

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 Budget Committee

BILL: CS/SB 1866

INTRODUCER: Transportation Committee and Senator Latvala

SUBJECT: Department of Transportation

DATE: February 24, 2012 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Buford	TR	Fav/CS
2.	Carey	Rhodes	BC	Pre-meeting
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

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|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This bill contains a number of changes to the laws which are administered by the Florida Department of Transportation (FDOT or department). Major provisions of this bill include provisions which:

- Allow FDOT to maintain training programs, which currently exist, for employees in order to provide broad practical expertise in certain areas and increase the base salary for employees who complete training phases within current budget authority.
- Add citrus harvesting equipment and citrus fruit loaders to those types of vehicles that are allowed to travel on the highway between farms while still being entitled to a refund of the state motor fuel tax and allow them to travel on public roads, from the point of production to the point of long-term storage and back, despite maximum height, width and length limitations.
- Exempt the Office of Toll Operations of the Florida Turnpike Enterprise from the Enterprise Information Technology Services Management program (Part I of Ch. 282, F.S.).
- Substantially amend the Florida Seaport Transportation and Economic Development (FSTED) program.

- Create s. 311.10, F.S., entitled the Strategic Port Investment Initiative, which directs funds towards projects which are selected jointly by FDOT and the deepwater ports listed in s. 311.09, F.S.
- Create s. 311.101, F.S., entitled the Intermodal Logistics Center Infrastructure Support Program, which allocates \$5 million per year towards funding up to 50% of the eligible costs of local government or private projects that meet certain criteria.
- Replace freight-mobility and trade corridor plans, which were developed by FSTED to integrate various transportation modes within the state, with a Statewide Seaport and Waterways System Plan, which is developed by FDOT and must identify 5-, 10-, and 20-year needs for the seaport system along with projects needed to ensure the success of the transportation system as a whole.
- Revise the definition of motor vehicles as related to tolls in order to accurately ticket toll violators who are driving truck-trailer combinations.
- Create a 2-year pilot program which will allow bicycles to use limited access bridges under certain circumstances.
- Remove the requirement to send toll violation notices Return Receipt Requested.
- Revise the definition of low-speed vehicles to effectively include gasoline-fueled vehicles.
- Clarify that a straight truck-trailer combination may not exceed 68 feet in overall length.
- Repeal the definition of “Florida Intrastate Highway System”, refer the definition of “Functional Classification” to federal law, and significantly amend the definition of “State Highway System.”
- Revise certain FDOT powers and duties mandating landscaping expenditures of 1.5% of amount contracted for construction projects which add capacity or significantly enhance the existing highway system, preventing FDOT from expending funds for landscaping in connection with resurfacing projects.
- Mandate certain actions by FDOT when they receive an inspection report which either recommends a limit on a bridge, or recommends closing a bridge.
- Extend the date on which the ninth cent fuel tax and the local option fuel tax must be levied from before July 1 to before October 1.
- Expand the type of security which may be provided before installing certain monuments at rest areas in case the monument must be removed.
- Conform sections having to do with Disadvantaged Business Enterprises to Federal law.
- Amend the duties of a utility owner when the utility interferes with public roads or rail corridors.
- Regulate certain installations under local government control so as to relieve FDOT’s liability in certain lawsuits under the Americans with Disabilities Act.
- Enhance FDOT’s authority to establish tolls on certain future limited access facilities in the State Highway System.
- Allows for bond issuance on high-occupancy toll lanes or express lanes, with certain restrictions on usage.
- Revise the definition of “economically feasible” as it relates to turnpike projects.
- Assess a \$.25 fee on non-active toll accounts and allow for closure of toll accounts after certain time periods.
- Change FDOT representatives in Metropolitan Planning Organizations (MPO) from members to advisors and require that, to the extent possible, only one MPO exist per

urbanized area or group of contiguous urbanized areas and that, if more than one MPO exists, they coordinate in the development of regionally significant projects.

- Add existing and planned military access facilities to the types of facilities which are included in the Strategic Intermodal System (SIS) and emerging SIS.
- Repeal the Strategic Intermodal Transportation Advisory Council.
- Create Strategic Intermodal System highway corridors.
- Revise the membership of the governing board of the South Florida Regional Transportation Authority.
- Allow the Jacksonville Transportation Authority to conduct public meetings and workshops by means of communications media technology, as provided in s. 120.54(5), F.S.
- Revise FDOT powers and responsibilities for stormwater management.
- Allow FDOT to choose whether or not to participate in the Water Management District mitigation plan when providing mitigation for its projects.
- Create a study of the Pinellas Suncoast Transit Authority (PSTA) and the Hillsborough Area Regional Transit Authority (HART) in order to achieve improvements in regional transit connectivity and implementation of operational efficiencies and service enhancements that are consistent with the regional approach to transit identified in the Tampa Bay Area Regional Transportation Authority's (TBARTA's) Regional Transportation Master Plan.
- Allow FDOT district secretaries and enterprise executive directors to be registered professional engineers in accordance with the laws of another state.
- Allow FDOT and the expressway authorities to designate road shoulders of limited access facilities and interstate highways for vehicular traffic in order to improve safety, reliability, and transportation system efficiency. These designations are subject to appropriate signage and are not allowed when restricted by Federal law or by a covenant.
- Allow municipalities participating in the Federal Aviation Administration FAA's pilot program on private ownership of airports to lease or sell an airport and related property to a private party subject to FDOT approval if state funds were provided to the municipality pursuant to s. 332.007, F.S.
- Allow local government expenditures of the local option fuel tax for the installation, operation, maintenance and repair of street lighting, traffic signs, traffic engineering, signalization, and pavement markings.
- Allow FDOT or other governmental entity responsible for toll collection, to pursue collection of unpaid tolls by contracting with a private attorney or a collection agent.
- Allow FDOT to use private toll collection and video billing systems in order to increase toll revenues or add convenience or other value for its customers.
- Require that projects funded under the Transportation Regional Incentive Program be included in FDOT's work program.
- Allow governmental units which are authorized to regulate the operation of public vehicles for hire to request, receive, and pay for, criminal history record information for the purpose of screening applicants for for-hire licenses.
- Mandate that the FDOT secretary designate a facility which meets the definition of an intermodal logistics center and has been designated as such in the local comprehensive plan as part of the Strategic Intermodal System, upon the facilities request.
- Waive concurrency standards for such facilities, for building permits issued on or before December 31, 2017, if the facility meets certain criteria.

- Significantly amend sections having to do with the Mid-Bay Bridge Authority, the Tampa-Hillsborough County Expressway Authority, the Orlando-Orange County Expressway Authority, the Osceola County Expressway Authority, and any new expressway authority created after July 1, 2012.
- Create prohibitions on certain types of paint.

This bill substantially amends ss. 20.23, 206.41, 282.0041, 282.0055, 282.201, 311.07, 311.09, 311.14, 311.22, 316.003, 316.091, 316.1001, 316.2122, 316.515, 318.12, 320.01, 320.20, 332.08, 334.03, 334.044, 334.047, 335.02, 335.074, 335.17, 336.021, 336.025, 337.11, 337.111, 337.125, 337.139, 337.14, 337.403, 337.404, 337.408, 338.01, 338.155, 338.161, 338.166, 338.221, 338.223, 338.227, 338.2275, 338.228, 338.231, 338.234, 339.0805, 339.135, 339.155, 339.175, 339.2819, 339.285, 339.62, 339.63, 339.64, 341.053, 341.840, 343.53, 348.0003, 348.0004, 348.0005, 348.0013, 348.52, 348.54, 348.545, 348.56, 348.565, 348.57, 348.60, 348.615, 348.753, 348.754, 348.7543, 348.7545, 348.7547, 348.755, 348.757, 348.7585, 348.9952, 349.03, 349.04, 373.413, 373.4137, and 403.7211, F.S.; creates ss. 311.10, 311.101, 338.151, 339.65, and 348.99565, F.S.; and repeals ss. 337.137, 348.9956, and 479.28, F.S.

II. Present Situation:

Requirements for FDOT District Secretaries and Enterprise Directors

Currently, s. 20.23, F.S., reads the “operations of the department shall be organized into seven districts, each headed by a district secretary, and a turnpike enterprise and a rail enterprise, each enterprise headed by an executive director. The district secretaries and the executive directors shall be registered professional engineers in accordance with the provisions of ch. 471, F.S. or, in lieu of professional engineer registration, a district secretary or executive director may hold an advanced degree in an appropriate related discipline, such as a Master of Business Administration.” Chapter 471, F.S., establishes detailed requirements for licensure and registration of professional engineers which include two examinations, the Fundamentals of Engineering Exam and the Principles and Practice Exam; a Bachelor of Science degree in engineering; four years of verified engineering experience; and payment of a number of fees.¹

Training Programs

FDOT has three different training programs which currently exist but are not codified in the Florida Statutes. According to the department’s website:

The Professional Engineer (P.E.) Training Program is the Department's premier instructional opportunity for graduate engineers, leading to professional registration and a career path in the exciting world of transportation engineering. The four-year, two-phase training program encompasses all aspects of the Department's operations and prepares the trainee for a role in organizational leadership.²

¹ Florida Board of Professional Engineers, Application Process, found at <http://www.fbpe.org/licensure/application-process>, last viewed on Feb. 3, 2012.

² Professional Engineer Training Program, Florida Department of Transportation, found at <http://www.dot.state.fl.us/projectmanagementoffice/PETTraining/default.shtm> Last viewed on Jan. 30, 2012.

The primary purpose of the [P.E.] Training Program is to provide graduate civil engineers with broad, practical experience in the field of transportation engineering, leading to registration as a licensed Professional Engineer in the State of Florida. Additionally, the program provides training in management and supervisory techniques to prepare the trainee for management and administrative functions within the Department.

The Professional Engineer Training Program is a four-year program divided into two components. The first component is the Engineer in Training (EIT): a 24-month rotational assignment encompassing most phases of the Department's work. The second component is the Senior Engineer in Training (SET): a 24-month internship combining on-the-job training in both the technical and managerial functions of a specific work area in the Department.³

The department also runs a Right of Way Training Program the purposes of which are to: improve professional competence; provide salary incentives; improve the right of way property acquisition process; and prepare employees for advancement.⁴

Citrus Harvesting Equipment

Currently, there is no specific exemption for citrus harvesting equipment from either the state motor fuel tax or from over-length violations under s. 316.515, F.S.

Agency for Enterprise Information Technology (AEIT)

The AEIT is created in s. 14.204, F.S. The Governor and Cabinet are the agency head of the AEIT, though it is statutorily housed in the Executive Office of the Governor (EOG). The AEIT is a separate budget entity that is not subject to control, supervision, or direction by the EOG in any manner. As agency head, the Governor and Cabinet are authorized to appoint an executive director, who is the chief information officer (CIO) of the state. Section 282.0055, F.S., delegates responsibility to the AEIT for the design, planning, project management, and implementation of enterprise information technology services for functions that have been previously delegated to executive branch agencies. The first enterprise IT service assigned to AEIT was the statewide data center system, in 2008.⁵ The AEIT was subsequently assigned enterprise responsibilities for information technology security and statewide email.

Among the duties assigned to the AEIT is the development of a work plan describing the activities that the agency intends to undertake each year, with proposed outcomes and completion timeframes.⁶ The work plan must be approved by the Governor and Cabinet and submitted to the President of the Senate and the Speaker of the House of Representatives.

³ Id. found at <http://www2.dot.state.fl.us/proceduraldocuments/procedures/bin/010000050.pdf>
Page 1, last viewed on Jan 30, 2012.

⁴ Right of Way Training Program, Florida Department of Transportation, found at <http://www.dot.state.fl.us/rightofway/documents/ROWmanual/ch13s01.pdf>
Last viewed on Jan. 30, 2012

⁵ Chapter 2008-116, L.O.F.; CS for SB 1892, which created the statewide data center system, and also made adjustments to the duties of the AEIT.

⁶ Section 282.0056, F.S.

The State Data Center System

The state data center system was created by the Legislature in 2008.⁷ The system is composed of primary data centers (Southwood Shared Resource Center, Northwood Shared Resource Center and the Northwest Regional Data Center), other nonprimary data centers, and computing facilities serving state agencies. A “primary data center” is a state or nonstate agency data center that is a recipient entity for consolidation of nonprimary data centers and computing facilities. A primary data center may be authorized in law or designated by the AEIT.⁸ A “computing facility” is an agency space containing fewer than 10 servers, any of which supports a strategic or nonstrategic information technology service, as described in budget instructions developed pursuant to s. 216.023, F.S., but excludes single-server installations that exclusively perform a utility function such as file and print servers.⁹

The AEIT is responsible for establishing operating policies for the system.¹⁰ It must:

- Maintain an inventory of facilities within the state data center system.
- Submit to the Legislature by December 31 of each year recommendations to improve the efficiency and effectiveness of computing services provided by state data center system facilities.
- Identify, by October 1 of each year, at least two nonprimary data centers or computing facilities for consolidation into a primary data center or nonprimary data center facility and submit a transition plan.
- Establish by December 31, 2010 an overall schedule of consolidation of all data centers into primary data centers by 2019.

Consolidation Efforts and the Office of Toll Operations of the Florida Turnpike Enterprise SB 2098, which passed in the 2011 session and is now codified into law, provided for the consolidation of most data centers of all state government agencies by and under the Agency for Enterprise Information Technology. The Office of Toll Operations of the FDOT’s Florida Turnpike Enterprise has unique and constantly evolving information technology and is also responsible for the processing of millions of credit card payments and the maintenance of databases containing private and protected customer financial information.

