded.

The claim of lien is required to be recorded with the clerk of court in the county where the airport is located. This recording is constructive notice to all persons of the contents and effect of such claim. The lien attaches when it is recorded and takes priority at that time.

The bill provides that a purchaser or recipient in good faith of an aircraft sold or obtained under this section takes the aircraft free of the rights of persons then holding any legal or equitable interest in the aircraft, whether or not the interest is recorded. The purchaser is required to notify the FAA of the change in the aircraft's registered owner.

If the aircraft is sold at a public sale, the airport must deduct from the proceeds the costs of transportation, storage, publication of notice, and all other costs reasonably incurred by the airport. The balance of the proceeds are deposited into an interest-bearing account no later than 30 calendar days after the airport receives the proceeds and the funds must be held for one year. Within one year of the date of deposit, the aircraft's rightful owner may claim the balance of the proceeds by making application to the airport and presenting to the airport's director or designee of acceptable written evidence of ownership. If the rightful owner fails comes forward to claim the proceeds within one year, the balance of the proceeds are retained by the airport to be used in any legally authorized manner.

Any person acquiring legal interest in an aircraft that is caused to be sold by an airport is the lawful owner of the aircraft and all other legal or equitable interest in the aircraft is divested with no further force and effect, provided that the holder of such interest was notified of the intended disposal of the aircraft. The airport is authorized to issue documents of disposition to the purchaser or recipient of an aircraft disposed of under this section.

3. Abandoned Motor Vehicles (Section 48)

The bill creates s. 705.184, F.S., relating to the disposal of derelict or abandoned motor vehicles on the premises of public-use airports. When one of these vehicles is found, the director or designee must record of the date the vehicle was found or determined to be present on airport property.

"Abandoned motor vehicle" is defined as a motor vehicle that has been disposed of in a public-use airport in a wrecked, inoperative, or partially dismantled condition or a motor vehicle that has remained in an idle state on the premises owned or controlled by the operator of a public-use airport for 45 consecutive calendar days.

"Derelict motor vehicle" is defined as any motor vehicle that is not in drivable condition.

After information relating to the derelict or abandoned motor vehicle is recorded, the director or designee may have the motor vehicle removed from the airport's premises by the airport's own wrecker or by a licensed independent wrecking company to be stored at a suitable location on or off the airport premises. If the vehicle is removed by the airport's own wrecker, the provisions in the bill apply. However, if the vehicle is removed by a licensed independent wrecker company, current law for the disposal of vehicles by wrecker companies

applies and the procedures below do not apply.[49] Licensed wrecking companies are required to comply with s. 713.78, related to liens for recovering, towing, or storing vehicles and vessels.

The director or designee must notify the Department of Highway Safety and Motor Vehicles (DHSMV) that it has possession of the motor vehicle and to determine the name and address of the vehicle's last registered owner, the insurance company insuring the vehicle,[50] and any person who has filed a lien on the motor vehicle.

The director or designee, within seven business days of receiving this information, must notify by certified mail, return receipt requested the owner of the vehicle, the insurance company insuring the vehicle, and all persons claiming a lien against the vehicle. The notice shall state the fact of possession of the vehicle, that charges for a reasonable towing, storage, and parking, have accrued and the amount of those fees, that a lien will be claimed, that the lien is subject to enforcement pursuant to law, and that the owner or any lienholder has the right to a hearing to contest the airport's possession.

If, after 30 calendar days from the date the notice was received, the vehicle has not been removed from the airport upon payment in full of all accrued charges for reasonable tow, storage, and parking fees, the vehicle may be disposed of, including, but not limited to, being sold free of all prior liens that are more than five years of age, or after 50 calendar days from the time the motor vehicle is stored if any prior liens are five years or less.

If attempts to notify the owner and/or lienholder are unsuccessful, the required notice is considered met and the vehicle may be disposed of in the manner provided for all abandoned vehicles.

The owner of, or any person claiming a lien on the motor vehicle has 10 calendar days after receiving knowledge of the location of the motor vehicle to file a complaint in the county court of the county where the motor vehicle is stored, to determine if the property was wrongfully taken or withheld.

Upon the filing of the complaint, the owner or leinholder may have the vehicle released upon posting with the court a cash or surety bond or other adequate security equal to the amount of fees for towing, storage, and accrued parking. This is to ensure the payment of the fees if the vehicle owner does not prevail. Once the security is posted and any applicable fees are paid, the clerk of the court must issue a certificate notifying the airport that the security was posted and directing the airport to release the vehicle. When the vehicle is released, after reasonable inspection, the owner or leinholder must give receipt to the airport reciting any claims for loss or damage to the vehicle or its contents.

