The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Transportation Committee

BILL: CS/SB 1716

INTRODUCER: Transportation Committee and Senator Ring

SUBJECT: Transportation Project Funding

DATE: March 22, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Eichin	Spalla	TR	**Fav/CS**
2.			BC	
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	x	Statement of Substantial Changes
B. AMENDMENTS........................		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

CS/SB 1716 provides additional funding sources for the Trade Infrastructure Investment Steering Committee created by SB 1718. The bill:

- revises the distribution of revenues collected through the rental car surcharge program. Beginning in fiscal year (FY) 2016/2017, the bill redirects all of the revenues collected from the surcharge that are deposited into the State Transportation Trust Fund (80% of total collections) to a prioritized list of projects identified by the Trade Infrastructure Investment Steering Committee created by SB 1718.

- redirects a portion of the funds currently allocated for the purchase of vegetation used in highway beautification and landscaping projects, to help fund priority projects identified by the Trade Infrastructure Investment Steering Committee created by SB 1718.

- redirects 60% of any unencumbered funds made available when project costs are contracted in an amount less than what the projected had been estimated to cost, to priority projects identified by the Trade Infrastructure Investment Steering Committee created by SB 1718.

- transfers at least $20 million annually from the State Transportation Trust Fund (STTF) into the State Infrastructure Bank (SIB) beginning in FY 2013/2014. The bill directs the transfer to occur in FY2011/2012 and FY 2012/2013, if the Revenue Estimating Conference increases the estimate of revenue for the STTF in those years.

This bill substantially amends the following sections of the Florida Statutes: 212.0606, 334.044, 339.135, and 339.55.

II. Present Situation:

Rental Car Surcharge
Section 212.0606, F.S., authorizes a surcharge of $2.00 per day or any part of a day on the lease or rental of a motor vehicle licensed for hire and designed to carry less than nine passengers regardless of whether such motor vehicle is licensed in Florida. The surcharge applies to only the first 30 days of the term of any lease or rental. However, the surcharge does not apply to a motor vehicle provided at no charge to a person whose motor vehicle is being repaired, adjusted, or serviced by the entity providing the replacement motor vehicle. After deduction for administrative fees and the General Revenue Service Charge, the rental car surcharge is distributed as follows:

- 80% of the surcharge to the State Transportation Trust Fund;
- 15.75% of the surcharge to the Tourism Promotion Trust Fund; and
- 4.25% of the surcharge to the Florida International Trade and Promotion Trust Fund.

The proceeds of the rental car surcharge deposited into the STTF are allocated to each Florida Department of Transportation (FDOT, or department) district for projects, based on the amount of proceeds collected in the counties within each respective district. There are seven transportation districts ranging in size from two counties up to eighteen counties. All counties, with the exception of Glades and Lafayette, collect some rental car surcharges that are deposited into the STTF. Statewide, total rental car surcharge revenues for the next ten fiscal years are forecast as follows:

Fiscal Year	$(millions)
2010/2011	98.8
2011/2012	101.8
2012/2013	105.2
2013/2014	109.4
2014/2015	113.4
2015/2016	117.1
2016/2017	120.4
2017/2018	123.5
2018/2019	126.8
2019/2020	129.8

Highway Beautification and Other Landscaping Programs

Section 334.044(26), F.S., assigns the department the duty to:

- provide for the enhancement of environmental benefits, including air and water quality;
- prevent roadside erosions to conserve the natural roadside growth and scenery; and
- implement and maintain roadside conservation, enhancement, and stabilization programs.

To accomplish, this no less than 1.5% of the amount contracted for construction statewide is allocated for the purchase of plant materials. To the greatest extent practical, 50% of the funds must be for large plant materials and 50% for other plant materials and the plants must be purchased from Florida commercial nursery stock in this state, except as prohibited by federal law. The purchase must be by competitive bid.