Seaport Funding

Section 311.07(2), F.S., currently requires that a minimum of \$8 million per year be made available from the State Transportation Trust Fund (STTF) to partially fund the FSTED Program. These funds are in addition to the annual appropriation of \$15M in license tag fees to the FSTED Program required under s. 320.20, F.S. These funds are used to fund eligible and approved port projects as provided in s. 311.07(3), F.S. The allocation and programming of funds is determined by FDOT.

The program has been consistently funded at \$15 million annually since 2004. Other seaport-related FDOT funding is currently limited to bond repayment, the Strategic Intermodal System program, and district discretionary funds. Eligible projects may be funded on a 50/50 basis by

⁷ Chapter 2008-116, L.O.F.; CS for SB 1892.

⁸ Section 282.0041(18), F.S.

⁹ Section 282.0041(8), F.S.

¹⁰ Section 282.201(2), F.S.

FSTED and the deepwater ports. However, projects involving the rehabilitation of wharves, docks, berths, bulkheads, or similar structures require only a 25% match. Program funds may also be used by the FSTED Council to develop trade data information products which will assist Florida's seaports and international trade. Previously, such data would have been developed with the Florida Trade Data Center. However, the authorizing language for the center was repealed in 2010.

Operation of Bicycles on Limited Access Highways

Under s. 316.003(19), F.S., 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." 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 for under s. 349.04(1), F.S.

Tolls on the State Highway System

Currently, several sections of ch. 338, F.S., set forth provisions related to tolling. Section 338.155, F.S., requires the payment of tolls on toll facilities with some exceptions (e.g., any person operating a fire or rescue vehicle when on official business). Section 338.165, F.S., authorizes the collection of tolls on a revenue-producing project after the discharge of any bond indebtedness and the use of this revenue; however, these provisions do not apply to high occupancy toll lanes or express lanes. Section 338.166, F.S., authorizes FDOT to request the issuance of bonds secured by revenues collected on high occupancy toll lanes or express lanes located on Interstate 95 in Miami-Dade and Broward Counties. FDOT is authorized to implement variable rate tolls on these lanes. This section of law also specifies, except for of high occupancy toll lanes or express lanes, no tolls may be charged for the use of an interstate highway where tolls were not charged as of July 1, 1997.

Toll Enforcement: the Definition of a Motor Vehicle

Currently, the definition of "motor vehicle" in chapter 316, F.S., is not the same as the definition for "motor vehicle" in chapter 320, F.S. The chapter 320, F.S., definition associated with motor vehicle registrations is more comprehensive.

For purposes of issuing a uniform traffic citation for non-payment of a toll, a photographic image of the rear license plate of the vehicle is recorded. For certain motor vehicle combinations, the trailer or rear part of the combination may have been leased to the owner or operator of the truck cab, and thus there may be more than one registered owner associated with the motor vehicle combination using the toll road.

Section 316.1001, F.S., provides the citation for the toll violation is to be mailed to the registered owner of the motor vehicle involved in the violation. The current definition for "motor vehicle" in ch. 316, F.S., indicates that a motor vehicle is self-propelled, while the broader definition for "motor vehicle" in ch. 320, F.S., for motor vehicle registrations also includes semi-trailers and other vehicles attached to a truck cab and allowed to be pulled while traveling on the roads. Because the toll enforcement camera equipment captures the image of the rear license plate, a violation delivered to the registered owner of the semi-trailer creates a legal issue as to whether the citation has been issued to the registered owner under the toll enforcement statute.

Payment of Tolls

Currently, only persons specifically exempted under s. 338.155, F.S., may use a toll facility without the payment of tolls. Such persons include:

...employees of the agency operating the toll project when using the toll facility on official state business, state military personnel while on official military business, handicapped persons as provided in this section, persons exempt from toll payment by the authorizing resolution for bonds issued to finance the facility, and persons exempt on a temporary basis where use of such toll facility is required as a detour route. [Also] [a]ny law enforcement officer operating a marked official vehicle is exempt from toll payment when on official law enforcement business. Any person operating a fire vehicle when on official business or a rescue vehicle when on official business is exempt from toll payment. Any person participating in the funeral procession of a law enforcement officer or firefighter killed in the line of duty is exempt from toll payment. [And] [t]he secretary, or the secretary's designee, may suspend the payment of tolls on a toll facility when necessary to assist in emergency evacuation.

Failure to pay a toll is a noncriminal traffic infraction under s. 316.1001, F.S.

Toll Violations: Mailed Toll Citations

Prior to 2010, s. 316.1001(2)(b), F.S., authorized a citation for failure to pay a toll to be issued by mailing the citation by first class mail, or by certified mail, return receipt requested, to the address of the registered owner of the motor vehicle involved in the violation. Mailing the citation to this address constituted notification. In an effort to improve due process, that provision was revised during the 2010 legislative session and currently provides that a citation issued for failure to pay a toll may only be issued by mailing the citation by first-class mail, return receipt requested, to the address of the registered owner of the motor vehicle involved in the violation, and that receipt of the citation constitutes notification.

This notification change during the 2010 legislative session increased the cost of toll enforcement for tolling agencies. The notification change during the 2010 legislative session also provided increased due process protections (receipt of the citation constitutes notification or service) for toll violators and created an enforceability issue for a majority of the citations issued whenever the violator's signature is not obtained on the mail receipt (thus no service of the citation). Within the past year and since the statutory change requiring certified mail return receipt requested, the percentage of citations returned with the violator's signature has fallen to 31 percent of the citations issued and mailed. According to FDOT, it is presently unable to enforce in court 69 percent of the citations issued to toll violators because the violator has not signed the receipt.

Collection of Tolls

According to FDOT, it currently can add a fee only for overdrawn SunPass accounts for which the customer agreement specifies the collection fee and it has many toll debts to be collected including some which are more than \$1000.

Administrative Fees on Toll Accounts

Currently, according to FDOT, no fees are levied on toll accounts which become inactive and such accounts must be maintained by the Florida Turnpike Office of Toll Operations indefinitely due to a lack of authority to close such accounts.

Electronic Toll Collection

Electronic Toll Collection (ETC) systems use vehicle-to-roadside communication technologies to perform an electronic monetary transaction between a vehicle passing through a toll station and the toll agency. ETC systems require onboard units (such as a transponder), vehicle detection and classification, as well as enforcement technologies. ETC equipment removes the need for manual collection of tolls at toll booths. ETC also allows transactions to be performed while vehicles travel at almost highway cruising speed. SunPass is an ETC system used by FDOT. Florida motorists may purchase a SunPass transponder which can be used electronically to pay tolls on Florida's toll roads and most toll bridges.

In 2007, the Legislature amended s. 338.161, F.S., to allow the Florida Turnpike and other tolling agencies to enter into contracts with private or public entities for the purpose of using electronic toll collection devices (transponders) for parking fees. Chapter 2007-196, Laws of Florida, allowed for feasibility studies and legislative approval for additional transponder uses.

Low Speed Vehicles

Currently, the definition of a "low speed vehicle" contained in s. 320.01(42), F.S., is any four-wheeled electric vehicle whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour, including neighborhood electric vehicles. Low-speed vehicles must comply with the safety standards in 49 C.F.R. s. 571.500 and s. 316.2122.

The Federal Aviation Administration (FAA) Airport Privatization Pilot Program

According to the FAA:

Congress established FAA's Airport Privatization Pilot Program to explore privatization as a means of generating access to various sources of private capital for airport improvement and development. Private companies may own, manage, lease and develop public airports. The Act authorized FAA to permit up to five public airport sponsors to sell or lease an airport and to exempt the sponsor from certain federal requirements that could otherwise make privatization impractical. The airport owner or leaseholder would be exempt from repayment of federal grants, return of property acquired with federal assistance, and the use of proceeds from the airport's sale or lease to be used exclusively for airport purposes. The pilot program began in September 1997.

On September 14, 2006, the City of Chicago submitted a preliminary application for Chicago Midway International Airport, a large hub airport. The pilot program can only include one large hub airport, so applications for other large hub airports will be placed on a standby list.

As of October 25, 2010, there were four active applications in the program.

- Chicago Midway International Airport;
- Gwinnett County Briscoe Field;
- Luís Muñoz Marín International Airport; and
- Hendry County Airglades Airport.¹¹

FDOT Landscaping and Highway Beautification Projects

By policy, FDOT strives to conserve, protect, restore, and enhance Florida's natural resources and scenic beauty. Consistent with s. 334.044(26), F.S., the department allocates no less than 1.5 percent of the amount contracted for construction projects in each fiscal year to beautification programs. In implementing the policy and the statute, FDOT:

- Integrates highway beautification into the processes that are used to plan, design, construct and maintain roadways;
- Uses color, texture, pattern, and form to develop naturally beautiful and enjoyable transportation facilities that are context sensitive, and conserve scenic, aesthetic, historic, and environmental resources while maintaining safety and mobility;
- Makes use of innovative design strategies to minimize costs of high quality vegetation management; and
- Uses innovative vegetation management practices and measures to maintain safety, improve aesthetics and environmental quality, while reducing life cycle costs.

In 2009, FDOT allocated \$41,819,034 comprising 2.44 percent of the amount contracted for construction projects.

Bridge Safety Inspections

Section 335.074, F.S., currently requires each bridge on a public transportation facility to be inspected for structural soundness and safety for the passage of traffic on such bridge at regular intervals not to exceed two years. The governmental entity having maintenance responsibility for any such bridge is deemed responsible for having inspections performed and reports prepared in accordance with the provisions of that section. Section 316.555, F.S., authorizes FDOT and local authorities with regard to bridges under their respective jurisdictions to prescribe by specified notice loads, weights, and speed limits lower than the limits otherwise prescribed by law; and to regulate or prohibit by notice the operation of any specified class or size of vehicles. However, neither s. 335.074, F.S., nor s. 316.555, F.S., authorize FDOT to take any action to ensure that locally owned bridges are inspected or physically posted or closed.

FDOT recently received from the Federal Highway Administration clarification of the responsibilities of state Departments of Transportation for locally owned highway bridges under the National Bridge Inspection Program (NBIP). The FHWA in its memo of June 13, 2011, advises in part:

It is clear from the language of 23 U.S.C. 151 that a State is ultimately responsible for the inspection of all public highway bridges within the State, except for those that are federally or tribally owned. ... The State may delegate bridge inspection policies and procedures...to smaller units

¹¹ Federal Aviation Administration, Airport Privatization Pilot Program, found at http://www.faa.gov/airports/airport_compliance/privatization/, last viewed on Feb. 3, 2012.

of the State like a city or county. However, such delegation does not relieve the State transportation department of any of its responsibilities under the NBIS. ... Because of the fundamental relationship established in Title 23 of the U.S. Code between the FHWA and a State, if the inspections by a city or county were not done in accordance with the NBIS, the FHWA could take action against the State for failure to comply with Federal laws and regulations.

The NBIS was established under Title 23 in order to preserve the safety of ... all highway bridges, not just those directly under State jurisdiction. ... States *must* establish the necessary authority to take whatever action is needed to ensure that the intentions of Congress and the expectations of the public are executed to their fullest extent. State DOTs are required to have adequate powers to discharge the duties required by Title 23 (see 23 U.S.C. 302 and 23 CFT 1.3).

Ideally, States that do not currently have the authority to post or close a local bridge will take action to gain that authority in the interest of safety to the travelling public without the need for aggressive action by FHWA.

Currently, FDOT obtains compliance from local agencies by persuasion; however, except for the withholding of Federal Highway funds to the local agency, FDOT has no authority to post or close a local bridge. The State is, therefore, subject to potential action by the FHWA, which could result in the loss of federal funds.

Noise Abatement on Highway Construction

The Federal Highway Administration, in accordance with 23 C.F.R. 772, issued a regulation on July 23, 2010 (effective July 13, 2011), amending the federal “Procedures for Abatement of Highway Traffic Noise and Construction Noise.” The changes in the procedures have no effect on current FDOT policy or procedures, but s. 335.17, F.S., needs to be updated to change the date of the regulation.

Additionally, s. 335.17, F.S., currently directs FDOT to make use of noise-control methods in the construction of all “new state highways;” however, the federal regulations require consideration of noise-control methods for capacity expansion, as well, and FDOT already undertakes such consideration as required by federal law.

Ninth Cent Fuel Tax

The Ninth-Cent Fuel Tax is a tax of 1 cent on every gallon of motor and diesel fuel sold within a county. The tax may be authorized by an ordinance adopted by an extraordinary vote of the governing body or voter approval in a county-wide referendum. Generally, the proceeds may be used to fund transportation expenditures.

Under ss. 206.41(1)(d), 206.87(1)(b), and 336.021 F.S., any county in the state may levy a 1 cent per gallon tax on motor and diesel fuels sold in the county by extraordinary vote of the membership of its governing body or voter approval in a county-wide referendum. However, this tax shall be imposed on diesel fuel in each county as the result of statewide equalization. The tax

must be imposed before July 1 in any given year to be effective January 1st of the following year.

1 to 6 Cents Local Option Fuel Tax

Local governments are authorized to levy a tax of 1 to 6 cents on every net gallon of motor and diesel fuel sold in a county. This tax may be authorized by an ordinance adopted by a majority vote of the governing body or voter approval in a county-wide referendum. Generally, the proceeds may be used to fund transportation expenditures.