If after 30 calendar days from receiving the notice the owner or any person claiming a lien has not removed the vehicle and paid the fees or shown reasonable cause for failure to do so, the director or designee may dispose of the vehicle in any manner provided.

If the airport elects to sell the vehicle, it may be sold free in clear of all prior liens after 35 calendar days from the time the motor vehicle is stored if any of the prior liens are more than five years old, or after 50 calendar days from the time the motor vehicle is stored if any prior lines are five years old or less. The vehicle must be sold at public auction, either on the Internet or at a specified location. If the date of the sale was not included in the previously required notice, notice of the of the sale, sent by certified mail, return receipt requested, must be given to the owner and to all persons claiming a lien on the vehicle. The notice must be mailed not less than 10 days before to the date of the sale. Additionally, a public notice must be in a publication of general circulation within the county where the sale is to be held at least 10 calendar days prior to the date of the sale. The proceeds of the sale must to be used to recover the airport's costs incurred for towing, storage, and the sale of the vehicle, as well as any accrued parking fees. Any proceeds exceeding these costs are retained by the airport for use in any authorized manner.

[49] SS. 323.001 and 713.78, F.S.

[50] This is notwithstanding the provisions of s. 627.736, F.S., relating to required personal injury protection benefits; exclusions; priority, and claims.

The airport or, if used, a licensed independent wrecking company, pursuant to s. 713.78, F.S.,[51] has a lien on the derelict or abandoned vehicle for a reasonable tow fee, a reasonable storage fee, and or accrued parking fees, except that no storage fee shall be charged if the vehicle is stored for less than six hours. Prior to perfecting a lien, the director or designee must serve notice of the lien on the owner, the insurance company, and all persons of record claiming a lien against the vehicle. If attempts to notify the owner, insurance company, and lienholders are unsuccessful, the notice requirement will be considered met. The serving of the notice does not dispense with recording the claim of lien. This claim of lien must contain the following information:

- The name and address of the airport.
- The name of the owner of the vehicle, the insurance company insuring the motor vehicle, and all persons of record claiming a lien against the vehicle.
- The fees incurred for a reasonable tow, reasonable storage, and parking, if any.
- A description of the motor vehicle sufficient for identification.

The claim of lien is required to be signed and sworn to by the director or designee. The claim of lien is considered sufficient if it is substantially the form provided in the bill. However, the bill provides that the negligent inclusion or omission of any information in the claim of lien, which does not prejudice the owner, does not constitute a default that operates to defeat an otherwise valid lien.

The claim of lien is required to be served on owner, the insurance company, and all recorded leinholders. If attempts at notification prove unsuccessful, the requirement of notification will be considered met. The claim of lien shall be served before it is recorded with the clerk of court in the county where the airport is located.

The bill provides a purchaser or recipient in good faith of a vehicle sold or obtained under this section takes the vehicle free of the rights of persons then holding any legal or equitable interest in the vehicle, whether or not this interest is recorded.

Cross-Reference (Sections 12 and 49)

The bill amends ss. 316.515 and 479.156, F.S. to conform cross-references.

Effective Date (Section 50)

The bill has an effective date of July 1, 2010.

B. SECTION DIRECTORY:

Section 1 Amends s. 20.23, F.S., relating to the Department of Transportation, authorizing DOT to grant a specified pay additive to law enforcement officers assigned to the MCCO who maintain certification by the CVSA.

Section 2 Amends s. 212.055(1), F.S., relating to the charter county transportation system surtax, to expand use of the tax to include on-demand transportation services.

Section 3 Amends s. 310.0015(3), F.S., relating to piloting regulation; general provisions, to conform.

Section 4 Amends s. 310.002(7), F.S., relating to definitions, to conform.

Section 5 Amends s. 310.011(1), F.S., relating to Board of Pilot Commissions, revising the membership of the board.

Section 6 Amends s. 310.151, F.S., relating to Rates of Pilotage; Pilotage Rate Review Board; redesignating the “Pilotage Rate Review Board” as the “Pilotage Rate Review Committee”; providing that the committee is part of the Board of Pilot Commissioners; revising membership

[51] Section 713.78, F.S., relates to liens for recovering, towing, or storing vehicles and vessels.

and providing for appointment of members from among the commissioners; requiring members to comply with specified disclosure requirements; providing that decisions of the committee regarding rates are not appealable to the board..

