

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 1363 Department of Transportation

SPONSOR(S): Transportation & Economic Development Appropriations Subcommittee; Transportation & Highway Safety Subcommittee; Brandes and others

TIED BILLS: **IDEN. /SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee	15 Y, 0 N, As CS	Johnson	Brown
2) Transportation & Economic Development Appropriations Subcommittee	13 Y, 0 N, As CS	Davis	Davis
3) Economic Affairs Committee			

SUMMARY ANALYSIS

The bill addresses several issues related to the Department of Transportation (DOT). In summary, the bill:

- Exempts toll adjustments by DOT from legislative ratification requirements.
- Permits transportation and expressway authorities to conduct public meetings and workshops using communications media technology.
- Creates a pilot program for bicycles on certain highway approaches and bridges on limited-access highways.
- Exempts farm labor vehicles from commercial motor vehicle (CMV) hours-of-service requirements during a state of emergency.
- Amends or removes incorrect or unnecessary road system definitions.
- Authorizes the use of additional forms of security for the purpose of accomplishing removal or relocation of military monuments or memorials installed by DOT at rest areas.
- Changes the imposition dates for several local option fuel taxes from July 1 to October 1.
- Allows certain local option fuel taxes to be used for the installation, operation, and maintenance of street lighting and signalization.
- Amends provisions related to the interference of utilities on the right-of-way.
- Provides that bus benches and transit shelters are to comply with all applicable laws and rules, including the Americans with Disabilities Act (ADA).
- Authorizes DOT to remove noncompliant bus bench and transit shelter installations, and requires DOT to charge the municipality or county for the cost of removal.
- Re-titles ch. 338, F.S., "Florida Intrastate Highway System and Toll Facilities" as "Limited-access and Toll Facilities."
- Repeals the Florida Intrastate Highway System plan, and creates Strategic Intermodal System Highway Corridors.
- Repeals the Statewide Intermodal System Advisory Council.
- Modifies state law to reflect recent changes in federal requirements for statewide transportation planning.
- Clarifies the statewide transportation planning process and simplifies the terminology used in state law.
- Caps sign permit fees charged by local governments at \$500 per sign per year.
- Addresses issues related to vegetation management and view zones related to outdoor advertising.
- Creates a tourist-oriented commerce signs pilot program.
- Adds numerous honorary road and bridge designations.

DOT will incur approximately \$13,600 in costs associated with erecting markers for road and bridge designations. However, it may see a reduction in litigation costs associated with provisions related to noncompliant bus benches and transit shelters. In addition, there will be an indeterminate minimal cost associated with the bicycle pilot program. All of these costs will be absorbed by the department within their existing budget authority.

Local governments may see a loss in revenue associated with the cap on sign permit fees. They may also incur costs associated with ADA compliance issues with bus benches and transit shelters.

This bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III.A.1 of the analysis.

The bill has an effective date of July 1, 2011.

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

STORAGE NAME: h1363c.TEDAS

DATE: 4/8/2011

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The bill addresses several issues relating to transportation. For ease of understanding, this analysis is organized by topic.

Exemption of Toll Adjustments (Section 1)

Current Situation

Section 120.54(3)(b), F.S., requires agencies, prior to the adoption, amendment, or repeal of any rule, other than an emergency rule, to prepare a statement of estimated regulatory costs (SERC) of the proposed rule if the rule either will have an adverse impact on small business or will increase aggregate regulatory costs.¹ The required contents of a SERC are delineated in s. 120.541(2), F.S., and include:

- An economic analysis showing whether the rule, directly or indirectly, is likely to have a specified adverse economic impact, or increase regulatory costs, in excess of \$1 million in the aggregate within 5 years of the rule going into effect.²
- A good faith estimate of the number of individuals and entities likely to be required to comply with the rule,
- A good faith estimate of the costs to the agency and other governmental entities and the anticipated effect on state or local revenues,
- A good faith estimate of the transactional costs likely to be incurred by public and private entities in complying with the rule,
- An analysis of the impact on small businesses, and small cities and counties, and
- A description of any proposed alternatives along with a statement adopted such alternative or a statement of reasons rejecting the alternative.

Section 120.541(3), F.S., provides that, if the adverse impact or regulatory costs of the rule exceed certain economic criteria, the rule shall be submitted to the President of the Senate and Speaker of the House of Representatives no later than 30 days prior to the next regular legislative session, and the rule may not take effect until it is ratified by the Legislature.³

Section 338.155(1), F.S., provides that DOT is authorized to adopt rules pursuant to Ch. 120, F.S., relating to the payment, collection, and enforcement of tolls. Section 338.165(3), F.S., requires DOT, including the turnpike enterprise, to index toll rates on existing toll facilities “to the annual Consumer Price Index or similar inflation indicators.” Toll rate adjustments for inflation may be made no more frequently than once a year and must be made no less frequently than once every 5 years.

Proposed Changes

The bill amends s. 120.80, F.S., to exempt DOT’s indexing of toll rates from the statutory requirements relating to SERCs and legislative ratification. The adjustment of toll rates would still be subject to the state’s rulemaking procedures and scrutiny in the rulemaking process;⁴ but, the concern for additional legislative scrutiny imposed by ratification appears to be met by the standards imposed under the substantive statutes being implemented by rule.

Meetings of Transportation Authorities (Section 2)

Current Situation

¹ S. 120.541(1)(b), F.S., added by Ch. 2010-279, Laws of Florida.

² S. 120.541(1)(b), F.S., added by Ch. 2010-279, Laws of Florida.

³ Section 120.541(3), F.S., originated with HB 1565, passed during the 2010 regular session but vetoed by the Governor. On November 16, 2010, the Legislature, in special session, voted to override that veto and the bill became law as Chapter 2010-279, L.O.F.

⁴ S. 120.54(3), F.S.

Article I, section 24(b) of the Florida Constitution and s. 286.011, F.S., the Sunshine Law, specify the requirements for open meetings. Open meetings are defined as any meeting of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, at which official acts are to be taken. No resolution, rule, or formal action shall be considered binding unless it is taken or made at an open meeting.⁵

Article I, section 24 of the Florida Constitution, ch. 119, F.S., and ch. 286, F.S., all provide different definitions as to who is subject to the open meeting and public records laws. Under article I, Section 24(a) of the Florida Constitution, “any public body, officer, or employee of the state, or persons acting on their behalf” is subject to the public records law. Under article I, Section 24(b), all meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, is subject to the open meetings law. Under ch. 119, F.S., any agency⁶ is subject to the public records laws. Under s. 286.011, F.S., all meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision are subject to the open meeting laws.

Section 120.54(5)(b)2., F.S., provides requirements for the Administration Commission’s rules for state agencies regarding meetings using “communications media technology” which means the electronic transmission of printed matter, audio, full-motion video, freeze-frame video, compressed video, and digital video by any method available.

If a public meeting or hearing is to be conducted by means of communications media technology, or if attendance may be provided by such means, this information must be included in the meeting notice. The notice for public meetings and hearings using communications media technology must also state how persons interested in attending may do so and must name locations, if any, where communications media technology facilities will be available.

Proposed Changes

The bill amends s. 286.011, F.S., to allow transportation authorities created under chs. 343, 348, and 349, F.S., to conduct public meetings and workshops by means of communications media technology as provided in s. 120.54(5), F.S. The authorities affected are:

Ch. 343, F.S.

- South Florida Regional Transportation Authority (SFRTA/Tri-Rail)
- Central Florida Regional Transportation Authority (CFRTA/LYNX)
- Northwest Florida Transportation Corridor Authority (NWFTCA)
- Tampa Bay Area Regional Transportation Authority (TBARTA)

Ch. 348, F.S.

- Miami-Dade Expressway Authority (MDX)
- Tampa-Hillsborough Expressway Authority (THEA)
- Orlando-Orange County Expressway Authority (O-OCEA)
- Santa Rosa Bay Bridge Authority (SRBBA)

Ch. 349, F.S.

- Jacksonville Transportation Authority (JTA)

⁵ Section 286.011, F.S.