Under ss. 206.41(1)(e), 206.87(1)(c), and 336.025, F.S., this tax may be levied by an ordinance adopted (under one of two sets of circumstances, whichever is applicable) by a majority vote of the county's governing body or upon approval by referendum. If no interlocal agreement or resolution is adopted pursuant to the procedures setting out the two sets of specified circumstances, then municipalities representing more than 50 percent of the county population may, prior to June 20th, adopt uniform resolutions approving the tax, establishing the duration of the levy and the rate, and setting the date for a county-wide referendum on whether or not to levy the tax. A referendum shall be held in accordance with the provisions of such resolution and applicable state law, provided that the county shall bear the costs of such referendum. The tax shall be levied and collected countywide on January 1st, following 30 days after voter approval.

This tax shall be imposed on diesel fuel in each county at the maximum rate of 6 cents per gallon as the result of statewide equalization.

1 to 5 cents Local Option Fuel Tax

County governments are authorized to levy a tax of 1 to 5 cents upon every net gallon of motor fuel sold within a county. Diesel fuel is not subject to this tax. Pursuant to ss. 206.41(1)(e) and 336.025, F.S., the tax may be levied by an ordinance adopted (under one of two sets of circumstances) by a majority plus one vote of the county's governing body or upon approval by referendum. The tax proceeds may be used for transportation expenditures needed to meet the requirements of the capital improvements element of an adopted local government comprehensive plan. With certain exception, this tax shall be levied before July 1st to be effective January 1st of the following year.

Advertising for Bids

Currently, s. 337.11(3)(a), F.S., states all construction contracts of \$250,000 or less, and any construction contract of less than \$500,000 for which the department has waived prequalification under s. 337.14, F.S., the department shall advertise for bids in a newspaper having general circulation in the county where the proposed work is located. Publication shall be at least once a week for no less than 2 consecutive weeks, and the first publication shall be no less than 14 days prior to the date on which bids are to be received.

Removal or Relocation of Monuments from Rest Areas

The 2005 Legislature created the "Ellwood Robinson 'Bob' Pipping, Jr., Memorial Act" (act), codified in s. 337.111, F.S. The stated purpose of the act was creating "an environment in which state residents and visitors will be reminded of the accomplishments made by military veterans in past conflicts and the continuing sacrifices made by veterans and their families to protect the freedoms we enjoy today." The act authorizes FDOT to enter into contracts, as approved by a

reviewing committee, with not-for-profit groups or organizations, for the installation of monuments and memorials honoring Florida's military veterans at highway rest areas around the state.¹²

The act requires the group or organization making the proposal to be responsible for all costs of the monument and its installation. The act also requires the group or organization to provide a 10-year bond securing the cost of removal or relocation or necessary modifications of the monument in the event the department determines such actions are necessary.

Following passage of the act, an interested group sought installation of a monument (a replica of the Iwo Jima Memorial) in a department rest area but was unable to obtain a 10-year bond from the bonding industry. The bonding industry has reservations about issuing such bonds, and the monument has not been installed.

Disadvantaged Business Enterprises

The Code of Federal Regulations applicable to the DBE Program changed significantly in 1999, and the Florida Statutes have not been updated to reflect these changes. Specifically, the new federal regulations deleted the 10 percent requirement and required each state to follow a methodology to develop their own goals. Certain DBE certification issues were also changed to clarify that a certified DBE is always certified until their certification is removed, and the recertification process has been changed to an annual affidavit of continuing eligibility.

Financial Statements

Section 337.14, F.S., currently requires any person desiring to bid for the performance of any FDOT construction contract in excess of \$250,000 first be certified by FDOT as qualified. Each application for certification of qualification must be accompanied by the latest annual financial statement of the applicant completed within the last twelve months. If the application or the annual financial statement shows the financial condition of the applicant more than four months prior to the date on which the application is received by FDOT, then an audited interim financial statement must be submitted and accompanied by an updated application.

This statute was last revised in 2010 (s. 21, ch. 2010-225, L.O.F.) in an effort to remove apparent confusion. Contractors did not understand they must submit the audited financial statements and the application for qualification within the currently specified four month period. Contractors often submitted the application for certification of qualification, or the financial audit, rather than both, which are required when the last financial audit on file with FDOT is more than four months prior to the date FDOT received the application. However, confusion still appears to exist, as contractors continue to incur expenses associated with audited interim financial statements.

Utility Relocations

Section 337.401, F.S., addresses the use of road and rail corridor right-of-way by utilities, authorizing FDOT and local government entities to prescribe and enforce reasonable rules or

¹² Note: FDOT's handbook on installation of such monuments can be found at:
<http://www.dot.state.fl.us/statemaintenanceoffice/MemorialsonDOTRightofWayProcedure.pdf>

Last viewed on Jan. 27, 2012

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., requires utility owners to remove or relocate utilities at their own expense when the utility interferes with the safe continuous use, maintenance, improvement, extension or expansion of the road or rail corridor. The utility, upon 30 days written notice, is required to remove or relocate the utility at its own expense subject to the certain exceptions. 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.

Americans with Disabilities Act (ADA)

The ADA is a federal civil rights law that requires, among other things, pedestrian facilities to be accessible to and usable by all people, including those with disabilities. Local jurisdictions, and other entities covered by the ADA, must ensure the facilities they build or alter comply with ADA requirements.

The ADA accessibility guidelines specify the minimum level of accessibility in new construction and alteration projects and serve as the basis for enforceable standards maintained by other agencies. The guidelines focus mainly on facilities and certain features common to public sidewalks, such as curb ramps, signs, street furniture (including bus stops and shelters), and landscaping that may obstruct the walking path or become protruding objects if located within, adjacent to, or above a sidewalk.

Bus Stops and Transit Shelters on State Roads

Local governments are authorized to install bus benches and transit shelters at designated stops on official bus routes including within the right-of-way of state roads (except limited-access facilities.) FDOT 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. FDOT 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 ADA. However, FDOT may be liable for such non-compliance and subject to legal action as a result of its jurisdiction over the State Highway System. FDOT 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.

Florida Intrastate Highway System and the Strategic Intermodal System

The 1990 Legislature created s. 338.001, F.S. requiring the department to develop a Florida Intrastate Highway System (FIHS) Plan. The department identified candidate routes after reviewing local transportation plans, Metropolitan Planning Organization (MPO) plans, and the results of statewide planning studies. In January 1991, the department submitted the Florida Transportation Plan to the Legislature, including an initial FIHS network map and preliminary standards and formally adopted the standards in 1992. The section also requires a status report on the FIHS Plan be provided annually to the Legislature's transportation committees.

The Strategic Intermodal System Plan (SIS) was established by the Florida Legislature in 2003 to enhance Florida's economic prosperity and competitiveness. FDOT works with its partners to

determine investment needs based on the performance of the transportation system relative to the goals and objectives of the SIS. Chapter 339, F.S., includes provisions for developing and updating the SIS. The system encompasses transportation facilities of statewide and interregional significance and is focused on the efficient movement of passengers and freight. The SIS Highway Component was designated using the SIS/Emerging SIS criteria and thresholds and comprises:

- Interstate Highways;
- Florida's Turnpike;
- Selected urban expressways;
- Major arterial highways;
- Intermodal connectors between SIS; and
- Emerging SIS hubs and SIS corridors.

The SIS Highway Component consists of 3,531 miles of SIS Highways and 761 miles of Emerging SIS Highways. In total, the SIS Highway Component is less than 4 percent of Florida's roads, yet carries almost 30 percent of all traffic. It carries more than two-thirds of all truck traffic using the State Highway System.

All but a few highway miles in the FIHS are also in the SIS, which is why the 2010 SIS Strategic Plan, developed by the department and its partners, includes a recommendation to sunset the FIHS as a separate statewide highway network to simplify the planning process. Currently, s. 338.001, F.S., only deals with the FIHS, a portion of the SIS highway component.

Economically Feasible: Definition

Section 338.223, F.S., requires any proposed Turnpike project must be "economically feasible" as defined in s. 338.221(8), F.S. Economic feasibility is currently defined as the estimated net revenues of a proposed project sufficient to pay 50 percent of the annual debt service by the end of the 12th year of operation and sufficient to pay 100 percent of the annual debt service by the end of the 22nd year of operation.

Economic feasibility is a financial tool used to objectively compare the cost versus the benefit of a capital project. The purpose of the test of economic feasibility is to evaluate the ability of a proposed Turnpike project to generate sufficient net revenue to satisfy its debt service requirements. However, there is no standard calculation used by toll agencies, authorities or expressways. Because of the long-term nature of transportation projects, comparing the net revenue to the annual debt service at the 12th and 22nd years underestimates the value of the transportation project over its service life, which is well beyond 22 years.

Proposed Turnpike Projects

FDOT has been encouraged to pursue innovative highway projects in accordance with s. 337.025, F.S., which also provides FDOT's annual cap of \$120 million in contracts for such innovative highway projects shall not apply to Turnpike Enterprise projects, and Turnpike Enterprise projects shall not be counted toward the annual cap. However, before the Turnpike Enterprise may construct a new Turnpike project the requirements set out in s. 338.223, F.S., must be met. One of the requirements in s. 338.223, F.S., is that the design phase of a proposed Turnpike project must be at least 60 percent complete before FDOT may request approval from the Legislature to construct the project. At the 60 percent plan phase, most of the design of the

project is essentially completed, and the potential advantages and opportunities provided with innovative highway projects, such as design-build projects, are substantially diminished.

Amendment Notifications for the Adopted Work Program

FDOT is responsible for the development of a Transportation Five-Year Work Program (s. 339.135, Florida Statutes) which lists transportation projects scheduled for implementation during the ensuing five-year period. Dynamic circumstances may result in changes to projects which require review by the Governor and the Legislature. Actions transferring fixed capital outlay appropriations for projects within the same appropriations category must be submitted to the Governor's Office for approval based on the following thresholds:

- any amendment that deletes any project or project phase;
- any amendment that adds a project estimated to cost over \$150,000; any amendment that advances or defers to another fiscal year a right of way phase, a construction phase, or a public transportation project phase estimated to cost over \$500,000, except an amendment advancing or deferring a phase for a period of 90 days or less; and
- any amendment that advances or defers to another fiscal year any preliminary engineering phase or design phase estimated to cost over \$150,000, except an amendment advancing or deferring a phase for a period of 90 days or less.

Transportation Planning

Federal law requires states to adhere to certain requirements in the transportation planning process. On occasion, these federal requirements have been amended, and the State of Florida has revised its statutes from time to time in accordance with federal revisions as they have occurred. As to more recent changes, 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.

Subsequently, the Transportation Equity Act for the 21st Century (TEA-21) was passed by Congress in June of 1998, which consolidated the statewide and metropolitan planning factors into seven broad areas to be considered. Florida law was amended by the 1999 Legislature (HB 591) to accommodate the TEA-21 revisions, and s. 339.155, F.S., currently reflects the seven broad factors to be considered in the planning process. However, the 2005 federal legislation, the 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. Once again, Florida's statutes do not accurately reflect the most recent federal requirements that must be adhered to in statewide transportation planning.

Further, the federal requirement that each state have a "Long-Range Transportation Plan" was amended in the SAFETEA-LU legislation to be a "Long-Range Statewide Transportation Plan." Federal legislation has not required a short-range component of the long-range plan or an annual performance report. The department has, in the past, issued a separate Short Range Component of the Florida Transportation Plan and an Annual Performance Report, but most recently combined those reports into a single report. The Short Range Component is not an annual update of the Florida Transportation Plan but rather documents FDOT's efforts to implement the Florida Transportation Plan. The department and the Florida Transportation Commission conduct extensive performance measurement of Florida's transportation system and FDOT's activities.

An annual Long Range Program Plan is also submitted by the department to the Governor and Legislature reflecting state goals, agency program objectives, and service outcomes.

Florida Transportation Plan

The Florida Transportation Plan (FTP) establishes long range goals to provide a policy framework for expenditure of federal and state transportation funds in Florida. Development of the FTP includes local, regional, and state partners who make decisions about future transportation investments. Every five years, FDOT updates this plan to respond to new trends and challenges to meet the future mobility needs of Florida's residents, visitors and businesses.

MPO Membership

Federal laws and regulations allow the State and units of local government to determine the composition of Metropolitan Planning Organizations (MPOs) "in accordance with procedures established by applicable State or local law." Section 339.175(4), F.S., establishes the process for determining membership on Florida MPOs. That section requires representation by FDOT on each MPO. However, such representation is limited to non-voting membership. Irrespective of FDOT representatives' inability to vote or participate in official acts of the organization, membership on the MPO subjects their interaction with other MPO members to certain public meeting requirements.

Statewide Intermodal Transportation Advisory Council

Chapter 339, F.S., also created the Statewide Intermodal Transportation Advisory Council (SITAC) and provided for initial membership appointment in January 2005. This council assisted in developing the initial 2005 SIS Strategic Plan. Subsequent to January 16, 2005, no further appointments to the SITAC have occurred and the council no longer officially convenes; however, all of the members' organizations have been included in the ongoing planning and updating of the SIS plan.

South Florida Regional Transportation Authority (SFRTA)

SFRTA provides bus and commuter rail service in Miami-Dade, Broward, and Palm Beach Counties. This service area may currently be expanded by mutual consent of the authority and the board of county commissioners representing the proposed expansion area. The governing board of the SFRTA consists of nine voting members: a county commissioner of Miami-Dade County, Broward County, and Palm Beach County; three citizen members, one appointed by each County commission; the FDOT District Secretary from either District 4 or 6; and two members appointed by the Governor who must reside in the two counties that the District Secretary does not reside within.

Expressway and Bridge Authorities

Toll facilities have been used throughout Florida as a means of financing road and bridge construction for many years. Very early in the state's history, most toll roads and bridges were constructed by private individuals or firms. Later, state governmental entities (Florida Department of Transportation and the Florida Turnpike Authority) began constructing toll facilities.