Section 7 Requires the Governor to make certain appointments to the Board of Pilot Commissioners by a certain date.

Section 8 Repeals s. 215.03(12)(c), F.S., relating to a review of a loan program of the Florida Seaport Transportation and Economic Development Council.

Section 9 Amends s. 316.003, F.S., relating to definitions, defining the term “motor carrier transportation contract” for purposes of the Florida Uniform Traffic Control Law.

Section 10 Amends s. 316.1001, F.S. relating to payment of toll on toll facilities, requiring citations to be mailed return-receipt requested, clarifying the clerk of court’s ability to provide information to DHSMV regarding outstanding toll violations.

Section 11 Amend s. 316.302, F.S., relating to commercial motor vehicles; revising reference to specified federal rules and regulations applicable to drivers of commercial motor vehicles engaged in intrastate commerce; providing that certain provisions in motor vehicle transportation contracts are against public interest and are void and unenforceable; providing for application to certain contracts.

Section 12 Amends s. 316.515, F.S., relating to maximum width, height, and length; conforming a cross-reference.

Section 13 Amends s. 316.545, F.S., providing for a reduction in the gross weight of certain vehicles equipped with idle-reduction technologies when calculating a penalty for exceeding maximum weight limits; requiring the operator to provide certification of the weight of the idle-reduction technology and to demonstrate or certify that the idle reduction technology is fully functionally at all times.

Section 14 Amends s. 316.550, F.S., allowing DOT or local authorities to issue permits providing certain commercial vehicles on specified routes a 10 percent increase in the weight limit; provides vehicles in violation of weight limits must be unloaded.

Section 15 Amends s. 318.18, F.S., relating to the amount of penalties; revising provisions for distribution of proceeds collected by the clerk of the court for disposition of citations for failure to pay a toll; providing alternative procedures for disposition of such citation; allowing the court to suspend the driver’s license for persons convicted failing to pay toll 10 or more times within a 36-month period.

Section 16 Amends s. 320.03(8), F.S. relating to the duties of tax collectors in vehicle registration; clarifying the clerk of court’s authority in providing information regarding outstanding fines where license tags or revalidation stickers may be withheld for nonpayment.

Section 17 Amends s. 320.08(5), F.S., allowing an exemption for Gross Vehicle Weight wreckers to tow disabled vehicles without weight restrictions.

Section 18 Amends s. 320.08058, F.S., relating to specialty license plates; revising authorized uses of revenue received from the United We Stand license plates.

Section 19 Amends s. 322.27, F.S., relating to the authority of the Department of Highway Safety and Motor Vehicles to suspend or revoke driver’s licenses; providing for assessment of points against a driver’s license for specified violations of requirements to pay a toll only when the points are imposed by a court.

Section 20 Repeals s. 332.14, F.S., relating to the Secure Airports for Florida's Economy Council.

Section 21 Provides for the use of funds accrued by the Secure Airports for Florida's Economy Council.

Section 22 Amends s. 337.14, relating to application for qualification; certificate of qualification; restrictions; request for hearing; revising application procedures for the qualification of contractors; requiring any interim financial statement to be accompanied by an updated application.

Section 23 Amends s. 337.401, F.S., relating to the use of right-of-way for utilities subject to regulation, permit and fees; revising provisions for rules of DOT that provide for the placement of and access to certain electrical transmission lines on the right-of-way of DOT-controlled roads; authorizing the rules to include the use of the limited access right-of-way for longitudinal placement of such transmission lines is reasonable based upon consideration of certain economic and environmental factors; providing that removal or relocation of a transmission line shall be at the expense of the utility.

Section 24 Amends 337.406, F.S., prohibiting camping on any portion of the right-of-way of the State Highway System within 100 feet of a bridge, causeway, overpass, or ramp.

Section 25 Amends s. 338.155, F.S., relating to payment of tolls on toll facilities required; exemptions; authorizing DOT to adopt rules relating to the payment, collection, and enforcement of tolls.

Section 26 Amends 341.051, F.S., requiring certain public rail systems to use a universal common contactless fare media that is compatible with the American Public Transportation Association's Contactless Fare Media System Standard and allow users to purchase fares at a single-point-of-sale with coin, cash or credit card.