⁶ Section 119.011(2), F.S. defines “Agency” as “any state, county, district, authority, or municipal officer, department, division, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

The Administration Commission has codified rules regarding conducting meetings by communications media technology.⁷ It permits agencies to conduct proceedings for the purpose of taking evidence, testimony or argument. Additionally, the rules are not to be construed to permit agencies to conduct proceedings subject to s. 286.011, F.S., by means of communications media technology without making provisions for member of the public who wish to attend. Notice is required to be provided in the same manner as for meeting conducted without communications media technology.

There have been multiple Attorney General Opinions regarding the use of media technology for meetings of local and regional entities. Based on those opinions participation by board members by communications media technology in meetings were formal action is going to be taken is only in extraordinary circumstances and when a quorum of the board members is present.⁸

Bicycle Pilot Program (Section 3)

Current Situation

A limited access facility is "a street or highway especially designed for through traffic and over, from, or to which owners or occupants of abutting land or other persons have no right or easement, or only a limited right or easement, of access. . ."⁹ Subsection 316.091(4), F.S., prohibits persons from operating a bicycle on a limited access facility and along the shoulder of a limited access highway, except as provided in statute. Currently, the only exception is the Jacksonville Expressway System, as provided under s. 349.04(1), F.S. Highways identified with state highway route signs that include the word TOLL are limited access facilities.

Proposed Changes

The bill amends s. 316.091, F.S., to create a 2-year Limited Access Facilities Pilot Program. The program would provide access to bicycles and other human-powered vehicles to select limited access bridges when no other non-limited access alternative is located within two miles. The bill authorizes DOT to select three such bridges or approaches in conjunction with the Federal Highway Administration under specified criteria. Upon completion, the bill requires DOT to present the results of the pilot program to the Governor and Legislature.

Commercial Motor Vehicle Safety Regulations (Section 4)

Current Situation

Section 316.302(2)(b), F.S., provides that except as provided in federal regulations¹⁰ a person operating a commercial motor vehicle (CMV) solely in intrastate commerce not transporting hazardous material may not drive:

- More than 12 hours following 10 consecutive hours of duty; or
- For any period after the end of the 16th hour after coming on duty following 10 consecutive hours off duty.

Currently, these hours-of-service limitations do not apply to utility service vehicles.

Proposed Changes

The bill amends s. 316.302(2)(b), F.S., to exempt farm labor vehicles from the hours-of-service requirements during a state of emergency.¹¹

Road System Definitions and References (Sections 5, 6, and 7)

⁷ Chapter 28-109, F.A.C.

⁸ Florida Attorney General's Opinion 2003-41.

⁹ Section 334.03(12), F.S.

¹⁰ 49.C.F.R. s. 395.1

¹¹ A state of emergency may be declared by the Governor or under s. 570.07(21), F.S., which authorizes the Department of Agriculture and Consumer Service to declare emergencies related to agriculture.

Current Situation

In 1995, the state revised ch. 335, F.S., to amend road system classifications. The previous system, in which DOT assigned road jurisdiction based on a road's "functional classification," was changed to a system in which jurisdiction is decided by mutual agreement between governmental entities. Some provisions in ch. 334, F.S., relating to Transportation Administration still refer to "functional classification" and the road jurisdiction process formerly found in ch. 335, F.S.

Proposed Changes

The bill amends s. 334.03, F.S., to delete definitions relating to the Florida Transportation Code and make conforming changes to remaining definitions. Specifically, the bill deletes the terms "arterial road," "collector road," "local road," "urban minor arterial road," and "urban principal arterial road." These are obsolete definitions related to the use of functional classification for determining road jurisdiction. The bill also redefines the definition of "functional classification," to provide that road classifications may be developed using procedures promulgated by the Federal Highway Administration.

The bill amends the definitions of "city street system", "county road system", and "state highway system" to clarify that each jurisdiction's road system includes:

- Roads that were under the appropriate jurisdiction on June 10, 1995;
- Roads constructed by the city, county, or state for the appropriate jurisdiction;
- Roads subsequently transferred to the jurisdiction, but not roads transferred from the appropriate jurisdiction.

Additionally, roads completely within an area annexed by a municipality are deemed part of the city street system unless otherwise provided by mutual consent.

The bill amends s. 334.047, F.S., to remove an obsolete provision prohibiting DOT from setting a maximum number of "urban principal arterial roads" within a district or county, and amends the functions and duties of DOT in s. 334.044, F.S., to remove DOT's authority to assign jurisdictional responsibility for public roads.

Local Option Fuel Taxes (Sections 8 and 9)

Ninth-Cent Fuel Tax

Current Situation

Sections 206.41(1)(d), 206.87(1)(b), and 336.021, F.S., authorize the ninth-cent fuel tax, which is a one-cent tax on every net gallon of motor and diesel fuel sold within a county. The tax is authorized either by ordinance adopted by an extraordinary vote of the governing body or approved by voters in a countywide referendum. While all counties are eligible to levy this tax, it will be levied by 51 counties in 2011. However, due to statewide equalization, it is imposed on diesel fuel in every county.¹² All impositions of this tax must be levied before July 1 to be effective on January 1 of the following year.

The tax proceeds may be used for transportation expenditures as defined in s. 336.025(7), F.S. The county is not required to share these tax proceeds with its municipalities. However, by joint agreement with one or more of its respective municipalities provide distribution of tax proceeds within both incorporated and unincorporated areas of the county for the authorized transportation purposes.

Proposed Change

The bill amends s 336.021(5), F.S., to change the imposition date of the ninth-cent fuel tax from July 1 to October 1.

1 to 6 Cents Local Option Fuel Tax

Current Situation

¹² The local tax on diesel fuel is six cents per gallon statewide.

Sections 206.41(1)(e), 206.87(1)(c), and 336.025(1)(a), F.S., authorize local governments to levy a tax of 1 to 6 cents on every net gallon of motor fuel sold in the county. The tax is authorized either by ordinance adopted by an extraordinary vote of the governing body or approved by voters in a countywide referendum. In 2011, all counties, except Franklin, will be levying the tax at the maximum rate of 6 cents per gallon.¹³ All impositions of this tax must be levied before July 1 to be effective on January 1 of the following year.

The tax proceeds are distributed according to distribution factors determined by interlocal agreement between the county and the municipalities within the county. However, if there is no interlocal agreement, the distribution is based on the proportion of transportation expenditures of each local government. The tax proceeds may be used for transportation expenditures as defined in s. 336.025(7), F.S.

The tax proceeds may be used for transportation expenditures as defined in s. 336.025(7), F.S., however small counties¹⁴ and municipalities in those counties are authorized to use the proceeds to fund infrastructure projects, if the projects are consistent with the local government's comprehensive plan. Except as provided in s. 336.025(7), F.S., these funds may not be used for the operational expenses of any infrastructure.

Proposed Changes

The bill amends s. 336.025(1)(a)1., F.S., to change the imposition date of the 1 to 6 cents local option fuel tax from July 1 to October 1.

1 to 5 Cents Local Option Fuel Tax

Current Situation

Sections 206.41(1)(e), 206.87(1)(c), and 336.025(1)(b), F.S., authorize local governments to levy a tax of 1 to 5 cents on every net gallon of motor fuel sold in the county. The tax is authorized either by ordinance adopted by a majority plus one vote of the governing body or approved by voters in a countywide referendum. All counties are eligible to levy this tax, and it is being levied by 24 counties in 2011. All impositions of this tax must be levied before July 1 to be effective on January 1 of the following year.

The tax proceeds are distributed according to distribution factors determined by interlocal agreement between the county and the municipalities within the county. However, if there is no interlocal agreement, the distribution is based on the proportion of transportation expenditures of each local government. The tax proceeds may be used for transportation expenditures as defined in s. 336.025(7), F.S.

The tax proceeds are to be used for transportation expenditures needed to meet the requirements of the capital improvements element of an adopted comprehensive plan or for expenditures needed to meet immediate local transportation problems or for other critical transportation-related expenditures. However the routine maintenance of roads is not considered an authorized expenditure.

Proposed Changes

The bill amends s. 336.025(1)(b)1., F.S., to change the imposition date of the 1 to 5 cents local option fuel tax from July 1 to October 1.