In more recent years, toll facilities have been financed and constructed by specially created units of government operating primarily under local government control through boards or

commissions. Those units under local government control, usually characterized as expressway or bridge authorities, arrange for construction of the facilities, including the required debt financing.

Generally, toll facilities are designed to be self-supporting projects, i.e., the costs of construction, operation, and maintenance are recovered from toll revenues generated by users of the facility.¹³ Since tolls cannot be collected until the facility is completed and open to traffic, construction financing must come from another source. Usually, this source is revenue bonds issued by the facility's operator. The proceeds of the bond issue are used to pay for the facility's construction, and the debt is repaid over a 20-40 year term from pledged toll revenues. Florida toll revenue bonds do not pledge the full faith and credit of the State and do not accrue against the state's statutory bonding cap found in s. 215.98, F.S.

Revenue bonds are sold under the provisions of a bond resolution formalizing the payment and security provisions for the bonds. One of the more significant provisions addressed in a revenue bond resolution specifies whether bondholders will have a claim on net revenues or gross revenues. Throughout the country, the standard pledge for toll facility revenue bondings is a net revenue pledge. Net revenues are defined as gross toll revenues less operation and maintenance (O&M) expenditures. The rationale for the pledge of net revenues for toll road bonds is that toll roads must be maintained to operate at high levels of service in order to attract users who are willing to pay tolls rather than use non-tolled facilities. Therefore, around the country, most revenue bond resolutions provide for O&M to be paid before debt service. This has not been the case in many recent Florida toll facility revenue bond issues which are, instead, associated with lease-purchase agreements.

Lease purchase agreements are currently in place for the Mid-Bay Bridge Authority, Santa Rosa Bay Bridge Authority, Orlando-Orange County Expressway Authority, and Tampa-Hillsborough County Expressway Authority.¹⁴ In a typical lease-purchase agreement between the department and an expressway authority, the department, as lessee, agrees to pay the O&M (which usually includes replacement and renewal, or R&R) costs of the associated toll facility. Upon completion of the lease-purchase agreement, ownership of the facility would be transferred to the State and the department would retain all revenues collected, as well as the O&M responsibility. The department assumes a position which permits reimbursement of O&M costs only after the authority's debt service and administrative cost requirements have been satisfied.

These agreements benefit the toll authorities by delaying when the authority (the lessor) is responsible for paying for the financial obligations of operating and maintaining the system. Further, the department's irrevocable agreement to pay the operations and maintenance expense of a project financed by bond proceeds provides additional bonding capacity and enhances the

¹³ Where there is no traffic or revenue history, traffic demand forecasts and revenue projections serve as the basis for assessing the economic feasibility of proposed toll facilities. Sections 338.223(1)(a), and 338.2275, F.S., ensure that a uniform test is used to determine if Turnpike projects are economically feasible before the department may fund or fully implement such projects. Non-Turnpike projects are subject only to the bond testing, i.e., whether sufficient financing will be available from the sale of revenue bonds.

¹⁴ Tolling authorities are authorized in various sections of ch. 348, F.S., except for the Mid-Bay Bridge Authority, which is authorized under ch. 2000-411, L.O.F.

credit quality of the bonds by making gross toll revenues available for debt service rather than net toll revenues. This also provides for calculation of gross debt service coverage ratios rather than net debt coverage ratios, thus enabling the authority to secure more favorable revenue bonding terms. Doing so enhances the credit quality of the authority's toll revenue bonds and improves cash flow during the early years of a project when toll revenues are "ramping up," both of which improve the financial feasibility of the projects. Additionally, when an agreement includes provisions for the department to operate and maintain the toll facility, bondholders receive additional assurance, inherent to the department's significant experience with toll facilities, that the facility will be adequately operated and maintained.

Mid-Bay Bridge Authority

In 1986, the Legislature created the Mid-Bay Bridge Authority (MBBA or authority) as the governing body of an independent special district in Okaloosa County for the purpose of planning, constructing, operating and maintain a bridge crossing Choctawhatchee Bay. The authority operates the three-mile long Mid-Bay Bridge across the Choctawhatchee Bay and four-miles in approaches (SR 293) on the northern and southern sides of the bridge. The facility, which connects SR 20 with U.S. Highway 98 east of Destin is a link between Interstate 10 and U.S. 98 and provides a more direct route to tourists and residents between northern and southern Okaloosa and Walton counties.¹⁵ Florida's Turnpike Enterprise provides toll plaza operations for the MBBA.

The Department of Transportation, under the provisions of a lease-purchase agreement with the authority, maintains and operates the bridge and remits all of the tolls collected to the authority as lease payments. The term of the lease runs concurrently with the bonds issued by the authority, and when the bonds are matured and fully paid, the department will own the bridge. As of June 30, 2011, the authority's long-term debt obligation to FDOT for O&M pursuant to the existing LPA was \$16.1 million. In accordance with bond covenants, this liability is payable from excess toll revenues, after debt service obligations have been met.

The Florida Turnpike Enterprise provides toll plaza operations for the MBBA. Gross toll revenue for the period of July 1, 2010 through June 30, 2011 was \$15,200,000 and revenues are projected to be \$15,476,000 for the fiscal year ending September 30, 2011. Approximately \$8.7 million of that revenue was from SunPass collections.

Tampa-Hillsborough County Expressway Authority

The Tampa-Hillsborough County Expressway Authority (THEA or authority) was created in 1963 as an agency of the state under ch. 348, F.S., for the purposes of and having the authority to construct, reconstruct, improve, extend, repair, maintain and operate the expressway system within Hillsborough County. THEA owns the Selmon Expressway, a 15-mile, four-lane, limited-access toll road traversing the city of Tampa from Gandy Boulevard in south Tampa, through downtown Tampa and east to I-75 and Brandon. The Selmon Expressway connects St. Petersburg (via the Gandy Bridge) with Tampa and Brandon. Since their opening in August 2006, Reversible Express Lanes (REL) in the median of the Selmon Expressway, operate in the peak travel direction depending on the time of day. The authority, estimates approximately \$40,476,072 million toll revenue collections in FY 2010-11. This includes cash collections,

¹⁵ Senate Issue Brief 2012-208, Cost Effectives of Regional Expressway and Bridge Authorities (September 2011)

SunPass and Video Revenue from toll violations. Of this amount approximately \$32 million, or 80 percent is attributed to SunPass revenue.

In 1997, THEA and FDOT entered into a LPA which superseded previous LPAs from 1971 through 1978. Under the requirements of the 1997 LPA, the department is reimbursed for O&M and long-term debt, if toll revenues are sufficient, after the authority pays its current year debt service. Since FY 2001, THEA has reimbursed the department for the annual O&M expenses which were programmed in the authority's adopted budget. O&M expenses in excess of the adopted budget and renewal and replacement costs are added to the THEA's long-term debt on an annual basis. If the amount is not fully reimbursed annually, the payments are added to the THEA's long term debt owed to the department. The THEA is required to repay the long term debt from net toll revenues only after all other obligations have been met. As of June 30, 2011, THEA's liability to FDOT for O&M was \$122.6 million.

In 2009, the Legislature revised s. 348.54, F.S., to authorize THEA to issue toll revenue bonds without using the services of the Division of Bond Finance of the State Board of Administration and without obtaining the department's consent. However, an October 2010 Memorandum of Agreement (MOA) between the authority and the department, requires the department's consent prior to bond issuances by THEA. The MOA also provides for the repayment of the O&M liability and future liabilities for THEA capital projects in the FDOT Work Program. The payments are scheduled in FY's 2013-14 and 2014-15, and the remaining debt will be repaid in twenty annual installments of \$12.3 million beginning in FY 2025-26 and continuing through FY 2044-45.

In 2009, THEA gave Electronic Transactions Corporation (ETC) notice to proceed with the implementation of a new back office solution and operations including a customer service center, toll enforcement center, and host and interoperability. The solutions and operations are being provided through a contractual agreement with the Miami-Dade Expressway Authority (MDX), for which ETC is also providing advanced roadside and back office solutions as well as customer service operations. Through the arrangement with MDX, ETC provides THEA's systems and services via the technical infrastructure and operations facilities developed for MDX.¹⁶

Orlando-Orange County Expressway Authority

The Orlando-Orange County Expressway Authority (OOCEA or authority) is an agency of the state, created in 1963 under ch. 348, F.S., for the purpose of construction and operation of an expressway road system in Central Florida. OOCEA has the statutory authority to construct, operate, and maintain roads, bridges, avenues of access, thoroughfares, and boulevards together with authority to construct, repair, replace, operate, install, and maintain electronic toll payment systems outside of Orange County with the respective county's written consent. OOCEA is also authorized to issue toll revenue bonds to finance portions of the system.

In 2000, OOCEA reached a milestone with the implementation of Open Road Tolling or Express E-PASS lanes with the opening of SR 429 Forest Lake mainline toll plaza and embarked on a program to convert all existing mainline toll plazas to express by the year 2009. All new

¹⁶ ETC Electronic Transaction Consultants website, <http://www.etc.com>, last visited on February 10, 2012.

mainline toll plazas include Open Road Tolling Express E-PASS lanes. OOCEA collects approximately \$260 million in toll revenues from both cash and electronic collections

OOCEA currently owns and operates 105 miles of roadways in Orange County. The roadways include:

- 22 miles of the East-West Expressway (SR 408);
- 23 miles of the Beachline (formerly Beeline) Expressway (SR 528);
- 33 miles of the Central Florida GreeneWay (SR 417);
- 22 miles of the Daniel Webster Western Beltway (SR 429); and
- 5 miles of the John Land Apopka Expressway (SR 414).

OOCEA first entered into a LPA with the department (at that time known as the State Road Department) in 1964 to develop the Beeline (currently Beachline) Expressway. In that agreement, the department agreed to assume O&M cost for the Beeline and to remit toll revenues to OOCEA which were to be used for the retirement of debt service on OOCEA's \$7 million bond issue for the construction of the original 17.5 mile facility. In 1971, OOCEA issued additional bonds worth \$70.5 million to finance construction of the East-West Expressway and the associated lease-purchase agreement required all excess revenues to be used for debt service. Additional bond sales in 1985 and 1986 yielded significant changes to the lease-purchase agreement and the bonds' Master Resolutions. The current lease-purchase agreement supports the O&M costs associated with the 1965 project (Beachline) – maintenance only, the 1970 project (East-West) and the 1980 project (Airport). Each time the authority sold bonds and amended the lease-purchase agreement, the term of the agreement was extended.

In 2002, the Legislature authorized OOCEA to issue bonds without using the services of the Division of Bond Finance to finance legislatively-approved projects and to refinance existing bonds. Bonds issued by OOCEA are statutorily limited to a 40-year maturity. Bonds are payable from and secured by a pledge of net toll revenues collected from the operation of the expressway system. The authority's current 5-Year Work Plan contemplates the sale of an additional \$390 million in bonds; however, these plans will likely change as OOCEA and the department are working towards a partnership agreement to facilitate construction of the Wekiva Parkway.

The department's contribution for maintenance costs for which it is obligated is determined by a formula tied to the road's rating under the departments Maintenance Rating Program. Under an Interagency Agreement between the department and OCCEA, a quarterly lump sum payment is made to OOCEA for the maintenance obligation. Costs of operations paid by the department are based on actual expenses and payments are made to OOCEA on a monthly basis. The OCCEA is reimbursed by the department for a portion of the O&M costs (subject to legislative appropriation) of the Beachline Expressway, the East-West Expressway, and the Airport Interchange which are recorded as advances because these are to be repaid to the department from future toll revenues after all bonds are retired and all other financial obligations have been met. The lease-purchase agreement will remain in effect until such time as all bonds issued under the Master Bond Resolution (and any bonds refunding same) have been fully paid and discharged and the department has been reimbursed for all amounts to which it is entitled under the lease- purchase agreement.

OOCEA's obligation to FDOT for O&M expenses and improvements is currently \$235.6 million. The subordinate nature of the OOCEA's obligations to the department, as structured by the lease-purchase agreement and bond resolutions, would not require their repayment until the year 2042.

Florida's Turnpike Enterprise

Florida's Turnpike was created in 1953 as the Florida State Turnpike Authority. The State Turnpike authority became part of the department in 1969. The Turnpike was reorganized as an Office within the department in 1988 and as a district in 1994.

The Florida Turnpike Enterprise, a business-focused organization within the Department, was created by the Legislature in 2002 to manage the Turnpike System ("Turnpike"). The Turnpike is a system of toll-financed expressways serving sixteen Florida counties covering 460 miles.

Turnpike System facilities include:

- Mainline: A 320 mile, multi-lane facility extending from Florida City in Miami-Dade County Northward to Wildwood in Sumter County.
- Sawgrass Expressway: A 23 mile, four-lane limited-access toll facility beginning with a connection to I-595 and I-75, extending north, then east, to Power line Road (between the Mainline and I-95) in Broward County;
- Polk Parkway: A 25 mile limited-access toll facility that forms a partial loop around the south side of the city of Lakeland, connecting I-4 at Clark Road on the west and Mt. Olive Road on the east;
- Veterans Expressway: A 15 mile, four-lane limited-access toll facility extending north from the Courtney Campbell Causeway (SR 60) near the Tampa International Airport to Dale Mabry Highway (SR 597) north of Van Dyke Road;
- Suncoast Parkway: A 42 mile, four-lane facility limited access toll facility that extends from Veterans Expressway near Van Dyke Road in Hillsborough County, northward through Pasco County, ending at US 98 in Hernando County;
- Seminole Expressway: An 18 mile four-lane limited access toll facility that connects with the Central Florida GreeneWay, a toll facility operated by OOCEA, at SR 426 in east Orlando.
- Southern Connector Extension: A 6 mile, four-lane limited access toll facility that connects the Central Florida GreeneWay southwestward to I-4 in Osceola County; and
- Western Beltway Part C – An 11 mile limited access toll facility extending from I-4 in Osceola County across US 192 to Seidel Road in Orange County.