Section 27 Amends 341.3025, F.S., requiring certain public rail systems to use a universal common contactless fare media that is compatible with the American Public Transportation Association's Contactless Fare Media System Standard and allow users to purchase fares at a single-point-of-sale with coin, cash or credit card.

Section 28 Amends s. 343.64, F.S., relating to the powers and duties of the Central Florida Regional Transportation Authority; authorizing the Central Florida Regional Transportation Authority to borrow funds under certain circumstances.

Section 29 Amends s. 348.51, F.S., revising the definition of the term "bonds" when used in the Tampa Hillsborough County Expressway Authority Law.

Section 30 Amends s. 348.545, F.S., authorizing costs of THCEA improvements to be financed by bonds on behalf of the authority pursuant to the State Bond Act or bonds issued by the authority under specified provisions.

Section 31 Amends s. 348.56, F.S., authorizing bonds to be issued on behalf of THCEA pursuant to the State Bond Act or issued by the authority under specified provisions; revising requirements for such bonds; requiring the bonds to be sold at public sale; authorizing the authority to negotiate the sale of bonds with underwriters under certain circumstances.

Section 32 Amends s. 348.565, F.S., providing that facilities on the expressway system are approved to be refinanced by the revenue bonds issues by DBF and the State Bond Act or by bonds issued by THCEA; providing that certain projects of the authority are approved for financing or refinancing by revenue bonds.

Section 33 Amends s. 348.57; authorizing THCEA to provide for the issuance of certain bonds for the refunding of bonds outstanding, regardless of whether the bonds being refunded were issued by the authority or on behalf of the authority.

Section 34 Amends s. 348.70, F.S., providing that the Tampa-Hillsborough County Expressway Authority Law does not repeal, rescind, or modify any other laws that are inconsistent with the provisions of that law.

Section 35 Creating pt. XI of Ch. 348, F.S., relating to the "Osceola County Expressway Authority"; providing a short title; providing definitions; creating the authority; providing purposes and powers; providing for bond financing for improvements; providing bonding authority; providing remedies of the bondholders; providing for lease-purchase agreements; providing that DOT may be appointed agent of the authority for construction; providing for acquisition of lands and property; providing for cooperation with other units, boards, agencies, and individuals; providing a covenant of the state; providing an exemption from taxation; providing eligibility for investments and security; providing a pledge enforceable by bondholders; providing a authorization for the Osceola County auditor; providing for automatic dissolution under certain circumstances.

Section 36 Amends s. 369.137, F.S., relating to the Wekiva Parkway, providing that certain activities relating to mitigation of certain environmental impacts in the Wekiva Study Area or the Wekiva parkway alignment corridor meet specified impact requirement under certain conditions.

Section 37 Amends s. 373.41492, F.S., relating to the Miami-Dade County Lake Belt Mitigation Plan; increasing the mitigation fee for mining activities in the Miami-Dade County Lake Belt; adds a sunset date to the annual increase; adjusts the frequency from five years to two years for the length of time the interagency committee is to report to the Legislature any needed adjustments in the Lake Belt Mitigation Fee.

Section 38 Amends s. 403.4131, F.S., relating to the Adopt-A-Highway program; removing provisions relating to a report.

Section 39 Amends s. 479.01, F.S., defining the terms "allowable uses," "commercial use", "industrial use," and "zoning category," revising the definition of "Commercial and industrial zone" for purposes of provisions relating to outdoor advertising; revising the definition of "main-traveled way," conforming cross-references.

Section 40 Amends s. 479.07, F.S., relating to sign permits; for the placement of new or replacement signs erected on an interstate highway in certain areas; requiring such sign to be located on land designated for commercial or industrial use under the future land use map and land use development regulations; exempting such locations from specified evaluation criteria.:

Section 41 Amends s. 479.261, FS., relating to the logo sign program; removing a provision authorizing DOT to rotate certain logo signs on the rights-of-way of the interstate highway system during a specified period; reducing the annual permit fees for business participating in the logo sign program.

Section 42 Designates pt. I of Ch. 479, F.S., entitled "General Provisions"

Section 43 Designates pt II of Ch. 479, F.S., entitled "Special Programs."