The bill also amends s. 336.025(5)(a), F.S., to change the date by which counties are required to notify the Department of Revenue of tax rate changes for the 1 to 6 cents local option fuel tax and the 1 to 5 cents local option fuel tax. The date is changed from July 1 to October 1.

Use of Local Option Tax

¹³ Franklin County will be levying the tax at 5 cents per gallon.

¹⁴ Small counties are defined as having a total population of 50,000 or less on April 1, 1992.

Section 336.025(7), F.S., defines “transportation expenditures” for the purpose of s. 336.025, F.S., as expenditures by the local government from local or state shared revenue sources, excluding expenditures of bond proceeds, for the following programs:

- (a) Public transportation operations and maintenance.
- (b) Roadway and right-of-way maintenance and equipment and structures used primarily for the storage and maintenance of such equipment.
- (c) Roadway and right-of-way drainage.
- (d) Street lighting.
- (e) Traffic signs, traffic engineering, signalization, and pavement markings.
- (f) Bridge maintenance and operation.
- (g) Debt service and current expenditures for transportation capital projects in the foregoing program areas, including construction or reconstruction of roads and sidewalks.

A 2010 Attorney General’s Opinion addresses the use of the local option fuel tax to pay for electricity and water to operate street lighting, traffic signals, and water pumps for drainage. The opinion states “that proceeds from the local option fuel tax revenues levied pursuant to section 226.035(1)(a), Florida Statutes, may not be used to pay operational expenditures for storm drainage, street lighting, and traffic signalization.”¹⁵

Proposed Change

The bill amends s. 336.025(7), F.S., to incorporate the installation, operation, and maintenance of street lighting and signalization, as permitted uses of the local option fuel tax.

Monuments at Rest Areas (Section 10)

Current Situation

In 2005, the Legislature created the “Ellwood Robinson ‘Bob’ Pipping Jr. Memorial Act” (Act). In order to create “an environment in which state residents and visitors will be reminded of the accomplishments made by military veterans in past conflicts and continuing sacrifices made by military veterans in past conflicts and the continuing sacrifices made by veterans and their families to protect the freedoms we enjoy today,”¹⁶ the Act authorized DOT to enter into contracts, approved by a reviewing committee, with any specified not-for-profit group or organization to provide for the installation of monuments and memorials honoring military veterans at the state’s highway rest areas.

The Act requires the group or organization making the proposal to be responsible for all costs of the monument and its installation, and requires the group or organization to provide a 10-year bond. The bond secures the cost of removal of the monument and any modifications made to the site as part of the placement of the monument, in the event DOT determines that it is necessary to remove or relocate the monument.

Since the Act’s passage, an interested group has attempted to install a replica of the Iwo Jima Memorial in a DOT rest area, but was unable to obtain a 10-year bond from the bonding industry. According to DOT, it appears that the bonding industry has reservations about issuing these bonds, and no monuments have ever been installed.

Proposed Changes

The bill amends s. 337.111(4), F.S. to provide for other forms of security in addition to the 10-year bond, which could be provided by groups interested in installing monuments and memorials at rest areas. These include an annual renewable bond, an irrevocable letter of credit, or other form of security approved by DOT’s comptroller.¹⁷ The bill no longer requires the automatic renewal of the security instrument when it expires.

¹⁵ Florida Attorney General’s Opinion 2010-29.

¹⁶ Ch. 2005-43, L.O.F.

¹⁷ This proposed change to s. 337.111(4), F.S., is consistent s. 334.087, F.S., relating to guarantee of obligations to DOT.

Interference Caused by Utilities (Sections 11 and 12)

Current Situation

Section 337.401, F.S., addresses the use of road and rail corridor right-of-way by utilities. Section 337.401(1), F.S., provides that DOT and local government entities which have jurisdiction and control of public roads and publicly-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.

Section 337.403, F.S., provides that, other than the exceptions below, if an authority determines that a utility upon, under, over, or along a public road or publicly-owned rail corridor, is interfering with the safe continuous use, maintenance, improvement, extension or expansion of the road or rail corridor, the utility, upon 30 days written notice, shall remove or relocate the utility at its own expense. The exceptions are:

- When the project is on the federal aid interstate system and federal funding is identified for at least 90 percent of the cost, DOT pays for the removal or relocation with federal funds;
- Where the cost of the utility improvement, installation, or removal exceeds DOT's official cost estimates for such work by 10 percent, DOT participation is limited to the difference between the official estimate of all the work in the agreement plus 10 percent and the amount awarded for the work in the construction contract;
- When relocation of the utility takes place before construction commences, DOT may participate in the cost of clearing and grubbing (i.e., the removal of stumps and roots) necessary for the relocation;
- If the utility facility being removed or relocated was initially installed to benefit DOT, its tenants, or both, DOT bears the cost of removal or relocation, but DOT is not responsible for bearing the cost of removal or relocation of any subsequent additions to the facility for the purpose of serving others;
- If, pursuant to an agreement between a utility and the authority (DOT and local governments) entered into after July 1, 2009, the utility conveys, subordinates, or relinquishes a compensable property right to the authority for the purpose of accommodating the acquisition or use of the right-of-way by the authority without the agreement expressly addressing future responsibility for cost of removal or relocation of the utility, the authority bears the cost of such removal or relocation, but nothing impairs or restricts, or may be used to interpret, the terms of any agreement entered into prior to July 1, 2009; and
- If the utility is an electric facility being relocated underground in order to enhance vehicular, bicycle, and pedestrian safety and in which ownership of the electric facility to be placed underground has been transferred from a private to a public utility within the past five years, DOT bears all costs of the relocation.

Generally, the 30-day relocation provision has been construed as a notice provision, and the utility does not need to be removed or relocated within 30 days. Often, an authority and a utility owner negotiate a period of time to reasonably accommodate the relocation and removal of the utility. However, some local governments interpret the provision to mean that the utility has 30 days to complete the removal or relocation of the utility.

Proposed Changes

The bill amends s. 337.403, F.S., relating to interference caused by utilities. The bill provides that upon 30 days' written notice, the utility is required to initiate the work to alleviate the interference with the safe continuous use, maintenance, improvement, extension or expansion of the road or rail corridor. The bill requires the work to be completed within the time stated in the notice or in the time agreed to by the authority and the utility owner.

The bill amends various subsections to s. 337.403, F.S., and s. 337.404, F.S., to conform to changes made to the notice provision and to change the terms "improvements, relocation, and removal" to "utility work."

Bus Benches (Section 13)

Current Situation

Current law permits cities and counties to authorize the installation of bus benches and transit shelters for the comfort and convenience of the general public, or at designated stops on official bus routes. This authority includes installation within the right-of-way limits of any state road except a limited-access highway. DOT is currently authorized to direct the immediate removal or relocation of any bench or transit shelter, but only if life or property are endangered or deemed a roadway safety hazard.

DOT currently does not have the authority to deny installation of bus stops, bus benches, or transit shelters within the right-of-way for failure to comply with the Americans with Disability Act (ADA). However, DOT may be liable for such non-compliance and subject to legal action as a result of its jurisdiction over the State Highway System. DOT has been named in an ADA suit in Pinellas County because the local government has permitted the installation of bus stops in inaccessible locations, with non-compliant benches and shelters, on state roads.

Proposed Changes

The bill amends s. 337.408, F.S., to provide that the installation of bus stops and transit shelters on the right-of-way must comply with all applicable laws and rules including, without limitation, the ADA. Municipalities or counties are required to indemnify, defend, and hold harmless DOT from any suits, damages, liabilities, attorney fees, and court costs relating to the installation, removal or relocation of these installations.

The bill gives DOT the authority to direct the immediate relocation of any bus stop, bench, transit shelter, waste disposal receptacle, public pay telephone, or modular news rack that either endangers life or property, or that is otherwise not in compliance with applicable laws and rules.¹⁸ If a municipality or county fails to comply with DOT's direction, DOT is required to remove the noncompliant installation, charge the cost of removal to the municipality or county, and may deduct or offset such cost from any other funding available to the municipality or county from DOT.