The Turnpike includes eight service plazas located along the Mainline. These plazas contain restaurants, concessions, and service stations for the benefit of patrons. In Fiscal Year 2010-11, the Turnpike Enterprise generated and estimated \$600,897,000 million in toll revenue and concession revenues of \$8,832,000¹⁷. These revenues support the repayment of bonds issued to build turnpike projects, and finance the operation and maintenance of the system.

Division of Bond Finance

The Division of Bond Finance (Division) of the State Board of Administration (SBA) is authorized to issue bonds for or on behalf of state agencies and authorities unless otherwise provided by law.

¹⁷ Forecasted revenues from 2011 Adopted Finance Plan (without effects of indexing).

The Division's policy is to sell bonds via competitive sale, unless market conditions or other circumstances indicate a negotiated sale would be in the best interest of the State. Before making a recommendation to negotiate a sale, the Division prepares an analysis which outlines the reasons a negotiated sale would be preferred for a particular issue. As required by rule, the analysis must take into account market conditions, credit quality, size and structure, and anticipated changes in law. The Division's governing board (the Cabinet) reviews the analysis, approves the negotiated sale, and prepares an authorizing resolution which includes the reasons for choosing the negotiated sale method.

For negotiated sales, underwriters are selected through a Request for Proposal (RFP) process. The Division prepares the RFP, and then a selection committee reviews, grades, and ranks the proposals received. The selection committee is usually comprised of staff of the Division, and may also include staff of the agency for which the bonds are being issued, and cabinet aides. Each member of the selection committee reads and grades each proposal without discussion with anyone else. The individual scores are then combined and the firms are ranked based upon the scoring. The Division's governing board selects underwriters based on the results of the ranking process.

The department has a liability under Lease-Purchase Agreements with regards to authority operations and maintenance costs. Higher interest costs and unconventional debt structures pose additional risk to the department in terms of getting reimbursed for such costs.

The Turnpike Enterprise utilizes the Division of Bond Finance for bond issuances as did THEA, until 2009 legislation authorized the authority to issue bonds on its own. Other tolling authorities owing debt to the state and with bond issues not handled by Bond Finance include:

- MBBA – 2011 \$144 million at 7+% with springing lien feature;
- SRBBA (Garcon Point) – Currently in default on outstanding bonds; and
- OOCEA – Bonds have been issued with variable rate swaps rather than a fixed rate. If OOCEA chose to return to a fixed rate, additional costs could be incurred through refinancing.

Government Efficiency Task Force

The Government Efficiency Task Force created by Article III, section 19(i) of the Florida Constitution, s. 11.9005, F.S., convened in 2011 to develop recommendations for improving government operations and reducing costs. The Task Force met on November 16, 2011, and approved the following recommendations related to Expressway and Bridge Authority Consolidation:

- An independent party who specializes in best management practices should assist in effectively consolidating the administrative functions of the OOCEA and THEA into Florida's Turnpike Enterprise;
- If THEA and OOCEA are consolidated into Florida's Turnpike Enterprise, all revenue collected in the regions should be spent within the region and local boards should be maintained to make policy decisions on road construction;
- Consolidate MBBA into Florida's Turnpike Enterprise;

- Consolidate all toll collections into a single entity and system, including all administrative functions, software and information technology systems, accounting, collection personnel, enforcement, customer service and billing; and
- Require regional toll agencies to benchmark regional and state transportation and authority salaries to avoid possible excess salaries.

Public Meetings

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.¹⁸

Article I, section 24 of the Florida Constitution, chs. 119 and 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 chapter 119, F.S., any agency¹⁹ 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.

Environmental Mitigation for Transportation Projects

Enacted in 1996, s. 373.4137, F.S., directs FDOT to annually submit for approval to the Department of Environmental Protection (DEP) and the Water Management Districts (WMDs) a plan to mitigate the adverse environmental impacts of transportation projects to wetlands,

¹⁸ Section 286.011, F.S.

¹⁹ “Agency” is defined 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.” Section 119.011(2), F.S.

wildlife, and other aspects of the natural environment. The ecosystem-based mitigation plan was to be based on an environmental impact inventory reflecting habitats that would be adversely impacted by projects listed in the next three years of the tentative work programs. FDOT creates escrow accounts with the DEP or WMDs for their mitigation requirements. Expressway authorities created pursuant to chs. 348 and 349, F.S., also are able to create similar escrow accounts with the WMD's and DEP for their mitigation requirements. On an annual basis, FDOT and the participating expressway authorities are required to transfer to their escrow accounts sufficient funds for the current fiscal year to pay for mitigation of projected acreage impacts resulting from projects identified in the inventory. At the end of each year, the projected acreage impacts are compared to the actual acreage of impact of projects as permitted, including permit modifications. The escrow balances are then adjusted accordingly to reflect any over transfer or under transfer of funds.

Stormwater Management Systems

Under existing law and agency rules, stormwater management and treatment is generally provided through the use of on-site treatment. Given the linear characteristic of state highways, on-site treatment is often difficult to achieve and results in significant expenditure of public funds for right-of-way acquisition. The department must often exercise its eminent domain powers to purchase lands to provide stormwater treatment within the project area.

Although the DEP's rule under 62 F.A.C. 25 provides for the permitting of regional stormwater discharge facilities, actual authority for the permitting of stormwater management systems has been delegated to the WMDs. The WMDs' current regulatory scheme lacks clarity regarding their ability to authorize FDOT to provide off-site or regional stormwater treatment. Additionally, current implementation of stormwater regulations is such that when constructing a state transportation project or facility, FDOT is required to expend public funds to either bypass or provide treatment for the numerous stormwater inflows from offsite properties adjacent to its roadways.

Control of Outdoor Advertising

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 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 signs²⁰ along highways. However, the payment of just (monetary) compensation is required for the removal of any lawfully

²⁰ 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.

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; and
- 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, FDOT 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.

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); and
- North Central Rural Area of Critical Economic Concern: Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor, and Union counties.

Rest Area Info Panels

Since the program was advertised in 2003, only two letters of interest have been received by FDOT and neither company participated past the trial period.

Reflective Beads that Contain Arsenic

Currently, several states and the United Kingdom have promulgated regulations for the amount of arsenic that can be contained in glass beads in road paints. These glass beads are commonly

used to provide retro reflectivity to the paint and “Each year, 500 million pounds of manufactured glass beads used for reflective highway markings are applied to U. S. highways.”²¹ The United Kingdom manual, *Notes for Guidance on the Specifications for Highway works*, states:

Glass beads eroded out of road markings find their way into water courses and subsequently reach water supply works. Increasing levels of heavy metals are infiltrating all ecosystems giving rise to concern. Although most glass manufacturing is believed to be to a safe standard, some manufacturers still rely on the addition of Arsenic and other metal to ensure clarity of the glass and control bubbles. Consequently maximum levels of Arsenic, Lead and Antimony have been set as a precaution. These levels are consistent with the EU Hazardous Waste Directive and the latest thinking from a European Standards Task Group.²²

The manual also calls for a maximum arsenic content of 1,000 parts per million.

Pinellas Suncoast and Hillsborough Area Regional Transit Authorities

Pinellas Suncoast Transit Authority

The Pinellas Suncoast Transit Authority, formerly known as Central Pinellas Transit Authority (CPTA), was created by the "[Pinellas Suncoast Transit Authority Law](#)" (Laws of Fla., Chapters 70-907, 82-368, 82-416, 90-449, 91-338, 94-433, 94-438, 99-440, 00-424, and 02-341.) by special act of the Legislature in 1970. Service began in 1973. In 1982 the Central Pinellas Transit Authority was renamed Pinellas Suncoast Transit Authority (PSTA) to more clearly describe the area served. Following the passage of two referendums, in 1984 PSTA expanded the service area by merging with the St. Petersburg Municipal Transit System. PSTA serves most of the unincorporated area and 21 of the county's 24 municipalities, covering 98% of the county's population and 97% of its land area. The service area is specifically defined in law.

Governing Board and Management Staff

Under the provisions of the legislation, PSTA is governed by a 15 member Board of Directors appointed by local governments.

- One member **each**, shall be appointed by and from the commissions of the following cities:
 - Clearwater
 - Dunedin
 - Largo
 - Pinellas Park.
- Two members shall be appointed from the City Council of St. Petersburg.
- One member shall be appointed by and from the combined municipal governing bodies of:
 - Oldsmar

²¹ Rouse, Karen, *Sen. Bob Menendez offers bill to limit arsenic, lead in reflective highway markings*, found at http://www.northjersey.com/news/national/washington/sen_menendez_offers_bill_to_limit_arsenic_lead_in_reflective_highway_markings.html, last viewed on Feb. 3, 2012.

²² United Kingdom Department for Transportation, found at http://www.dft.gov.uk/ha/standards/mchw/vol2/pdfs/series_ng_1200.pdf, pg. 4, last viewed on Feb. 3, 2012.

- Safety Harbor
- Tarpon Springs
- One member shall be appointed by and from the combined municipal governing bodies of :
 - Belleair
 - Belleair Bluffs
 - Gulfport
 - Kenneth City
 - Seminole
 - South Pasadena
- One member shall be appointed by and from the combined municipal governing bodies of:
 - Belleair Beach
 - Belleair Shores
 - Indian Rocks Beach
 - Indian Shores
 - Madeira Beach
 - North Redington Beach
 - Redington Beach
 - Redington Shores
 - St. Pete Beach
 - Treasure Island
- Four members shall be appointed by the Pinellas County Commission from its membership.
- One citizen member (not an elected official) shall be appointed by the Pinellas County Commission.
- One citizen member (not an elected official) shall be appointed by the City Council of the City of St. Petersburg.

Each term of office shall be 3 years, and a member may not serve more than three consecutive terms as a member of the governing body of the authority. The management staff consists of an Executive Director and seven Department Directors. The total number of employees is 576, of which 494 are represented by two bargaining units.

Operations

PSTA presently operates 205 Transit Vehicles from one main facility in the midcounty area on 38 routes, including two express routes to Hillsborough County. Demand response service is also provided to the mobility impaired.

Hillsborough Area Regional Transit Authorities

The Hillsborough Transit Authority, operating and also known as Hillsborough Area Regional Transit Authority, or HART, was created as a body politic and corporate under [Chapter 163, Part V, Sections 163.567](#), et seq., Florida Statutes, on October 3, 1979.²³ (Note:

²³ Sections 163.565 – 163.572, F.S., the Regional Transportation Authority Law, authorize the creation of regional transportation authorities by any two or more contiguous counties, cities or other political subdivisions. This law was created in the early 1970's to create the HART (Hillsborough Area Regional Transit) line transit agency in Hillsborough County and has not been used to create any other agency. The law provides for a charter committee to be formed consisting of

This should not be confused with the statutory language in [ch. 343, F.S.](#), which creates other regional transportation authorities including TBARTA.) HART was chartered for the purpose of providing mass transit service to its two charter members, the City of Tampa and the unincorporated areas of Hillsborough County. The Authority may admit to membership any county or municipality contiguous to one of its members upon application and after approval by a majority vote of the entire Board of Directors. The City of Temple Terrace has been admitted as a member of the Authority.

Governing Board and Management Staff

HART is governed by its twelve-member Board of Directors. The Board makes decisions, designates management, significantly influences operations and maintains primary fiscal responsibility. The Board comprises two directors appointed by the Governor of the State of Florida and a minimum of one director from each member. Members are allowed an additional director for each 150,000 persons, or major fraction thereof, residing in those members' jurisdictional limits. Currently, six members are appointed by the Hillsborough Board of County Commissioners, three members are appointed by the City of Tampa, one member is appointed by the City of Temple Terrace, and the two members appointed by the Governor. Board members serve staggered three-year terms. The Board of Directors appoints an executive director who is responsible for the overall operation of the authority, including employing such staff as may be needed to carry out the functions of the Authority. HART currently employs a staff of over 600 employees.

Operations

HART provides fixed route, paratransit, vanpool, light rail (TECO Streetcar) and specialized services. The service area population for density for 2008 was 3379.9. The service population is estimated at 821,306 and the service area is 243 square miles. The authority services this area with 46 routes--33 local and 13 express. The Authority maintains over 3,845 bus stops, 318 shelters maintained by HART, 105 shelters maintained by a vendor, 9 centers, and a fleet of 199 fixed route buses and vans 36 demand response vehicles.

Financing

HART has been determined to be an "Independent Special District" as described in s. 189.403, F.S, and is authorized to levy an ad valorem tax of up to one-half mill on the taxable value of real and tangible personal property within the jurisdiction of its members. Chapter 165.570, F.S., allows the Authority to levy up to a three mill levy, subject to public referendum. The Authority's ad valorem taxes are assessed as part of the annual assessment of Hillsborough County, which levies its taxes November 1 of each year.

representatives of the affected local governments (by population formula) to develop a charter defining the powers and duties of the transportation authority and submit the charter to the Department of State. Once the charter is filed the Governor must appoint two members to the board of directors of the transportation authority. The remaining membership of the board of directors are held by representatives of the local governments. The authority is authorized to incur debt, levy taxes (up to 3 mills ad valorem tax, with county commission approval and by a majority of voters in the affected area), and has limited eminent domain powers.