Section 44 Creates pt. III of Ch. 479, F.S., entitled "Sign Removal;" creating s. 479.310, F.S., providing intent relating to unpermitted and illegal signs; imposing financial responsibility for the removal of such signs; providing DOT with the authority to recover the cost of removal of such signs; creating s. 479.311, F.S., providing jurisdiction to consider claims to recover costs; defining the term "venue" for the purposes of a claim filed by DOT; creating s. 479.312, F.S., providing that the costs incurred by DOT in removing certain signs shall be assessed against certain individuals; providing presumption of ownership; creating s. 479.313. F.S.; providing for the assessment of the cost of removal for signs following the revocation of a sign permit; creating s. 479.315, F.S.; providing for the assessment of the cost of removal of signs located within a highway right-of-way.

Section 45 Amends s. 705.18, F.S., relating to personal property lost or abandoned on university or community college campuses or certain public-use airports; removing provisions for the disposal of personal property lost or abandoned at public use airports.

Section 46 Creates s. 705.182, F.S., relating to the disposal of personal property found on the premises of public-use airports; providing time frames, providing options for disposing of property; providing procedures for selling abandoned property; providing for notice of sale; permitting airport tenants to establish procedures; providing that purchaser owns property free and clear.

Section 47 Creates s. 705.183, F.S., relating to the disposal of derelict or abandoned aircraft on the premises of public-use airports; providing procedures, providing definitions; providing for notification of aircraft owner and persons having an interest in the aircraft; providing notice requirements; providing requirements for sale of aircraft; providing for liability of charges related to aircraft; providing for claim of lien; providing for disposition of funds.

Section 48 Creates s. 705.184, F.S., relating to derelict or abandoned motor vehicles on the premises of public-use airports; creating a process to remove these vehicles, providing definitions; providing for removal of motor vehicle; providing notice requirements; providing for sale of motor vehicle; proving for liability of charges related to motor vehicle; providing for claim of lien.

Section 49 Amends s. 479.156, F.S., relating to wall murals to conform a cross-reference.

Section 50 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

DOT may receive some permit fees associated with issuing permits for commercial vehicles transporting agricultural products to operate above the current weight limits.[52] However, the fee is designed to offset DOT's cost of issuing permits.

The change in wrecker registration could potentially reduce the license tax revenues received by both the State Transportation Trust Fund and the General Revenue Fund. However, the Department of Highway Safety and Motor Vehicles cannot determine the extent of revenue loss. The Department expects that some of the vehicles currently registered in a higher gross vehicle weight range and paying a higher fee in order to tow disabled vehicles, will now register in a lower gross vehicle weight range.

The Lake Belt Mitigation Trust Fund administered by the South Florida Water Management District will see some additional revenues, beginning on December 31, 2011, due to the increase in the lake belt mitigation fee.

DOT implemented the increase in logo sign fees authorized in 2009,[53] and may see a reduction in revenues due to the reduction in maximum fees for the logo sign program. However, the actual impact is indeterminate at this time.

[52] The authorization of this fee is in s. 316.550(5), F.S. Pursuant to the statute, the minimum fee is $5 and the maximum fee for an annualized blanket permit is $500.

[53] The current logo sign fee schedule is available at http://www.dot.state.fl.us/rightofway/documents/2010LogoFeeSchedule.pdf (April 20, 2010).

The state school fund could lose any revenue currently received from the disposal of property that is abandoned at airports.

2. Expenditures:

Requiring citations for toll violations to be sent return-receipt requested will result in higher postage costs for DOT in mailing these citations.

DOT expects to incur some training and programming costs related to the increased weight limits for idle-reduction technologies; however, it should be able to do this with existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Local governments may receive some permit fees associated with issuing permits for commercial vehicles transporting agricultural products to operate above the current weight limits.

Airports operated by local governments may receive additional revenue related to the disposal of abandoned property. However, the additional revenue is intended to cover the airports cost related to the disposal of this property.

2. Expenditures:

Local toll agencies may see an increase in expenditures due to the requirement that toll citations be sent return-receipt requested.

Some local governments may see a decrease in expenditures due to the change in the process for handling toll violations, which may result in fewer cases on the county court docket.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The increase in the highway weight limit for agriculture transport will allow trucks to carry heavier loads. This will allow more to be carried on each truck, resulting in fewer truck trips and benefiting businesses that transport agriculture products by truck. However, this may only be done with a permit from DOT or the local authority.

Reducing the weight of idle reduction technologies in determining the penalties associated with an overweight vehicle may reduce some penalties for overweight trucks.

The increase in mitigation fees for mining in the Lake Belt area in Miami-Dade County may lead to an increase in the price of the materials mined from that area.