Florida Intrastate Highway System/Strategic Intermodal System (Sections 5, 14, 15, 16, 18, 19, 20, and 21)

Current Situation

Chapter 338, F.S., contains provisions for developing and updating the Florida Intrastate Highway System Plan (FIHS). Chapter 339, F.S., includes provisions for developing and updating the Florida Strategic Intermodal System Plan (SIS). All but a few highway miles in the FIHS are also in the SIS. The 2010 SIS Strategic Plan, developed by DOT and other partners,¹⁹ recommended sunsetting the FIHS as a separate statewide highway network to simplify the planning process.²⁰

Proposed Changes

The bill deletes the definition of "Florida Intrastate Highway System" from the definitions relating to the Florida Transportation Code in s. 334.03, F.S.

The bill retitles ch. 338, F.S., "Florida Intrastate Highway System and Toll Facilities" to "Limited-access and Toll Facilities." to reflect the deletion of the FIHS Plan. The bill repeals s. 338.001, F.S., regarding FIHS planning components.

¹⁸ Except for transit bus benches placed into service before April 1, 1992, DOT currently has the authority to direct the immediate relocation or removal of benches, transit shelters, waste disposal receptacles, public pay telephones, or modular news racks that endanger life or property.

¹⁹ The plan was created by a 31-member 2010 SIS Strategic Plan Leadership Committee. This committee "provided overall guidance to this process. Members of the committee represented transportation agencies and providers, regional and local governments, business and economic development interests, and community and environmental interests." See Florida Department of Transportation, *2010 SIS Strategic Plan* (January 31, 2010). This document is available at <http://www.dot.state.fl.us/planning/sis/strategicplan/2010sisplan.pdf>

²⁰ Florida Department of Transportation, *2010 SIS Strategic Plan* (January 31, 2010).

The bill amends s. 338.01, F.S., authorizing DOT to establish limited-access facilities and to provide that the primary function of these facilities is to allow high-speed and high-volume traffic movement, that access to abutting land is subordinate to that function, and such access must be prohibited or highly regulated.

The bill amends s. 339.63, F.S., to add “existing or planned military access facilities that are highways or rail lines linking SIS corridors to the state’s strategic military installations,” as additional facilities included in the SIS.

The bill amends s. 339.64(4)(d), F.S., to provide that the 20-year cost-feasible component of a finance plan included in the SIS plan is a minimum, and that the component must be “at least” 20 years.

The bill creates s. 339.65, F.S., which mirrors the language of s. 338.01, F.S., (discussed above) and provides that DOT must plan and develop SIS highway corridors, including limited- and controlled-access facilities, allowing for high-speed and high-volume traffic movements. The primary function of these corridors is to provide traffic movement. Access to abutting land is subordinate to this function, and such access must be prohibited or highly regulated.

Section 339.65, F.S., also requires SIS highway corridors to include facilities from the following components of the State Highway System:

- Interstate highways.
- The Florida Turnpike System.
- Interregional and intercity limited-access facilities.
- Existing interregional and intercity arterial highways previously upgraded or upgraded in the future to limited-access or controlled-access facility standards.
- New limited-access facilities necessary to complete a statewide system.

DOT is required to adhere to the following policy guidelines in developing SIS highway corridors:

- Make capacity improvements to existing facilities where feasible to minimize costs and environmental impacts.
- Identify appropriate arterial highways in major transportation corridors for inclusion in a program to bring these facilities up to limited-access or controlled-access facility standards.
- Coordinate proposed projects with appropriate limited-access projects undertaken by expressway authorities and local governmental entities.
- Maximize the use of limited-access facility standards when constructing new arterial highway.
- Identify appropriate new limited-access highways for inclusion as a part of the Florida Turnpike System.
- To the maximum extent feasible, ensure that proposed projects are consistent with approved local government comprehensive plans of the local jurisdiction in which such facilities are to be located with the transportation improvement program of any metropolitan planning organization in which such facilities are to be located.

Section 339.65, F.S., requires DOT to develop and maintain a plan for the SIS highway corridor projects that are anticipated to be let to contract for construction within a time period of at least 20 years. The plan is also required to identify when the segments of the corridor will meet standards and criteria developed by DOT. DOT must establish these standards and criteria for the functional characteristics and design of facilities proposed as part of the SIS highway corridors.

Allocation provisions requiring DOT to allocate funds based on fiscal year 2003-2004, as adjusted by the Consumer Price Index, are transferred from s. 338.001, F.S. (which is repealed), to s. 339.65(6), F.S.

Lastly, the bill amends s. 339.65, F.S., to provide that any project to be constructed as part of the SIS highway corridor must be included in DOT's adopted work program. Any SIS highway corridor projects that are added or deleted from the previous adopted work program, or any modification of the SIS highway corridor projects contained in the previous adopted work program, shall be specifically identified and submitted as a separate part of the tentative work program.

The bill does not require an annual status report on the SIS highway corridors similar to that which is currently required by the Florida Intrastate Highway System Plan.

Transportation Planning (Section 17)

Current Situation

Federal law requires each state to adhere to certain requirements in its transportation planning process.²¹ Occasionally, these requirements change and the state revises its statutes to conform to federal provisions. The federal Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) contained 23 planning factors to be considered in the statewide planning process and 16 planning factors to be included in the metropolitan planning process. In 1999, Congress passed the Transportation Equity Act for the 21st Century (TEA-21) and consolidated the statewide and metropolitan planning factors into seven broad areas for consideration. The 1999 Florida Legislature amended the statutes to accommodate TEA-21. Section 339.155, F.S. currently reflects the seven broad factors to consider in the planning process.²² These factors require plans to:

1. Support the economic vitality of the United States, Florida, and the metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;
2. Increase the safety and security of the transportation system for motorized and nonmotorized users;
3. Increase the accessibility and mobility options available to people and for freight;
4. Protect and enhance the environment, promote energy conservation, and improve quality of life;
5. Enhance the integration and connectivity of the transportation system, across and between modes throughout Florida, for people and freight;
6. Promote efficient system management and operation; and
7. Emphasize the preservation of the existing transportation system.²³

The 2005 federal Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), separated the "safety and security" factor into two separate factors and modified the wording of other factors. The SAFETEA-LU legislation has expired, though Congress has extended the law until September 2011.

Federal law requiring each state to have a "Long-Range Transportation Plan" was modified in SAFETEA-LU to be a "Long-Range Statewide Transportation Plan." Federal law has not required a short-range component of the long-range plan or an annual performance report, which is required under state law. In the past, DOT has issued a separate Short-Range Component of its Florida Transportation Plan²⁴ and an annual performance report. DOT has recently combined these reports into a single report. The Short Range Component is not an annual update of the Florida Transportation Plan, but rather documents DOT's implementation of the Florida Transportation Plan. DOT and the Florida Transportation Commission²⁵ conduct extensive performance measurements of Florida's

²¹ 23 U.S.C. s. 135

²² Ch. 99-385, L.O.F.

²³ S. 339.155(2), F.S.

²⁴ A copy of DOT's 2060 Florida Transportation Plan, which was adopted in December 2010, is available at <http://www.2060ftp.org/images/uploads/home/2060%20FTP%20Final%2001272011F.pdf> (January 31, 2011).

²⁵ The Florida Transportation Commission provides leadership in meeting Florida's transportation needs through policy guidance on issues of statewide importance and by maintaining oversight and public accountability for the Department of Transportation and other statutorily specified transportation authorities.

transportation system. DOT also submits an annual Long Range Program Plan to the Governor and Legislature that reflects state goals, agency program objectives, and service outcomes.²⁶

Proposed Changes

The bill amends s. 339.155, F.S., to provide a citation to the federal law containing current planning factors. The planning factors referenced in federal law include:

1. Supporting the economic vitality of the United States, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;
2. Increasing the safety of the transportation system for motorized and nonmotorized users;
3. Increasing the security of the transportation system for motorized and nonmotorized users;
4. Increasing the accessibility and mobility of people and freight;
5. Protecting and enhancing the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;
6. Enhancing the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight;
7. Promoting efficient system management and operation; and
8. Emphasizing the preservation of the existing transportation system.²⁷

The bill also amends s. 339.155, F.S., to remove the short-range component of the long-range plan and the annual performance report requirement.