Additional revenues and funding are received from passenger fares, charter services, other revenue services and grants from the United States Government, the State of Florida, the City and the County.

Background Checks

According to the FDLE, in order to be able to receive a national criminal history check the following must be in place:

- A statute must exist as a result of a legislative enactment;
- It must require the fingerprinting of applicants who are subject to a national criminal history record check;
- It must expressly (“submit to the FBI”) or by implication (“submit for a national check”) authorize the use of FBI records for the screening of applicants;
- It must identify the specific category(ies) of licensees/employees falling within its authority;
- It must not be against public policy;
- It may not authorize receipt of the criminal history record information by a private entity;
- The recipient of the criminal history record check results must be a governmental entity;
- The entity must sign a User Agreement indicating it will comply with the terms and conditions set forth in rule by the FBI; and
- The fingerprint submission must be first processed through the state repository for a search of its records.²⁴

Currently, the only transportation services authorized to request such background checks are the Hillsborough County Public Transportation Commission²⁵, and the Commission for the Transportation Disadvantaged.²⁶

III. Effect of Proposed Changes:

Section 1 amends s. 20.23, F.S., to allow the department to maintain training programs for employees who provide practical experience in the field of transportation engineering and right of way acquisition and property management. Participants in the training programs may receive pay additives to their base salary, which is provided within the existing budget authority of the department. This section also revises current law to allow FDOT district secretaries and enterprise executive directors to be registered professional engineers in accordance with the laws of another state.

Section 2 amends s. 206.41, F.S., to add citrus harvesting equipment and citrus fruit loaders to the types of vehicles that are allowed to travel on highways between farms while still being entitled to a refund of the state motor fuel tax.

²⁴ Florida Department of Law Enforcement, Criminal History Record Checks / Background Checks Fact Sheet, January 20, 2012, found at http://www.fdle.state.fl.us/Content/getdoc/769edebea-2969-45dd-ad8f-6739dc24aded/BackgroundChecks_FAQs_01202012_Final.aspx, last viewed on Feb. 3, 2012.

²⁵ Id. at 10

²⁶ Id. at 11

Section 3 amends s. 282.0041, F.S., to exclude the Office of Toll Operations of the Florida Turnpike Enterprise from the definition of "Agency" as defined in 216.011(1)(qq), F.S., which effectually removes this entity from agency requirements specified in Part I of ch. 282, F.S., relating to communications and data processing.

Section 4 amends s. 282.0055, F.S., to exempt information technology used by the Office of Toll Operations of the Florida Turnpike Enterprise from Part I of ch. 282, F.S. which assigns the Agency for Enterprise Information Technology (AEIT) the responsibility of enterprise information technology services for the executive branch agencies.

Section 5 amends s. 282.201, F.S., to exempt Florida's Turnpike Enterprise toll offices from the list of agencies who, in consultation with the AEIT, are required to begin the preliminary planning in Fiscal Year 2014-15 for consolidation into a primary data center.

Section 6 renames ch. 311, F.S., as "Seaport Facilities and Programs."

Section 7 amends s. 311.07, F.S., to increase funding for the FSTED program from \$8 million to \$15 million per year. The FSTED council is directed to develop guidelines for the use of project funding, and in cooperation with FDOT and DEO, to develop a schedule for including projects in FDOT's tentative work program. Projects eligible for funding under FSTED is expanded to include seaport master plans or strategic plan development or updates, including the purchase of data to support the plans. The statutory cap for matching funds for eligible FSTED projects is removed.

Section 8 amends s. 311.09, F.S., to give the FSTED council rulemaking authority to evaluate projects and to develop criteria for evaluating potential projects to include: (a) consistency with appropriate plans, (b) economic benefits, (c) readiness for construction, (d) non competition with other Florida ports, and (e) capacity within seaport systems. FDOT is required to review projects for consistency with the Florida Transportation Plan and the Statewide Seaport and Waterways System plan, and FDOT's adopted work program, including the assessment of transportation impacts and economic benefits of each project. DEO is required to review project applications for consistency with state economic goals and policies as well as state, regional, and local plans.

Section 9 creates s. 311.10, F.S., the "Strategic Port Investment Initiative", and requires FDOT to set aside a minimum of \$35 million annually from the STTF to fund deepwater ports projects. FDOT, in cooperation with the deepwater ports identified in s. 311.09(1), F.S., is directed to develop a priority list of strategic investment projects based on specific criteria, and to hold a noticed public workshop for review and comments prior to finalizing the list of priority projects. To the maximum extent feasible, the seaport projects proposed for funding are to be included FDOT's tentative work program.

Section 10 creates s. 311.101, F.S., the "Intermodal Logistics Center Infrastructure Support Program," to assist intermodal shipping through seaports in order for Florida to become a hub for trade, logistics, and export-oriented activity. FDOT is authorized to provide funds to local governments or private entities for projects to enhance transportation facilities which convey or ship goods through a seaport. An "intermodal logistics center", is defined as a facility which is separated from a seaport where activities such as transport, logistics, goods distribution and other

support are completed. FDOT in consultation with DEO is responsible for selecting the projects to be funded. FDOT is authorized to provide up to 50 percent of the eligible projects costs; and, to allocate \$5 million (from STTF) annually, beginning in FY 2012-13 to fund the program.

Section 11 amends s. 311.14, F.S., to require FDOT, along with the ports identified in s. 311.09(1), to develop the Statewide Seaport and Waterways System Plan (SSWS) plan consistent with the Florida Transportation Plan. The SSWS plan must consider the needs identified in individual port master plans and those from seaport strategic plans, and identify 5, 10, and 20 year needs for the seaport system. Each port is required to develop a strategic plan that has a 10-year horizon and includes the following components: (a) economic development, (b) infrastructure development, (c) intermodal transportation facilities, (d) physical, environmental and regulatory barriers, and (e) intergovernmental coordination.

Section 12 amends s. 311.22, F.S., to correct cross-references.

Section 13 amends s. 316.003, F.S., to revise the definition of a motor vehicle, as it relates to toll violations and collections, and to clarify motor vehicle has the same meaning as in s. 320.01, F.S.

Section 14 amends s. 316.091, F.S., to create a 2-year Limited Access Facilities Pilot Program under FDOT. The program would provide access to bicycles and other human-powered vehicles to selected limited access bridges when no other non-limited access alternative is located within two miles. FDOT is required to select three such bridges or approaches in conjunction with the Federal Highway Administration under specified criteria. Subsection (5) allows FDOT and expressway authorities to designate road shoulders of limited access facilities and interstate highways for vehicular traffic in order to improve safety, reliability, and transportation system efficiency. These designations are subject to appropriate signage and are not allowed when restricted by Federal law or by a covenant.

Section 15 amends s. 316.1001, F.S., to remove the requirement that toll violation notices be mailed Return Receipt Requested.

Section 16 amends s. 316.2122, F.S., to correct cross-references.

Section 17 amends s. 316.515, F.S., to clarify a straight truck-trailer combination may not exceed 68 feet in overall length. Citrus harvesting equipment and citrus fruit loaders are added to the types of vehicles which are allowed to transport agricultural products from the point of production to the point of long-term storage, and return to the point of production, notwithstanding any other provision of law.

Section 18 amends s. 318.12, F.S., to correct cross-references.

Section 19 amends s. 320.01, F.S., to revise the definition of low-speed vehicles to include gas-powered vehicles.

Section 20 amends s. 320.20, F.S., to correct cross-references.

Section 21 amends s. 332.08, F.S., to allow municipalities participating in the FAA's pilot program on private ownership of airports to lease or sell an airport and related property to a private party, subject to FDOT approval, if state funds were provided to the municipality pursuant to s. 332.007, F.S.

Section 22 amends s. 334.03, F.S., to repeal and revise definitions used in the Florida Transportation Code. Specifically, this section:

- Repeals the definition of "Florida Intrastate Highway System";
- Revises the definition of "Functional Classification" to refer to procedures developed by the Federal Highway Administration; and
- Revises the definition of "State Highway System" to include "the interstate system and all other roads within the state which were under the jurisdiction of the state on June 10, 1995, and roads constructed by an agency of the state for the State Highway System, plus roads transferred to the state's jurisdiction after that date by mutual consent with another governmental entity. Roads transferred from the state's jurisdiction are not included. Access to State Highway System facilities shall be regulated".

Section 23 amends s. 334.044, F.S., to revise FDOT's powers and duties by:

- Removing the assignment of jurisdictional responsibilities for roads;
- Removing the power to designate existing transportation facilities as part of the State Highway System;
- Requiring at least 1.5 percent of the funds for construction projects which add capacity or significantly enhance the existing state highway system be used for landscaping;
- Requiring the approval of the secretary, or secretary's designee, prior to FDOT districts expending funds for landscaping in connection with a resurfacing project; and
- Requiring the development of freight mobility and trade plans to assist in making freight mobility investments that contribute to the economic growth of the state.

Section 24 amends s. 334.047, F.S., to remove an obsolete reference.

Section 25 amends s. 335.02, F.S., to correct cross-references.

Section 26 amends s. 335.074, F.S., to bring Florida law in compliance with federal law. It provides that upon receipt of an inspection report recommending reducing weight, size, or speed limit on a bridge, the governmental entity responsible for maintaining the bridge must reduce the maximum limits for the bridge in accordance with the inspection reports and post the limits within 30 days.²⁷ If the governmental entity does not take the required actions within 30 days, FDOT is required to post the bridge in accordance with the inspection report. All costs incurred by FDOT in connection with providing notice of the bridge's limitations or restrictions are to be assessed against and collected from the governmental entity responsible for maintaining the bridge.

If an inspection report recommends a bridge's closure, the bridge shall be immediately closed. If a governmental entity does not immediately close the bridge, FDOT is required close the bridge

²⁷ The limits must be posted in accordance with s. 316.555, F.S.

and all costs incurred in connection with the bridge closure shall be assessed and collected from the governmental entity responsible for maintaining the bridge.

Section 27 amends s. 335.17, F.S., to conform to federal law related to noise abatement, and requires FDOT to include noise-control methods as part of highway construction projects that involve new location or capacity expansion.

Sections 28 and 29 amend ss. 336.021 and 336.025, F.S., respectively, to require that the ninth-cent fuel tax levy and the local option fuel tax be levied before October 1 in order to correspond with the start of the local governments' fiscal year. Section 29 also expands the use of these revenues to include the installation, operation, maintenance and repair of street lighting, traffic signs, traffic engineering, signalization, and pavement markings.

Section 30 amends s. 337.11, F.S., to require FDOT to advertise the bids on its website for at least 14 days prior to the day the bids are to be received and removes the requirement that the contract be advertised in the newspaper.

Section 31 amends s. 337.111, F.S., to provide for forms of security, 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.²⁸ The bill no longer requires the automatic renewal of the security instrument when it expires.

Sections 32, 33, and 34 amend ss. 337.125, 337.137, and 337.139, F.S., respectively, to make technical revisions to Florida law to bring it into compliance with federal regulations required for Disadvantaged Business Enterprises to receive federal funds. Specifically, the bill:

- Changes notice requirements to require the prime contractor to submit disadvantaged business utilization intent when the contract goals are established;
- Repeals s. 337.137, F.S., which prohibits a disadvantaged businesses from subcontracting more than 49 percent of work and grants authority for FDOT to de-certify businesses found to be in violation;
- Updates the definition of "disadvantaged business" to reflect the most current federal definition.

Section 35 amends s. 337.14, F.S., to provide an application and the accompanying annual or interim financial statement received by FDOT for certification of qualification, received within 15 days of the 4 month period to be considered timely, if requested by the applicant. Additionally, the bill provides that an applicant desiring to bid exclusively for the performance of construction contracts with proposed budget estimates of less than \$1 million may submit their financial statements with the opinion of a CPA, rather than requiring they be audited by a CPA.

Section 36 amends s. 337.403, F.S., to clarify that upon thirty days written notice the utility owner must initiate the work necessary to alleviate the interference with the safe continuous use, maintenance, improvement, extension or expansion of the road or rail corridor. The bill requires

²⁸ This proposed change to s. 337.111(4), F.S., is consistent with s. 334.087, F.S., relating to guarantee of obligations to DOT.

the work to be completed within a reasonable time as stated in the notice or in the time agreed to by the authority and the utility owner.

Section 37 amends s. 337.404, F.S., to conform to changes made to s. 337.403, F.S., in section 35 of the bill.

Section 38 amends s. 337.408, F.S., to provide the installation of bus stops and transit shelters on state right-of-way be in compliance with all applicable laws and rules including, without limitation, the ADA, and requires municipalities to hold FDOT harmless from any liabilities relating to the installation, removal, or relocation of the bus stops or transit shelters.

FDOT is authorized 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 is otherwise not in compliance with applicable laws and rules. If a municipality or county fails to comply with FDOT's direction, FDOT 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 FDOT.

Section 39 renames ch. 338, F.S., as "Limited Access and Toll Facilities."

Section 40 repeals s. 338.001, F.S., which is the requirement to develop a Florida Intrastate Highway System Plan.

Section 41 amends s. 338.01, F.S., to authorize FDOT to establish limited access facilities as provided in s. 335.02, F.S., to allow for high-speed and high-volume traffic movements within the state. This section also allows FDOT or any other governmental entity responsible for toll collection to pursue collection of unpaid tolls by contracting with a private attorney or a collection agent.