The Transportation Work Program

Section 339.135, F.S., authorizes and establishes guidelines for the FDOT to develop a State Transportation Five-Year Work Program. The Work Program, which comprises a list of transportation projects scheduled for implementation during the ensuing five year period, is based on a complete financial plan for the STTF and other funds managed by FDOT. In developing the Work Program, FDOT coordinates with its seven district offices, the Turnpike Enterprise Office (Turnpike), Metropolitan Planning Organizations (MPOs), and local governments. Essentially, the FDOT Work Program reflects the priorities of MPOs, counties, and FDOT in one program of scheduled activities and improvements.

The Work Program includes all proposed project commitments and is classified by major program and appropriation category. To prevent large amounts of dollars from being tied up unnecessarily for long periods of time, large transportation development projects are typically scheduled in five phases:

1. Planning,
2. Project Development and Environmental review (PD&E),
3. Design,
4. Right-of-way acquisition (ROW), and
5. Construction.

Programming by phase allows greater flexibility and liquidity of funds. A project's life cycle of phases can run seven or more years from "concept to concrete," thus, a given project's lifespan can extend beyond the timeframe of the Work Program.

The allocation of funds for new construction to the districts is based on a statutory formula using equal parts of population and motor fuel tax collections. However, the funding for programs with quantitative needs assessment (e.g., resurfacing, bridge repair, the Strategic Intermodal System [SIS], etc,) is allocated to the districts based on the results of those assessments. Thus, for example, the funding of SIS projects and projects from other centrally-managed programs are not subject to population/fuel tax collection distribution formula.

Developing and Adopting the Work Program

Development of the Work Program is guided by the Florida Transportation Plan (FTP) and the Program and Resource Plan (PRP). The FTP (part of the State Comprehensive Plan) is a statewide transportation plan that documents FDOT's long and short range goals and objectives. The FTP long range component identifies goals and objectives to be achieved with available resources for the next 20-25 years. The annual short range component identifies objectives and strategies to be implemented over the next five to ten years in moving toward the long range goals and objectives. At the local level, the program must be consistent to the maximum extent feasible with the capital improvement elements of the local government comprehensive plans.

Although the Work Program contains a five-year schedule of programmed transportation improvements, it is updated annually by revising the previous year's Work Program. This "Tentative Work Program" results from rolling the projects in the previous Work Program's last four years' forward (i.e., Years 2, 3, 4, and 5 become Years 1, 2, 3, and 4 in the Tentative Work Program), and adding a new fifth year of projects. Section 339.135(4), F.S., requires FDOT to "minimize changes and adjustments that affect the scheduling of project phases in the 4 common fiscal years." Any rescheduling or deletion of a project must be determined to be necessary for specific reasons by the Secretary of Transportation. All changes must be clearly identified.

The Tentative Work Program must be submitted to the Governor, legislative appropriations committees, the Florida Transportation Commission (FTC) and the Department of Community Affairs (DCA) at least 14 days prior to the convening of the regular legislative session. After DCA reviews the Tentative Work Program for consistency with local comprehensive plans, the FTC conducts a statewide public hearing to evaluate the program for compliance with laws and FDOT policies. Following the FTC's evaluation the Legislature, through the General Appropriations Act and any other appropriation, provides the budget for the Work Program which is adopted by FDOT prior to the beginning of the next fiscal year.

Work Program Amendments

Section 339.135, F.S., requires FDOT to submit the following proposed Work Program amendments to the Governor for approval:

- Any amendment that deletes any project or phase
- Any amendment that adds a project estimated to cost over $150,000 in funds appropriated by the Legislature; and
- Any amendment that advances or defers to another fiscal year a right-of-way (ROW) phase, a construction phase, or a public transportation project phase estimated to cost over $500,000, in funds appropriated by the Legislature, except an amendment advancing or deferring a phase for a period of 90 days or less.

FDOT is required to immediately notify the chairs of the legislative appropriations committees, each member of the Legislature who represents a district affected by the proposed amendment, each Metropolitan Planning Organization (MPO) affected by the proposed amendment, and each unit of local government affected by the proposed amendment. The Governor may not approve a proposed amendment until 14 days following the notification and must disapprove the amendment if either of the chairs of the legislative appropriations committee or the President of the Senate or the Speaker of the House of Representatives objects in writing within 14 days following notification.