Strategic Intermodal Transportation Advisory Council (Section 20)

Current Situation

Chapter 339, F.S., creates the Statewide Intermodal Transportation Advisory Council (SITAC) to advise and make recommendations to the Legislature and DOT on the policies, planning, and funding of intermodal transportation projects. These responsibilities include:

- Advising DOT on the policies, planning, and implementation strategies related to intermodal transportation.
- Providing advice and recommendations to the Legislature on funding for projects to move goods and people in the most efficient manner for the state.

The members of the council are appointed by the Governor, the President of the Senate, and the Speaker of the House of Representatives, and represent various interests involved in the Strategic Intermodal System. The council is no longer active. It held its last meeting in December 2004 and assisted in developing the initial 2005 SIS Strategic Plan. Subsequent to January 2005, no further appointments to the SITAC have occurred; however, the members' organizations have been involved in planning and updating the SIS plan.

Proposed Change

The bill repeals the SITAC contained in s. 339.63(4), F.S.

Sign Permit Fees (Section 22)

Current Situation

Chapter 479, F.S., regulates outdoor advertising in the state. DOT is responsible for controlling outdoor advertising signs on the National and State highway systems. DOT is required to control the location, size, height, spacing and lighting of outdoor advertising signs, but does not have the authority to regulate the content of advertising messages on the signs.

²⁶ S. 216.013, F.S.

²⁷ 23 U.S.C. s. 135(d)(1)

DOT's outdoor advertising regulatory program is based on federal law and regulations²⁸ as well as state statute and rules.²⁹ Local governments often have their own ordinances regulating outdoor advertising in their communities. DOT cannot issue a permit for an outdoor advertising sign which is not allowed by local ordinances.

State law does not limit the amount a local government may charge for permits related to outdoor advertising.

Proposed Change

The bill creates s. 479.075, F.S., relating to sign permit fee limitations.

For the purposes of s. 479.075, F.S., the bill defines "sign" as any sign³⁰, wall mural³¹ or media tower³² as defined in s. 479.01, F.S., or by local government agreement, resolution, or ordinance.

The bill defines "sign permit fee" as any payment required as a condition for building, erecting, inspecting, renewing, maintaining, operating, relocating, or reconstructing a sign or required pursuant to any agreement, ordinance, or resolution that includes any provision relating to issuance of a sign permit or otherwise authorizing the building, erection, inspection, renewal, maintenance, operation, relocation, or reconstruction of a sign.

The bill provides that a local government may establish by agreement, resolution, or ordinance, a sign permit fee schedule and may assess fees for sign permits. The fee schedule must be based on the actual cost of administering its sign permitting program, and shall not exceed \$500 per sign.

The bill provides that the cap on sign permit fees does not affect the validity of any other aspect of any agreement, resolution, or ordinance regarding signs or require the removal of any sign or repayment of any fees already paid. If a local government requires the removal of a sign as a result of the sign permit fee cap, the local government must adhere to certain provisions related to governments requiring the removal of signs to either pay just compensation as determined by agreement between parties or by eminent domain.³³

Outdoor Advertising (Sections 23, 24, and 25)

Current Situation

Since the passage of the Highway Beautification Act (HBA) in 1965, the Federal Highway Administration (FHWA) has established controls for outdoor advertising along Federal-Aid Primary, Interstate and National Highway System (NHS) roads. The HBA allows the location of billboards in commercial and industrial areas, mandates a state compliance program, requires the development of

²⁸ Federal law is set forth in the Highway Beautification Act while federal regulations can be found at 23 C.F.R., Section 750.

²⁹ DOT's Outdoor Advertising rules are located in ch. 14-10, F.A.C.

³⁰ Section 479.01(20), F.S., defines "sign" "any combination of structure and message in the form of an outdoor sign, display, device, figure, painting, drawing, message, placard, poster, billboard, advertising structure, advertisement, logo, symbol, or other form, whether placed individually or on a V-type, back-to-back, side-to-side, stacked, or double-faced display or automatic changeable facing, designed, intended, or used to advertise or inform, any part of the advertising message or informative contents of which is visible from any place on the main-traveled way. The term does not include an official traffic control sign, official marker, or specific information panel erected, caused to be erected, or approved by the department."

³¹ Section 479.01(30), F.S., defines "wall mural" as "a sign that is a painting or an artistic work composed of photographs or arrangements of color and that displays a commercial or noncommercial message, relies solely on the side of the building for rigid structural support, and is painted on the building or depicted on vinyl, fabric, or other similarly flexible material that is held in place flush or flat against the surface of the building. The term excludes a painting or work placed on a structure that is erected for the sole or primary purpose of signage."

³² The term "media tower" is not defined in s. 479.01, F.S. or anywhere else in Florida Statutes. However, City of Miami Ordinance Sec. 62-618.21, defines "Media Tower" as "a building that may serve as one or more viewing towers and a kinetic illuminated media display system, utilizing signage, and all other forms of animated illuminated visual message media. . ."

³³ Section 70.20(2), F.S.

state standards, promotes the expeditious removal of illegal signs, and requires just compensation for takings.

The primary features of the Highway Beautification Act include:

- Billboards are allowed, by statute, in commercial and industrial areas consistent with size, lighting and spacing provisions as agreed to by the state and federal governments. Billboard controls apply to all Interstates, Federal-Aid Primaries, and other highways that are part of the National Highway System.
- States have the discretion to remove legal nonconforming signs³⁴ along highways. However, the payment of just (monetary) compensation is required for the removal of any lawfully erected billboard along the Federal-Aid Primary, Interstate and National Highway System roads.
- States and localities may enact stricter laws than stipulated in the HBA.
- No new signs can be erected along the scenic portions of state designated scenic byways of the Interstate and Federal-Aid Primary highways, but billboards are allowed in segmented areas deemed un-scenic on those routes.

The HBA mandates state compliance and the development of standards for certain signs as well as the removal of nonconforming signs. While the states are not directly forced to control signs, failure to impose the required controls can result in a substantial penalty. The penalty for noncompliance with the HBA is a 10 percent reduction of the state's annual federal-aid highway apportionment.

Under the provisions of a 1972 agreement between the State of Florida and the U.S. Department of Transportation (USDOT) incorporating the HBA's required controls, DOT requires commercial signs to meet certain requirements when they are within 660 feet of Interstate and Federal-Aid Primary highways in urban areas, or visible at any distance from the same roadways when outside of urban areas. The agreement embodies the federally-required "effective control of the erection and maintenance of outdoor advertising signs, displays, and devices." Absent this effective control, the non-compliance penalty of 10 percent of federal highway funds may be imposed.

Florida's outdoor advertising laws are found in ch. 479, F.S., and are based on federal law and regulations, and the 1972 agreement.

Vegetation Management and View Zones for Outdoor Advertising

Section 479.106, F.S., addresses vegetation management and establishes "view zones" for lawfully permitted outdoor advertising signs on the interstates, expressways, federal-aid primary highways, and the State Highway System, excluding privately or other publicly owned property. The intent of the section is to create partnering relationships which will have the effect of improving the appearance of Florida's highways and creating a net increase in the vegetative habitat along the roads.³⁵

The section requires anyone desiring to remove, cut, or trim trees or vegetation on public right-of-way to improve the visibility or future visibility of a sign or future sign, to obtain written permission from DOT. To receive a permit to remove vegetation, the applicant must provide a plan for the removal and for the management of any vegetation planted as the result of a mitigation plan. Rule 14-40.030, F.A.C., requires mitigation where:

- Cutting, trimming, or damaging vegetation permanently detracts from the appearance or health of trees, shrubs, or herbaceous plants, or where such activity is not done in accordance with published standard practices. This does not apply to invasive exotic and other noxious plants;
- Trees taller than the surrounding shrubs and herbaceous plants are permanently damaged or destroyed;
- Species of trees or shrubs not likely to grow to interfere with visibility are damaged or destroyed;

³⁴ A "legal nonconforming sign" is a sign that was legally erected according to the applicable laws or regulations of the time, but which does not meet current laws or regulations.

³⁵ Section 479.106(8), F.S.

- Trees that are likely to interfere with visibility are trimmed improperly, permanently damaged, or removed; or
- Herbaceous plants are permanently damaged.

When the installation of a new sign requires the removal, cutting, or trimming of existing trees or vegetation on public right-of-way, DOT may only grant a permit for the new sign when the sign owner has removed at least two non-conforming signs of comparable size and surrendered those signs' permits.