Section 42 creates s. 338.151, F.S., to provide authority for FDOT to establish tolls on new limited access facilities on the State Highway System, lanes added to limited access facilities, new bridges, and replacements for existing major bridges in order to pay (fully or partially) for the costs of those projects. This authority is in addition to the authority provided under the Turnpike Enterprise Law and the law authorizing high-occupancy toll (HOT) lanes. This section restricts FDOT from establishing tolls on limited access facility lanes that exist on July 1, 2012, except as otherwise authorized by law, unless tolls were in effect for the lanes prior to that date.

Section 43 amends s. 338.155, F.S., to allow FDOT to use rulemaking authority to exempt public transit vehicles and vehicles participating in funeral processions for active duty military from tolls if the tolls are not pledged to the repayment of bonds.

Section 44 amends s. 338.161, F.S., to allow FDOT to use private toll collection and video billing systems in order to increase toll revenues or to add convenience or other value for its customers.

Section 45 amends s. 338.166, F.S., to remove language that restricts bond issuance to those lanes located on I-95 in Miami-Dade and Broward Counties. This section clarifies toll revenues

from HOT lanes or express lanes may be used to support express bus service on the facility where the tolls were collected.

Section 46 amends s. 338.221, F.S., to revise the definition of "economically feasible" as it relates to turnpike projects; and to require net revenues of the system be sufficient to pay the annual debt service on bonds by the end of the 30th year of operation, rather than the 22nd year.

Section 47 amends s. 338.223, F.S., to require the design phase of a proposed turnpike project be 30 percent complete, rather than 60 percent, before it can be submitted to the legislature for approval.

Sections 48, 49 and 50 amend ss. 338.227, 338.2275, and 338.228, F.S., respectively, to correct cross-references and conform to other sections of the bill.

Section 51 amends s. 338.231, F.S., to allow a monthly fee of \$.25 be assessed on pre-paid toll accounts which have been inactive for 24-48 months provided the account has a positive balance. If an account remains inactive after 48 months, the account may be closed and the positive account balance is presumed to be unclaimed and is disposed of in accordance with ch.717, F.S., regarding the disposition of unclaimed property.

Section 52 amends s. 338.234, F.S., to correct cross-references to conform to other sections of the bill.

Section 53 amends s. 339.0805, F.S., to update references to federal law and conforming provisions to federal law by:

- Repealing a minimum funding floor for DBEs;
- Repealing the requirement to conduct a periodic disparity study;
- Conforming certain requirements to federal standards;
- Increasing the period of time within which a DBE may not reapply for certification once denied from 6 months to 12 months;
- Increasing the time period for notification to FDOT that a business no longer qualifies as a DBE from 10 days to 30 days; and
- Eliminating non-subcontracting requirements in conformance with the repeal of s. 337.137 in section 32 of this bill.

Section 54 amends s. 339.135, F.S., to revise the thresholds for submittal to the Governor and Legislature of Work Program amendments as follows:

- Raises the threshold from \$0 to \$150,000 for amendments deleting a project or project phase;
- Raises the threshold from \$150,000 to \$500,000 for amendments adding a project;
- Raises the threshold from \$500,000 to \$1,500,000 for amendments advancing or deferring to another fiscal year a right of way phase, a construction phase, or a public transportation project phase and exempts an amendment advancing a phase by one year to the current fiscal year; and
- Raises the threshold from \$150,000 to \$500,000 for amendments advancing or deferring to another fiscal year any preliminary engineering phase or design phase and exempts amendments advancing a phase by one year to the current fiscal year.

The bill requires FDOT, beginning July 1, 2013, to index the budget amendment threshold amounts to the Consumer Price Index or similar inflation indicator. The threshold adjustment may be made no more frequently than once a year and is subject to notice and review procedures in s. 216.177, F.S.²⁹

Section 55 amends s. 339.155, F.S., to repeal the requirement to annually update the Florida Transportation Plan, eliminate the statutory planning process requirements and instead references federal requirements, and eliminate the short-range component of the plan.

Section 56 amends s. 339.175, F.S., to change FDOT representatives on the MPO's governing boards from members to advisors and requires, to the extent possible, only one MPO exist per urbanized area or group of contiguous urbanized areas. If more than one MPO exists in urbanized areas, the MPO's are to coordinate in developing of regionally significant projects.

Section 57 amends s. 339.2819, F.S., to require projects funded under the Transportation Regional Incentive Program (TRIP) be included in FDOT's work program. This section also changes the state match for projects funded under TRIP from 50% to up to 50% of the project costs.

Sections 58 and 59 amend ss. 339.285, and 339.62, F.S., respectively, to correct cross-references to conform to other sections of the bill.

Section 60 amends s. 339.63, F.S., to add existing or planned military access facilities to the types of facilities which are included in SIS and emerging SIS. This section allows the FDOT secretary to designate a facility which meets the definition of an intermodal logistics center and designated as such in the local comprehensive plan as part of the Strategic Intermodal System. This section provides for the waiver of concurrency standards, for building permits issued on or before December 31, 2017, upon request of the facility provided that certain criteria is met.

Section 61 amends s. 339.64, F.S., to repeal provisions creating the Statewide Intermodal Transportation Advisory Council (SITAC). The purpose of SITAC was to advise and make recommendations to the Legislature and FDOT on the policies, planning, and funding of intermodal transportation projects.

Section 62 creates s. 339.65, F.S., which includes the following provisions:

- Requires FDOT to plan and develop SIS highway corridors with the primary purpose of traffic movement;
- Specifies the components of the State Highway System which must be included from the SIS highway corridors;
- Provides policy guidelines in developing SIS highway corridors;
- Requires FDOT to create a 20 year project plan for the SIS highway corridors and establish standards and criteria for functional characteristics and design of proposed facilities;
- Provides an adjusted allocation based on a 2003-2004 allocation of \$450 million.

²⁹ Section 216.177, F.S., relates to notice and review associated with the appropriations act.

- Requires any project to be constructed as part of the SIS highway corridor to be included in the FDOT work plan.

Sections 63 and 64 amend ss. 341.053 and 341.840, F.S., respectively, to correct cross-references to conform to other sections of the bill.

Section 65 amends s. 343.53, F.S., to revise the membership of the governing board of SFRTA, increasing the members appointed by the governor from 2 to 3 and causing the member designated by the Secretary of Transportation to become as a nonvoting member.

Section 66 creates a new undesignated section of law which authorizes the transfer of the governance and the control of the Mid-Bay Bridge Authority system to Florida's Turnpike Enterprise and requires it to operate and maintain the bridge system in accordance with the terms and covenants contained in the bond resolutions and lease-purchase agreement securing the bonds. Toll revenues from the bridge system that were pledged by the authority to the payment of bonds remain subject to the pledge for the benefit of the bondholders.

This section requires the turnpike enterprise to make annual payments to the FDOT's State Transportation Trust Fund for the repayment of the MBBA's long-term debt of \$16.1 million from toll revenues, not to exceed \$1 million per year. Excess toll revenues, after meeting all obligations, are to be used for construction, maintenance, or improvement of any toll facility of the Florida's Turnpike Enterprise within the county or counties in which the revenue was collected.

Section 67 amends s. 348.003, F.S., to correct cross-references to conform to other sections of the bill.

Section 68 amends s. 348.0004, F.S., to remove a provision which allows an expressway authority to pledge gross revenues as security when issuing bonds pursuant to a lease-purchase agreement with the FDOT.

Section 69 amends s. 348.0005, F.S., to allow for bond issuance on behalf of an authority as provided by the State Bond Act; however, the bond resolutions may not pledge the gross revenues of the system as payment of debt service. Rather, bond resolutions must specify that the costs of operations and maintenance of the facility be paid before the payment of debt service on the bonds. This section also clarifies that the provisions of subsection (2) of s. 348.0005, F.S., do not apply to an authority created on or after July 1, 2012.

Section 70 amends s. 348.0013, F.S., to assign FDOT as the agent of any new expressway authority formed on or after July 1, 2012, for all phases of a project and requires for proceeds from the issuance of bonds be transferred to an account in the State Treasury prior to FDOT proceeding with the construction of the project. This section also allows an authority to utilize a local agency, certified by the department, to manage federal aid projects in accordance with federal law, with the consent of the department.

An expressway authority wishing to construct an expressway system is required to:

- Identify the expressway project in a work plan and submit a work plan budget to FDOT, including, a finance plan demonstrating the financial feasibility. Financial feasibility includes the authority's ability to reimburse FDOT for all costs of operation and maintenance from revenues of the system; and
- Obtain legislative approval prior to the issuance of bonds.

Section 71 amends s. 348.52, F.S., to modify the authority of THEA to employ certain employees.

Section 72 amends s. 348.54, F.S., to prohibit THEA from entering into a new or amended lease-purchase agreement, unless FDOT determines the agreement or amendment is necessary to permit the refunding of bonds issued prior to July 1, 2012.

This section also provides for the termination of FDOT's obligations under the lease-purchase agreement with THEA upon the earlier of:

- the date on which bonds are paid in full;
- a date agreed to by the bondholders; or
- the termination date under the terms of the Memorandum of Agreement dated October 26, 2010 between THEA and FDOT.

Section 73 amends s. 348.545, F.S., to correct cross-references to conform to other sections of the bill and to clarify that THEA may issue bonds pursuant to s. 348.56, F.S.

Section 74 amends s. 348.56, F.S., to notwithstanding other provisions of law, and set forth certain restrictions relating to bond issuance by or on behalf of THEA beginning July 1, 2012:

- Requires FDOT's approval prior to the issuance of bonds;
- Prohibits the issuance of bonds pledging revenues of the THEA which are senior to or in parity with the THEA's obligation to fully reimburse FDOT for the costs of operation, maintenance, repair and rehabilitation of the expressway system; paid by the department. An exception is allowed for the issuance of bonds issued for the purpose of refunding authority bonds issued prior to July 1, 2012, provided the bonds do not extend the maturity date and the debt service is not higher than what is currently being paid on existing bonds;
- Prohibits the issuance of bonds pledging the gross revenues of the system, and requires bond resolutions to specify that the costs of operations and maintenance of the facility be paid before the payment of debt service.
- Requires THEA to issue bonds through the Division of Bond Finance until the FDOT's obligations under the lease-purchase agreement have been terminated, and FDOT has been fully reimbursed for the long-term debt incurred for the costs of operation, maintenance, repair and rehabilitation of the expressway system.
- Provides for the termination of FDOT's obligations under any lease-purchase agreement, upon the earlier of:
 - the payment in full of authority bonds issued prior to July 1, 2012, and bonds issued to refund such bonds;
 - a date which the bondholders THEA have agreed; or
 - the date FDOT's obligations terminate under the terms of the memorandum of agreement dated October 26, 2010, between the THEA and the department.

Section 75 amends s. 348.565, F.S., to authorize THEA to issue bonds either through the Division of Bond Finance or on its own behalf. This section also removes the connector highway linking the Lee Roy Selmon Crosstown Expressway to Interstate 4 from the list of projects approved for financing through the issuance or refinancing of revenue bonds.

Section 76 amends s. 348.57, F.S., to authorize THEA to issue bonds pursuant to s. 348.56, F.S.

Section 77 amends s. 348.60, F.S., to prohibit THEA from entering into a new or amended lease-purchase agreement with FDOT, unless the department determines the amendment is necessary to permit the refunding of bonds issued prior to July 1, 2012. This section provides for the termination of FDOT's obligations under the lease-purchase agreement, upon the earlier of:

- the date which all bonds issued prior to July 1, 2012, are paid in full; or
- a date to which the bondholders have consented.

This section consolidates toll collections for THEA into Florida's Turnpike Enterprise and authorizes FDOT to collect tolls for the use of the expressway system.

Section 78 creates s. 348.615, F.S., to implement toll collection consolidation, by authorizing FDOT, to collect tolls for the use of the expressway system, and requires THEA to fully reimburse the department for the costs of collecting tolls from revenues of the system. This section also allows the department to adopt or modify its rules for toll collection procedures and to impose administrative charges related to the toll facility.

Section 79 amends s. 348.753, F.S., to modify the authority of OOCEA to employ certain employees.

Section 80 amends s. 348.754, F.S., to prohibit OOCEA from entering into a new or amended lease-purchase agreement, unless FDOT determines that the agreement or amendment is necessary to permit the refunding of bonds issued prior to July 1, 2012.

Section 81 amends s. 348.7543, F.S., to clarify the terms and conditions for OOCEA's bond financing is pursuant to the provisions of s. 348.755, F.S.

Sections 82 and 83 amend ss. 348.7545, and 348.7547, F.S., respectively, to correct a cross-reference and to conform to other sections of the bill. These sections also clarify the terms and conditions for OOCEA's bond financing are in accordance with the provisions of s. 348.755, F.S.

Section 84 amends s. 348.755, F.S., to notwithstanding other provisions of law, and set forth restrictions relating to bond issuance by OOCEA on or after July 1, 2012, and provides for the termination of FDOT obligations under any lease-purchase agreement. Specifically, this section:

- Prohibits the issuance of bonds which provide any rights against FDOT which are enforceable by bondholders;
- An exception is provided for the issuance of bonds to refund bonds issued prior to July 1, 2012 providing the issuance does not extend the maturity date or have a higher debt service than what is currently being paid on existing bonds;

- Prohibits the issuance of bonds pledging revenues of the OOCEA which are senior to or in parity with the authority's obligation to fully reimburse FDOT for the costs of operation, maintenance, repair and rehabilitation of the expressway system paid by the department;
- An exception is allowed for the issuance of bonds for the purpose of refunding authority bonds issued prior to July 1, 2012, provided the bonds do not extend the maturity date and the debt service is not higher than what is currently being paid on existing bonds;
- Prohibits the issuance of bonds pledging the gross revenues of the system, , and requires bond resolutions to specify that the costs of operations and maintenance of the facility be paid before the payment of debt service.
- Provides for the termination of FDOT obligations under any lease-purchase agreement upon earlier of:
 - The payment in full of outstanding bonds issued prior to July 1, 2012, including OOCEA bonds issued to refund those bonds; or
 - The date to which OOCEA bondholders have agreed.
- Requires OOCEA to issue bonds through the Division of Bond Finance until FDOT's obligations under the lease-purchase agreement have been terminated, and FDOT has been fully reimbursed for the long-term debt for costs incurred for the operation, maintenance, repair and rehabilitation of the expressway system.