Public Transportation Funding
Section 206.46(3), F.S., requires that a minimum of 15% of all state revenues deposited into the STTF be allocated to Public Transportation programs. Public Transportation Program areas are: Seaports, Intermodal, Rail, Aviation, and Transit.

- The Seaport program provides financial and technical assistance to the 14 public deepwater Seaports in the State of Florida per s. 311.07, F.S. Funding for the Florida Seaport Transportation and Economic Development (FSTED) state funded matching grant program are funded on a 50/50 matching basis with any of the deepwater ports as contained in s. 403.021(9)(b), F.S. An exception to the 50/50 match is projects that involve the rehabilitation of wharves, docks, berths, bulkheads, or similar structures which require a 25% non-state match. Additionally, seaport Intermodal access projects funds that involve the dredging or deepening of channels, turning basins, or harbors; or the rehabilitation of wharves, docks or improvements to roadways or railroads, require a 25% match from port funds, federal funds, local funds or private funds. Section 320.20(4), F.S., requires that funding for seaport Intermodal access projects shall be on a matching basis mutually determined by the FSTED Council and the department. A minimum of 25% of total project costs shall come from local funds, private funds, or specifically earmarked federal funds.

- The Intermodal Access Program provides assistance for major capital investment in fixed guideway transportation systems; access to seaports, airports and other transportation terminals, providing for the construction of intermodal or multimodal terminals; and to otherwise facilitate the intermodal or multimodal movement of people and goods. It supports projects which provide improved access to intermodal or multimodal transportation facilities and the construction of multimodal terminals. Projects funded under this program include rail access to airports and seaports, interchanges and highways which provide access to airports, seaports and other multimodal facilities. This program is intended to facilitate the intermodal or multimodal movement of people and goods. This program is authorized by s. 341.053, F.S.

- The Rail program includes financial and technical assistance for intermodal projects, rail safety inspections; regulation of railroad operations and rail/highway crossings; identification of abandoned rail corridors; recommendations regarding acquisition and rehabilitation of rail facilities; and assistance for developing intercity rail passenger service or commuter rail service.

- The Aviation program provides financial and technical assistance to Florida's airports in the areas of development, improvement, land acquisition, airport access and economic enhancement. Matching funds assist local governments and airport authorities in planning, designing, purchasing, constructing and maintaining publicly owned public use aviation facilities.

- The Transit program provides financial and technical assistance to transit, paratransit and ridesharing systems.

State Infrastructure Bank
The State Infrastructure Bank (SIB) is a revolving loan and credit enhancement program consisting of two separate accounts and is used to leverage funds to improve project feasibility. The SIB can provide loans and other assistance to public or private entities carrying out or proposing to carry out projects eligible for assistance under federal and state law. The SIB cannot provide assistance in the form of a grant.

The federally-funded account is capitalized by federal money matched with state money as required by law under the Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A legacy for Users (SAFETEA-LU). All repayments are repaid to the federally-funded SIB account and revolved for future loans. Projects must be eligible for assistance under title 23, United States Code (USC) or capital projects as defined in Section 5302 or title 49 USC. Projects must be included in the adopted comprehensive plans of the applicable MPO and must conform to all federal and state laws, rules and standards.

The state-funded account is capitalized by state money and bond proceeds per ss. 339.55, F.S. and 215.617, F.S. All repayments are repaid to the State Board of Administration where debt service is paid on any outstanding bonds with the remainder returned to the state-funded account and revolved for future loans. Projects must be on the State Highway System or provide increased mobility on the State's transportation system, or provide intermodal connectivity with airports, seaports, rail facilities and other transportation terminals. Also eligible are projects of the Transportation Regional Incentive Program (TRIP) per Section 339.2819(4), F.S. Projects must be consistent, to the maximum extent feasible, with local MPO and local government comprehensive plans and must conform to policies and procedures within applicable Florida Statutes and other appropriate state standards for the transportation system. The state-funded account also allows for the lending of capital costs or to provide credit enhancements for emergency loans for damages incurred on public-use commercial deepwater seaports, public-use airports, and other public-use transit and intermodal facilities that are within an area that is part of an official state declaration of emergency per ch. 252, F.S. and other applicable laws.