The measurements of a view zone are 350 feet, in areas where the posted speed limit is 35 m.p.h. or less, and 500 feet, where the speed limit is over 35 m.p.h. These view zones are to be within the first 1,000 feet as measured along the edge of the pavement in the direction of approaching traffic from a point on the edge of the pavement perpendicular to the sign's edge facing the highway unless interrupted by naturally occurring vegetation.

Rural Areas of Critical Economic Concern

Rural Areas of Critical Economic Concern (RACEC) are defined in s. 288.0656, F.S., as rural communities, or a region composed of rural communities, that have been adversely affected by extraordinary economic events or natural disasters. The Governor may designate up to three RACECs, which allows the Governor to waive criteria of any economic development incentive. Florida's three designated RACECs include:

- Northwest Rural Area of Critical Economic Concern: Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Washington counties, and the City of Freeport in Walton County.
- South Central Rural Area of Critical Economic Concern: DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee counties, and the cities of Pahokee, Belle Glade, and South Bay (Palm Beach County), and Immokalee (Collier County).
- North Central Rural Area of Critical Economic Concern: Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor, and Union counties.

Proposed Changes

The bill amends s. 479.106, F.S., relating to the management of vegetation affecting visibility of signs.

The bill deletes an existing provision mandating the submission of a management plan when applying for a vegetation management permit. The bill replaces the mandate with an allowance for the applicant to provide one of the following:

- A vegetation management plan consisting of a property sketch indicating the onsite location of the vegetation or individual trees to be removed, cut, or trimmed and describing the existing conditions and proposed work to be accomplished;
- Mitigation contribution to the tree planting program administered by the Department of Agriculture and Consumer Services' Division of Forestry under s. 589.277, F.S., or
- A combination of both a vegetation management plan and mitigation contribution.

The decision to submit a management plan, mitigation contribution, or combination of both is to be made by the applicant.

The bill requires DOT to take into consideration the existing condition of the vegetation being affected by the plan when evaluating a vegetation management plan. Where appropriate, DOT may require a vegetation management plan to consider conservation and mitigation, or a contribution to a plan of mitigation, for the cutting or removal of such vegetation. The current statutory requirement for a plan to include plantings to screen a sign's structural support, where applicable, is made permissive.

The bill provides that only herbicides approved by the Department of Agriculture and Consumer Services may be used in the management of vegetation.

DOT must act on permit applications for vegetation management or mitigation within 30 days. An approved permit is valid for five years and may be renewed for an additional five years upon payment of the application fee, and is binding on DOT.

The bill reduces the number of nonconforming signs that must be removed prior to DOT issuing a permit for a new sign that requires vegetation to be cleared, from at least two to one.

The bill revises view zone requirements. Under the bill's provisions, the current dimensions for view zones are established as minimum dimensions. The current exception for view zone disruption, *i.e.*, allowable natural vegetation, is reduced to allow only vegetation that:

- Has established historical significance,
- Is protected by state law, or
- Has a circumference of 70% or more of the circumference of the Florida Champion of that species when both are measured at 4 and ½ feet above grade.³⁶

The bill allows the specific location of a sign's view zone may be designated by the sign owner and the department must notify the owner within 90 days of any planting or beautification project that may affect a view zone. No less than 60 days are to be afforded to such affected sign owners to designate the view zone. Vegetation management plans and permits are not required due to implementation of beautification projects.

The bill amends s. 479.16, F.S., which establishes the conditions and criteria under which a sign does not require a permit. The revisions provide that signs installed under the tourist-oriented commerce sign pilot program do not require permitting and allow signs no larger than 32 square feet to be temporarily installed by a farm operation during harvest season denoting the distance or direction of the farm operation. The temporary harvest sign provision may not be implemented if it would result in federal penalties.

The bill creates s. 479.263, F.S., to establish the tourist-oriented commerce signs pilot program in rural areas of critical economic concern as defined by ss. 288.0656(2)(d) and (e), F.S.³⁷ Signs created under the section do not require permits provided the sign advertises a small business as defined in s. 288.703, F.S.³⁸ and:

- Is not more than 8 square feet in size or 4 feet in height.
- Is located in a rural area, but not along a limited-access highway.
- Is located within 2 miles of the business location and not less than 500 feet from another sign advertising the same business.

³⁶ The Florida Champion of a species of tree is listed in the Florida Register of Big Trees of the Florida Native Plant Society.

³⁷ "Rural area of critical economic concern" means a rural community, or a region composed of rural communities, designated by the Governor, that has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster or that presents a unique economic development opportunity of regional impact.

"Rural community" means:

1. A county with a population of 75,000 or fewer.
2. A county with a population of 125,000 or fewer which is contiguous to a county with a population of 75,000 or fewer.
3. A municipality within a county described in subparagraph 1. or subparagraph 2.
4. An unincorporated federal enterprise community or an incorporated rural city with a population of 25,000 or fewer and an employment base focused on traditional agricultural or resource-based industries, located in a county not defined as rural, which has at least three or more of the economic distress factors identified in paragraph (c) and verified by the Office of Tourism, Trade, and Economic Development.

³⁸ "Small business" means an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million or any firm based in this state which has a Small Business Administration 8(a) certification. As applicable to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.

- Contains only the name of the business or the merchandise or services sold or furnished at the business.

Businesses placing such signs must not be located closer than 4 miles from another business placing such signs. Also, the business may not participate in both the tourist-oriented commerce signs pilot program created in this section and the logo sign program created in s. 479.261, F.S. Businesses conducted in building primarily used for residential purposes are ineligible. Any business participating in the program must notify DOT prior to installing signs. DOT is directed to maintain statistics related to the program. If the Federal Highway Administration notifies DOT in writing that the program constitutes a loss of effective control of outdoor advertising (thereby jeopardizing the receipt of federal funds), the program will not be implemented.

Road and Bridge Designations (Sections 26 through 44)

Current Situation

Section 334.071, F.S., provides for legislative designations of transportation facilities for honorary or memorial purposes, or to distinguish a particular facility. The legislative designations do not “officially” change the current names of the facilities, nor does the statute require local governments and private entities to change street signs, mailing addresses, or 911 emergency telephone-number system listings.

The statute requires the Department of Transportation (DOT) to place a marker at each terminus or intersection of an identified road or bridge, and to erect other markers it deems appropriate for the transportation facility. The statute also provides that a city or county must pass a resolution in support of a particular designation before road markers are erected. Additionally, if the designated road segment extends through multiple cities or counties, a resolution must be passed by each affected local government.

Proposed Changes

The bill makes the following honorary designations:

- That portion of Orange Blossom Trail between W. Gore Street and W. Church Street in Orange County as “Edna S. Hargrett-Thrower Avenue.”
- That portion of U.S. Highway 19/27A/98/State Road 55 between the Suwannee River Bridge and N.E. 592nd Street/Chavous Road/Kate Green Road in Dixie County as “SP4 Thomas Berry Corbin Memorial Highway.”
- That portion of U.S. Highway 19/98/State Road 55 between N.E. 592nd Street/Chavous Road/Kate Green Road and N.E. 170th Street in Dixie County as “U.S. Navy BMC Samuel Calhoun Chavous, Jr. Memorial Highway.”
- That portion of State Road 24 between County Road 374 and Bridge Number 340053 in Levy County as “Marine Lance Corporal Brian R. Buesing Memorial Highway.”
- That portion of U.S. Highway 19/98/State Road 55/S. Main Street between N.W. 1st Avenue and S.E. 2nd Avenues in Levy County as United States Army Sergeant Karl A. Campbell Memorial Highway.”
- That portion of U.S. Highway 27A/State Road 500/Hathaway Avenue between State Road 24/Thrasher Drive and Town Court in Levy County as “U.S. Army SPC James A. Page Memorial Highway.”
- That portion of State Road 19 in Putnam County between U.S. Highway 17 (State Road 15) and Carriage Drive in Palatka as “Veterans Memorial Highway.”
- That portion of U.S. 90 in Washington County between the Jackson County line and the Holmes County Line at the Holmes Creek Bridge as the “Ben G. Watts Highway.”
- That portion of State Road 824 between I-95 and U.S. Highway 1 in Broward County as “Mardi Gras Way.”
- That portion of State Road 7 between Pembroke Road and County Line Road in Broward County as “West Park Boulevard.”