D. FISCAL COMMENTS:

The provision relating to pay additives for DOT's MCCO officers with a CVSA certification codifies what has been annually authorized in the General Appropriations Act. There is no fiscal impact related to these codifications.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None

B. RULE-MAKING AUTHORITY:

Current law authorizes DOT or local authorities to promulgate rules and regulates regarding the issuance of special permits for operating on the roads.[54] This provision would apply to the permitting of commercial vehicles carrying agricultural products; however, DOT's rules may require revision to reflect this statutory change.

The bill updates DOT's existing rule-making authority regarding tolls to allow them to implement video billing and variable pricing.

DOT may have to revise it rules related to the Logo Sign program to reflect changes proposed in this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 17, 2010, the Roads, Bridges & Ports Policy Committee adopted 11 amendments and reported the bill favorably as a Committee Substitute. The amendments:

- Remove the language codifying DOT's engineer and right-of way training programs.
- Incorporate toll enforcement language inadvertently left out of the original bill.
- Corrects an incorrect statute reference.
- Clarifies where mini-trucks are permitted by tying a definition to one in federal law.
- Authorizes the Tampa-Hillsborough County Expressway Authority to issue bonds outside of the State Bond Act.
- Creates the Osceola County Expressway Authority.
- Provides Lynx the authority to bond capital leases.
- Increases the mitigation fee in the Miami-Dade County Lake Belt.
- Authorizes DOT to recover the costs of removing unpermitted signs from sign owners, property owners, and businesses that advertise on these signs.
- Revises and creates definitions in the outdoor advertising statute related to zoning issues.
- Increases the weight limit on noninterstate highways by 10 percent and allows a 400 pound weight tolerance for idle reduction technologies.

On March 26, 2010, the Transportation and Economic Development Appropriations Committee adopted five amendments and reported the bill favorably as a Committee Substitute. The amendments:

- Amendment number one removes the requirement for specified scale tolerance to be applied to weight limits when operating off the Interstate Highway system, except in the case of commercial vehicles transporting agriculture products if such vehicles obtain a required permit specific to that route.
- Amendment number two excludes wreckers that are used to tow disabled motor vehicles or a replacement motor vehicle from paying Gross Vehicle Weight registration fees.
- Amendment number three prohibits camping on any portion of the right-of-way of the State Highway System that is within 100 feet of a bridge, causeway, overpass, or ramp.
- Amendment number four requires new public rail systems or existing rail systems changing fare systems to develop a universal common contactless fare media system that is compatible with the American Public Transportation Association's Contactless Fare Media System.
- Amendment number five provides a sunset date for the per-ton mitigation fee for the Miami-Dade County Lake Belt and revises the frequency of a report recommending any adjustments to the fee.

[54] S, 316.550(5), F.S.

On April 16, 2010, the Economic Development & Community Affairs Policy Council adopted a strike-all amendment as amended, and reported the bill favorably as a council substitute. The amendment as amended makes the following changes to the bill:

- Allows the Charter County Transportation Surtax to be used for on-demand transportation service.
- Revises the membership of the Board of Pilot Commissioners.
- Replaces the Pilotage Rate Review Board with the Pilotage Rate Review Committee as part of the Board of Pilot Commissioners, provides for membership, provides that its rate decisions are not appealable to the Board of Pilot Commissioners.
- Requires the Governor to appoint certain members of the Board of Pilot Commissioners by October 31, 2010.
- Updates the effective date of federal rules that commercial motor vehicles are subject to.
- Provides that certain hold harmless provisions in motor carrier transportation contracts are against public policy and are void and unenforceable.
- Requires citations for toll violations to be sent return-receipt requested.
- Clarifies that the clerk of the court may provide information to DHSMV regarding persons who have outstanding toll violations.
- Incorporates agreed-upon language regarding utility lines on the right-of-way.
- Provides that the Osceola County Expressway Authority is not entitled to membership on a Metropolitan Planning Organization under certain circumstances.
- Addresses environmental mitigation related to the Wekiva Parkway.
- Revises the definitions of “commercial or industrial zone” and “main-traveled way” as they relate to outdoor advertising.
- Makes revisions to the outdoor advertising pilot program.
- Removes the 3-year rotation for the logo sign program and reduces the maximum annual fee for logo signs.
- Clarifies a provision involving wreckers as it relates to motor vehicles abandoned at airports.