III. Effect of Proposed Changes:

Section 1 amends s. 212.0606, F.S., to revise the distribution of revenues collected through the rental car surcharge program. Beginning in FY 2016/2017, the bill redirects all of the revenues collected from the surcharge that are deposited into the STTF (80% of total collections) to a prioritized list of projects identified by the Trade Infrastructure Investment Steering Committee created by SB 1718.

Section 2 amends s. 334.044, F.S., to redirect a portion of the 1.5% (i.e., 1%) of the funds currently allocated for the purchase of vegetation used in highway beautification and landscaping projects, to help fund priority projects identified by the Trade Infrastructure Investment Steering Committee (TIISC) created by SB 1718. (See Technical Deficiencies section.) Additionally, any funds allocated under this paragraph remaining unencumbered on January 1 and June 30 of each year are to be reallocated to fund priority projects identified by the TIISC.

Section 3 amends s. 339.135, F.S, to redirect 60% of any unencumbered funds made available when project costs are contracted in an amount less than what the projected had been estimated to cost. These funds would be redirected to priority projects identified by the Trade Infrastructure Investment Steering Committee created by SB 1718. The redirection of funds may not result in reallocation of funds from the uses identified in s. 206.46(3), F.S., *i.e.*, Seaports, Intermodal, Rail, Aviation, and Transit programs.

Section 4 amends s. 339.55, F.S., to transfer at least $20 million annually from the STTF into the SIB beginning in FY 2013/2014. The bill directs the transfer to occur in FY 2011/2012 and FY 2012/2013, if the Revenue Estimating Conference increases the estimate of revenue for the STTF in those years.

Section 5 establishes an effective date of July 1, 2011 provided SB 1718 (or substantially similar legislation) becomes law.

Other Potential Implications:
According to FDOT, the diversion of rental car surcharge funds from the STTF will impact the development of transportation projects in every FDOT district.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Nurseries and landscaping contractors will experience a negative fiscal impact. (See table below.)

C. Government Sector Impact:

According to FDOT, based on the current allocations for landscaping projects, the bill would provide the following distributions over the next three fiscal years:

	FY 10/11	FY 11/12	FY 12/13
Landscaping allocation 0.5%	$11.6 m	$11.3m	$ 8.6m

TIISC allocation 1.0%	$23.2m	$22.6m	$17.3m

The bill's diversion of funds accrued from bid savings is indeterminate as savings cannot be calculated prior to a contract's letting. Also, many projects consist of multiple funds, some of which may be subject to restrictions on their use.

FDOT also reports:

> To the extent that local governments had planned to fund work program projects in the second five years using the rental car surcharge, projects will be negatively impacted. The net effect is less funding for local priority projects.
>
> To the extent that rental car surcharge funds are redirected to the Trade Infrastructure Investment Steering Committee priority projects which are outside of the county in which the surcharge is collected, the counties will experience less equitable distribution of funds for transportation infrastructure serving their area.

VI. Technical Deficiencies:

A late-filed amendment to the bill created an unworkable division of funds in Section 2. Lines 60 through 76 require 1.5% of the funds contracted for construction projects to be held back and allocated in the following manner:

- One percent (i.e., 2/3 of the holdback) is to be allocated to help projects identified in the TIISC project priority list.
- One and a half percent (i.e., the entire holdback) is to be allocated to landscaping projects.

If the intent is to retain the allocation of funds for landscaping projects as prescribed by current law (s. 334.044(26), F.S.) then lines 60 through 65 should be deleted and no new paragraph should be created.

The bill's effective date, July 1, 2011, is provisional upon SB 1718 (or substantially similar legislation) becoming law. SB 1718 has been withdrawn from further consideration.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Transportation on March 22, 2011. The CS reverted some of the language in Section 2 to the standing text in s. 334.044, F.S., resulting in an unworkable distribution of funds.

B. Amendments:

None.