- That portion of State Road 858/Hallandale Beach Boulevard between I-95 and U.S. 441/State Road 7 in Broward County as “Pembroke Park Boulevard.”
- That portion of State Road 101/Mayport Road between State Road A1A and Wonderwood Connector in Duval County as “Stark Memorial Drive.”
- The Interstate 295/State Road 9A overpass (Bridge Nos. 720256 and 720347) over Interstate 10/State Road 8 in Duval County as the “Duval County Law Enforcement Memorial Overpass.
- That Portion of State Road 100 between Lime Street and Beech Street in the City of Fernandina Beach in Nassau County as “Verna Bell Way.”
- That portion of State Road 100 East between the Bradford County Line and the Columbia County line in Union County as “Deputy Hal P. Croft and Deputy Ronald Jackson Highway.”
- That portion of Coral Way between S.W. 32nd Avenue and S.W. 37th Avenue in Miami-Dade County as “Dr. Oscar Elias Biscet Boulevard.”
- The bridge on State Road 656 in Indian River County between State Road A1A and Indian River Boulevard in Vero Beach as “Alma Lee Loy Bridge.”

The bill directs DOT to erect suitable markers designating each of the above designations.

The bill also amends the “Miss Lillie Williams Boulevard” and “Father Gerard Jean-Juste Street” designations which were created in 2010 in order to correct errors in the previous designations.³⁹

Conforming Changes (Sections 45 through 68)

The bill amends the following statutes to revise cross-references; ss. 163.3180, 288.063, 311.07, 311.09, 316.2122, 316.515, 336.01, 338.222, 338.223, 338.2275, 338.228, 339.2819, 339.285, 341.8825, 479.01, 479.07, and 479.261.

The bill amends the following statutes to conform the incorporation of the Florida Intrastate Highway System into the Strategic Intermodal System: ss. 163.3187, 318.12, 335.02, 338.227, 338.234, 339.62, 341.053, and 403.7211, F.S.

Effective Date (Section 69)

The bill has an effective date of July 1, 2011.

B. SECTION DIRECTORY:

- | | |
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| Section 1 | Amends s. 120.80, F.S., relating to exemptions and special requirements of the administrative procedures act for various agencies. |
| Section 2 | Amends s. 286.011, F.S., relating to public meetings and records; public inspection; criminal and civil penalties. |
| Section 3 | Amends s. 316.091, F.S., relating to limited access facilities; interstate highways; use restrictions. |
| Section 4 | Amend s. 316.302, F.S., relating to commercial motor vehicle safety regulations. |
| Section 5 | Amends s. 334.03, F.S., relating to definitions used in the Florida Transportation Code. |
| Section 6 | Amends s. 334.044, F.S., relating to Department of Transportation; powers and duties. |
| Section 7 | Amends s. 334.047, F.S., relating to a prohibition of a cap of the number of miles on the State Highway System. |

³⁹ Ch. 2010-230, L.O.F.

- Section 8 Amends s. 336.021, F.S., relating to the county transportation system; levy of ninth-cent fuel tax on motor fuel and diesel fuel.
- Section 9 Amends s, 336.025, F.S., relating to the county transportation system; levy of local option fuel tax on motor fuel and diesel fuel.
- Section 10 Amends s. 337.111, F.S., relating to contracting for monuments and memorials to military veterans at rest areas.
- Section 11 Amends s. 337.403, F.S., relating to interference caused by utility; expenses.
- Section 12 Amends s. 337.404, F.S., relating to the removal relocation of utility facilities; notice and order; court review.
- Section 13 Amends s. 337.408, F.S., relating to the regulation of bus stops, benches, transit shelters, street light poles, waste disposal receptacles, and modular news racks within rights-of-way.
- Section 14 Retitles ch. 338, F.S., as "Limited Access Toll Facilities."
- Section 15 Repeals s. 338.001, F.S., relating to the Florida Intrastate Highway System Plan.
- Section 16 Amends s. 338.01, F.S., relating to the authority to establish and regulate limited access facilities.
- Section 17 Amends s. 339.155, F.S., relating to transportation planning.
- Section 18 Amends s. 339.62, F.S. relating to system components of the Strategic Intermodal System.
- Section 19 Amends s. 339.63, F.S., relating to system facilities designated; additions and deletions.
- Section 20 Amends s. 339.64, F.S., relating to the Strategic Intermodal System Plan.
- Section 21 Creates s. 339.65, F.S., relating to Strategic Intermodal System highway corridors.
- Section 22 Creates s. 479.075, F.S., relating to sign permit fees.
- Section 23 Amends s. 479.106, F.S., relating to vegetation management.
- Section 24 Amends s. 479.16, F.S., relating to signs for which permits are not required.
- Section 25 Creates s. 479.263, F.S., relating to a tourist-oriented commerce signs pilot program.
- Section 26 Designates Edna S. Hargrett-Thrower Avenue; directs DOT to erect suitable markers.
- Section 27 Designates the SP4 Thomas Berry Corbin Memorial Highway; directs DOT to erect suitable markers.
- Section 28 Designates the U.S. Navy BMC Samuel Calhoun Chavous, Jr. Memorial Highway; directs DOT to erect suitable markers.
- Section 29 Designates the Marine Lance Corporal Brian R. Busing Memorial Highway; directs DOT to erect suitable markers.
- Section 30 Designates the Army Sergeant Karl A. Campbell Memorial Highway; directs DOT to erect suitable markers.

- Section 31 Designates the U.S. Army SPC James A. Page Memorial Highway; directs DOT to erect suitable markers.
- Section 32 Designates the Veterans Memorial Highway; directs DOT to erect suitable markers.
- Section 33 Designates the Ben G. Watts Highway; directs DOT to erect suitable markers.
- Section 34 Designates Mardi Gras Way; directs DOT to erect suitable markers.
- Section 35 Designates West Park Boulevard; directs DOT to erect suitable markers.
- Section 36 Designates Pembroke Park Boulevard; directs DOT to erect suitable markers.
- Section 37 Designates Stark Memorial Drive; directs DOT to erect suitable markers.
- Section 38 Designates the Duval County Law Enforcement Overpass; directs DOT to erect suitable markers.
- Section 39 Designates Verna Bell Way; directs DOT to erect suitable markers.
- Section 40 Designates Deputy Hal P. Croft and Deputy Ronald Jackson Memorial Highway; directs DOT to erect suitable markers.
- Section 41 Designates Dr. Oscar Elias Biscet Boulevard; directs DOT to erect suitable markers.
- Section 42 Designates Alma Lee Loy Bridge; directs DOT to erect suitable markers.
- Section 43 Amends s. 24 of ch. 2010-230, L.O.F., amending the "Miss Lillie Williams Boulevard" designation.
- Section 44 Amends s. 45 of ch. 2010-230, L.O.F., amending the "Father Jean-Juste Street." designation.
- Section 45 Amends s. 163.3180, F.S., relating to concurrency.
- Section 46 Amends s. 163.3187, F.S., relating to amendment of adopted comprehensive plan.
- Section 47 Amends s. 288.063, F.S., relating to contracts for transportation projects.
- Section 48 Amends s. 311.07, F.S., relating to Florida seaport transportation and economic development funding.
- Section 49 Amends s. 311.09, F.S., relating to the Florida Seaport Transportation and Economic Development Council.
- Section 50 Amends s. 316.2122, F.S., relating to the operation of a low-speed vehicle or mini truck on certain roadways.
- Section 51 Amends s. 318.12, F.S., relating to the purpose of ch. 318, F.S.
- Section 52 Amends s. 335.02, F.S., relating to the authority to designate transportation facilities and rights-of-way and establish lanes; procedure for redesignation and relocation; application of local regulation.
- Section 53 Amends s. 336.01, F.S., relating to the designation of county road system.

- Section 54 Amends s. 338.222, F.S., relating to Department of Transportation sole governmental entity to acquire, construct, or operate turnpike projects; exception.
- Section 55 Amends s. 338.223, F.S., relating to proposed turnpike projects.
- Section 56 Amends s. 338.227, F.S., relating to turnpike revenue projects.
- Section 57 Amends s. 338.2275, F.S., relating to turnpike projects.
- Section 58 Amends s. 338.228, F.S., relating to bonds not debts or pledges of credit of state.
- Section 59 Amends s. 338.234, F.S., relating to granting concessions or selling along the turnpike system; immunity from taxation.
- Section 60 Amends s. 339.2819, F.S., relating to the Transportation Regional Incentive Program.
- Section 61 Amends s. 339.285, F.S., relating to Enhanced Bridge Program for Sustainable Transportation.
- Section 62 Amends s. 341.053, F.S., relating to Intermodal Development Program; administration; eligible projects; limitations.
- Section 63 Amends s. 341.8825, F.S., relating to Department of Transportation sole governmental entity to acquire, construct, or operate high-speed rail projects; exceptions.
- Section 64 Amends s. 403.7211, F.S., relating to hazardous waste facilities managing hazardous wastes generated offsite; federal facilities managing hazardous waste.
- Section 65 Amends s. 479.01, F.S., relating to definitions.
- Section 66 Amends s. 479.07 relating to sign permits.
- Section 67 Amends s. 479.261, F.S., relating to the logo sign program.
- Section 58 Amends s. 316.515, F.S., relating to maximum width, height, length.
- Section 69 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

DOT will incur costs of approximately \$13,600 (from the State Transportation Trust Fund) for erecting markers for the road and bridge designations. This is based on the assumption that two markers for each designation will be erected at a cost of \$400 per marker. DOT will also incur the recurring costs of maintaining these signs over time, and for future replacement of the signs as necessary. In addition, there will be an indeterminate minimal cost associated with the bicycle pilot program. These costs will be absorbed by the department within their existing budget authority.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The cap on sign permit fees charged by local governments may have an indeterminate negative fiscal impact on local governments.

2. Expenditures:

Municipalities and counties may incur costs relating to ADA compliance issues.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Exempting farm labor vehicles from the CMV hours-of-service requirements during a state of emergency, may permit agricultural businesses to get more of their products to market.

D. FISCAL COMMENTS:

DOT may see a reduction in litigation costs associated with requiring municipalities and counties either to remove or make compliant noncompliant bus benches and transit shelters. However, the potential cost of this litigation is unknown at this time.

While the bill does not increase the local option fuel tax, it expands the purposes for which tax may be used, to include installation, operation maintenance and repair of street lighting and traffic signals.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Article VII, section 18 of the Florida Constitution requires a two-thirds vote of the Legislature for any law enacted that reduces the authority that municipalities or counties have to raise revenues in the aggregate. Section 20 of the bill provides that a local government may establish a fee schedule for sign permitting programs, and provides that fees for sign permits may not exceed \$500. The bill does not appear to qualify for any exemption or extension to the mandate provision.

2. Other:

The bill revises s. 286.011, F.S., the Sunshine Law, to allow certain transportation authorities to conduct public meetings and workshops by means of communications media technology. This change may subject those transportation authorities to different standards than the standards governing other similarly situated public bodies that are subject to the provisions of the Sunshine Law. Generally, public bodies may only meet electronically for workshops and meetings at which no formal action will be taken.⁴⁰ For meetings at which formal decisions will be made, a quorum of the public body's members must be present at a physical location, and electronic participation of an absent member should be permitted only in extraordinary circumstances.⁴¹

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill inserts references to the Code of Federal Regulations (CFRs) and re-enacts other existing references to certain CFRs. Florida courts have stated that "the Legislature may adopt provisions of federal statutes and administrative rules made by a federal administrative body 'that are in existence

⁴⁰ see 2005 WL 3262434 (Fla.A.G.)

⁴¹ see AGO 2003-41

and in effect at the time the legislature acts, but it would be an unconstitutional delegation of legislative power for the legislature to adopt in advance any federal act or the ruling of any federal administrative body that Congress or such administrative body might see fit to adopt in the future.”⁴² Future changes by the federal government, to the referred CFRs, would not be reflected in the laws of Florida unless or until the Florida Legislature chose to amend or re-enact statutes with such references.

It may be advisable to clarify the provisions allowing transportation authorities to hold meetings and workshops using communications media technology to provide that a quorum must be present in person for formal action to be taken. This is consistent with several Attorney General Opinions regarding the participation of members of various government boards using communications media technology.⁴³

According to DOT there are some concerns about the following designations:

- Edna S. Hargrett-Thrower Avenue: The designation should be between Gore Street and Church Street.
- Ben G. Watts Highway: The designation is in both Washington and Holmes County.
- Alma Lee Loy Bridge: The designation should contain the bridge number (880077).
- Samuel B. Love Memorial Highway: The designation is not on the state highway system.

- Edna Sampson Hargrett-Thrower was the head the Choral Music department at Jones High School in Orlando. She passed away on April 19, 2010
- Army Sp4 Thomas Berry Corbin was killed in combat in South Vietnam in 1968. He received the Army Silver Star.
- Navy BMC Samuel Calhoun Chavous Jr. was killed in combat in South Vietnam in 1968.
- Marine Lance Cpl. Brian Rory Buesing was killed in combat in Iraq in 2003.
- Army Sgt. Karl Andrew Campbell was killed in Afghanistan in 2010.
- Army SPC. James Anthony Page was killed in Afghanistan in 2010.
- Ben G. Watts served as Secretary of DOT from 1989 to 1997. Currently, Mr. Watts is retired from Carter & Burgess, Inc., where he served as President and CEO.
- Based in Mayport, FL, the USS Stark was attacked by an Iraqi jet fighter in 1987, killing 37 American sailors.
- Deputies Hal P. Croft and Ronald Jackson were Union County sheriff’s deputies killed in the line of duty.
- Verna Bell was a community activist in Fernandina Beach and Duval County.
Dr. Óscar Elías Biscet is a Cuban medical professional and a noted advocate for human rights who is currently in prison in Cuba for alleged crimes against the sovereignty and the integrity of Cuba.
- Alma Lee Loy was the first woman elected to the Indian River County Commission.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 22, 2011, the Transportation & Highway Safety Subcommittee adopted five amendments. These amendments:

- Exempt farm labor vehicles from hours-of-service requirements during a state of emergency.
- Change the imposition date of some local fuel taxes from July 1 to October 1.
- Permit certain local fuel taxes to be used for the installation, operation, and maintenance of street lighting and traffic signals.
- Removed a requirement for municipalities to either remove or get improve non-ADA compliant bus benches and transit shelters by a date certain.
- Amended provisions relating to the relocation of utilities on the right-of-way.
- Capped local sign permit fees at \$500.

⁴² *Freimuth v. State*, 272 So. 2d 473 (Fla. 1972).

⁴³ *Id.*

- Added several honorary road and bridge designations.

On April 6, 2011, the Transportation & Economic Development Appropriations Subcommittee adopted seven amendments. These amendments:

- Exempts DOT's toll adjustments from the requirement to prepare a statement of estimated regulatory costs and from the requirement of submission to the legislature for ratification.
- Permits transportation and expressway authorities to conduct meetings and workshops by means of communications media technology.
- Creates a two year pilot program, in three separate urban areas, for bicycles on highway approaches and bridges on limited access facilities.
- Removes language regarding the fine for not having a CMV medical examiner's certificate.
- Provides that the cap on sign permit fees does not affect the validity of any other aspect of any agreement, resolution, or ordinance regarding signs, or the removal of any sign, or the repayment of any fees already paid.
- Provides that if a local government requires the removal of a sign, it must adhere to certain eminent domain statutes.
- Revises provisions related to the management of vegetation affecting the visibility of outdoor advertising signs.
- Reduces the number of nonconforming signs prior to DOT issuing a permit for a new sign that requires vegetation to be cleared from at least two to one.
- Revises view zone requirements related to outdoor advertising.
- Creates a tourist-oriented commerce signs pilot program in rural areas of critical economic concern.
- Adds temporary harvest signs and signs erected under the tourist-oriented commerce sign pilot program from permitting requirements.

The analysis is drafted to the Committee Substitute for the Committee Substitute.