Section 85 amends s. 348.757, F.S., to prevent OOCEA from entering into a new or amended lease-purchase agreement, unless FDOT determines the agreement or amendment is necessary to permit the refunding of bonds issued prior to July 1, 2012. This section also provides for the termination of the lease-purchase agreement upon the earlier of: (a) the payment in full of OOCEA's bonds issued prior to July 1, 2012, (including refunding bonds); or (b) an earlier date which the bondholders have agreed.

Section 86 creates s. 348.7585, F.S., to allow FDOT to collect tolls for the use of OOCEA's expressway system, and requires OOCEA to fully reimburse the department for costs of collecting the tolls from revenues of the system. This section allows the department to adopt or modify its rules for toll collection procedures and to impose administrative charges related to the toll facility.

Section 87 amends s. 348.9952, F.S., which authorizes the Osceola County Expressway Authority (Osceola authority) to employ certain employees to exclude fiscal agents.

Section 88 repeals s. 348.9956, F.S., which authorizes FDOT as the agent of the Osceola authority for construction.

Section 89 creates s. 348.99565, to assign FDOT as the agent of the Osceola County Expressway Authority for all phases of a project; and authorizes the proceeds from the issuance of bonds to be transferred to an account in the State Treasury prior to FDOT proceeding with the construction of the project. This section also allows the authority to utilize a local agency, certified by the department, to manage federal aid projects in accordance with federal law, with the consent of the department.

If the Osceola authority wishes to construct an expressway system, it is required to:

- Identify the expressway project in a work plan and submit a work plan budget to FDOT, including, a finance plan demonstrating the financial feasibility. Financial feasibility includes the authority's ability to reimburse FDOT for all costs of operation and maintenance from revenues of the system; and
- Obtain legislative approval prior to the issuance of bonds.

Section 90 creates an undesignated section of law directing the Florida Transportation Commission to conduct a study of the potential cost savings and increased efficiencies that may be realized through sharing resources for the accomplishment of design, construction, and maintenance activities by or on behalf of expressway authorities and the state, and to submit a written report of its findings and conclusions to the Governor, Speaker of the House of Representatives, President of the Senate, and chairs of the appropriations committees by December 31, 2012.

Section 91 amends s. 349.03, F.S., to require members of the Jacksonville Transportation Authority (JTA) to file a statement of financial interest with the Commission on Ethics. This section also exempts employees of JTA from the provisions of part II, ch. 110, F.S.

Section 92 amends s. 349.04, F.S., to allow JTA to conduct public meetings and workshops by means of communications media technology.

Section 93 amends s. 373.413, F.S., to establish legislative intent to allow flexibility in the permitting of stormwater treatment facilities for transportation facilities due to their linear nature. It requires DEP or the governing board of the WMDs to balance the expenditure of public funds for stormwater treatment for state transportation projects and facilities with the benefits to the public to provide the most cost efficient and effective method of achieving the treatment objectives. The governing board of the WMDs or DEP is required to allow alternatives to onsite treatment, including but not limited to regional stormwater treatment systems. DEP is responsible for treating stormwater generated from state transportation projects, but is not responsible for the abatement of pollutants and flows entering its stormwater management system from offsite. However, it may do so if receiving and managing these pollutants is found to be cost-effective and prudent.

Further, this section clarifies that in association with rights-of-way acquisition, DOT is responsible for providing stormwater treatment and attenuation for additional rights-of-way, but is not responsible for modifying adjacent landowners' stormwater permits. This section also requires the governing boards of the WMDs and DEP to adopt or amend rules for these stormwater activities.

Section 94 amends s. 373.4137, F.S., to provide legislative intent to allow for the use of mitigation banks, and any other mitigation options, that satisfy state and federal requirements. This section requires FDOT and expressway authorities to provide to the WMD's a list of species which may be impacted by its plan of construction for transportation projects in the next three years of the tentative work program. This section also provides for the release of funds identified or maintained in escrow for the WMD's if the transportation project falls outside, in whole or in part, of the WMD mitigation plan.

Section 95 amends s. 403.7211, F.S., to correct cross-references to other sections of the bill.

Section 96 repeals s. 479.28, F.S., which created the Rest Area Information Panel or Device Program.

Section 97 creates a new undesignated section of law which prohibits local governments from using certain paints in their road projects, prohibits the manufacturing, selling, or offering for promotion purposes of such paints, and provides penalties for violations of this section.

Section 98 creates a new undesignated section of law to allow FDOT to seek federal approval for a Tourist-Oriented Commerce Sign Pilot Program in rural areas of critical economic concern.

Section 99 creates a new undesignated section of law to initiate a study by the Pinellas Suncoast and the Hillsborough Area Regional Transit Authorities. This section provides legislative intent, gives a time frame for the study, enumerates elements to be reviewed, requires a report be submitted by February 1, 2013, and requires the Tampa Bay Area Regional Transit Authority to assist and facilitate the study for which it may be reimbursed up to \$100,000.

Section 100 creates a new undesignated section of law to allow governmental units which are authorized to regulate the operation of public vehicles for hire within its geographical boundaries to request, receive, and pay for, criminal history record information for the purpose of screening applicants for for-hire licenses. This section also provides for the associated costs to be paid by the governmental unit, the employer, or the person who is the subject of the check.

Section 101 provides an effective date of July 1, 2012.

Other Potential Implications:

Section 337.404 allows for the department to require the removal of a utility within a *reasonable* amount of time. The use of the word *reasonable*, rather than a plain standard, could open the department up to legal challenges which could cause project delays and may have a negative fiscal impact on the state.

Section 339.155, F.S., is amended to reference federal law as it relates to planning factors and would eliminate the need for repeated statutory revisions to accommodate changes in federal planning factors. Florida is required to follow the federal requirements, even if state law is not amended to reflect the new planning factors. The department acknowledges the responsibility to seek reenactment of the reference any time the federal requirements change but suggests reenactment of the reference is more efficient than revising the current list of factors in state statute with each round of federal changes.

Section 349.04, F.S., is amended to make revisions to allow the Jacksonville Transportation Authority to conduct public meetings and workshops by means of communications media technology. This change will subject the transportation authority 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.³⁰ 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.³¹

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:

Section 206.41, F.S., is expanded to add citrus harvesting equipment and citrus fruit loaders to the exemption from the state motor fuel tax. It is unclear whether or not these vehicles were exempt before.

B. Private Sector Impact:

Section 13 revises the definition of motor vehicles as it pertains to toll collections in order to allow for notices related to toll violations to be sent to the person who owns the truck portion of a truck-trailer combination rather than the owner of the trailer. This section may reduce negative impacts on persons and companies who rent trailers by subjecting truck drivers to toll violation penalties rather than the trailer owners.

Section 17 clarifies language having to do with the length of a straight truck-trailer combination. This new language may reduce the number of citations written for over-length truck-trailer combinations and, as such, may have an indeterminate positive fiscal impact on the drivers of such truck-trailer combinations.

Section 35 allows applicants who are bidding exclusively for projects worth less than \$1 million to have their financial statements *reviewed*, rather than *audited*, by a CPA. This will save such applicants money and will cause an indeterminate positive fiscal impact for the applicants.

³⁰ *see* 2005 WL 3262434 (Fla.A.G.)

³¹ *see* AGO 2003-41

Section 41 allows FDOT or other governmental entities responsible for toll collection to pursue collection of unpaid tolls by contracting with a private attorney or a collection agent. This section could result in an indeterminate positive fiscal impact for the attorneys or agencies hired to collect such tolls. This section could also have an indeterminate negative fiscal impact on persons who must pay collection fees along with their delinquent tolls.

Section 42 allows FDOT to establish tolls on certain types of new construction of limited access facilities including the replacement of existing, non-tolled, bridges. This will have an indeterminate negative fiscal impact for those persons who use those systems.

Section 51 allows FDOT to assess a monthly fee against inactive SunPass accounts. This fee will create an indeterminate negative fiscal impact for consumers with such accounts and may cause more toll violations if consumers are unaware of the closure of their accounts.

Section 100 allows local governments to conduct national criminal history background checks on prospective licensees and for-hire vehicle drivers. This section also allows the local government to either take on the cost of such a check itself, or force either the employer or the prospective employee to pay for the check. If the employer or the prospective employee is forced to pay for the check, this will cause a negative fiscal impact on those parties equal to either \$43.35 for each online check, or \$54.25 for each paper check.³²

C. Government Sector Impact:

Section 9 requires FDOT to allocate a minimum \$35 million annually for deepwater ports projects. The funding for deepwater ports projects is included in the FDOT's 5-Year Work Program; however, adjustments will need to be made in FY 2014-15, which may affect other projects.

Section 10 requires FDOT to allocate \$5 million annually for Intermodal Logistics Center Infrastructure Program. FDOT's 5-Year Work Program does not include funding for these projects, which may require adjustments to other projects.

Section 15 removes the requirement that toll citations be mailed return receipt requested. This section will have an indeterminate positive fiscal impact due to the reduced cost of mailing citations.

Section 17 clarifies language having to do with the length of a straight truck-trailer combination. This new language may reduce the number of citations written for over-length truck-trailer combinations and, as such, may have an indeterminate negative fiscal

³² Florida Department of Law Enforcement, Criminal History Record Checks / Background Checks Fact Sheet, January 20, 2012, found at http://www.fdle.state.fl.us/Content/getdoc/769edeba-2969-45dd-ad8f-6739dc24aded/BackgroundChecks_FAQs_01202012_Final.aspx, last viewed on Feb. 3, 2012. Pg. 12

impact on the revenues collected for citations. These revenues are distributed to the STTF.

Section 23 qualifies the landscaping allocation on transportation construction projects to spending a minimum of 1.5 percent for projects which add capacity or provide significant system enhancements, rather than the current allocation of no more than 1.5 percent or the amount allocated for construction. This section also requires approval of the FDOT secretary or designee, prior to districts allocating landscaping funds for resurfacing projects. These provisions should increase the amount available for construction projects while reducing the amount allocated for landscaping.

Section 41 allows FDOT or other governmental entities responsible for toll collections, to pursue collection of unpaid tolls by contracting with a private attorney or a collection agent. This section may increase revenue collections for delinquent tolls violations, and could have an indeterminate positive fiscal impact.

Section 42 allows FDOT to establish tolls on certain types of new construction of limited access facilities. This will have an indeterminate positive fiscal impact which will satisfy the bonding provisions for the new construction.

Section 43 allows FDOT to exempt new classes of vehicles from tolls. This section may cause an indeterminate negative fiscal impact due to the loss of some toll revenue.

Section 51 allows FDOT to assess a monthly fee against inactive SunPass accounts. According to FDOT this fee will create offset costs of maintaining such accounts and create a neutral fiscal impact.

Section 93 allows for flexibility in permitting construction or alteration of stormwater management systems. If proven more efficient, such flexible permitting could result in an indeterminate positive fiscal impact.

Section 94 allows for flexibility in the use of mitigation options for FDOT projects. This section could have a positive impact on FDOT granting it the ability to choose the most cost-effective mitigation method that it finds appropriate. This section could also have a negative impact on the WMDs should FDOT opt-out of their mitigation plan.

Sections 66-90 fully consolidates the MBBA into the Turnpike Enterprise, and provides for consolidation of toll collections of THEA and OOCEA into Florida's Turnpike Enterprise. The fiscal analysis provided by Florida's Turnpike Enterprise estimates a net savings of \$10.2 million resulting from the consolidation of toll operations of the three entities into Turnpike Enterprise. The savings are estimated as follows:

- MBBA – There is no savings associated as Turnpike currently performs 100 percent of toll collection.
- THEA - \$616,000 – Contract with ETC.
- OOCEA - \$9,568,000 –The savings is based on OOCEA's gross operating cost (\$14.2 M) for electronic toll operations and back office expense and netting the operating costs (\$4.6M) Turnpike would incur to perform equivalent services.

Section 97 prohibits the use of certain road marking paints. If these types of paints are currently used, replacing them could cause an indeterminate negative fiscal impact to the authority which uses such paints.

Section 100 allows local governments to conduct national criminal history background checks on prospective licensees and for-hire vehicle drivers. This section also allows the local government to either take on the cost of such a check itself, or force either the employer or the prospective employee to pay for the check. If the local government pays for the check, this will cause a negative fiscal impact equal to either \$43.35 for each online check, or \$54.25 for each paper check.³³

VI. Technical Deficiencies:

None.

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 February 2, 2012:

The CS incorporates a number of amendments into SB 1866 which significantly amend the bill.

Amendment barcode # 395644 amends:

- Section 20.23, F.S., to allow FDOT district secretaries and enterprise executive directors to be registered professional engineers in accordance with the laws of another state.
- Section 311.101, F.S., a newly created section of law, to clarify that inland ports are included in the definition of “intermodal logistics center.”
- Section 316.091, F.S., to allow FDOT and the expressway authorities to designate road shoulders of limited access facilities and interstate highways for vehicular traffic in order to improve safety, reliability, and transportation system efficiency. These designations are subject to appropriate signage and are not allowed when restricted by Federal law or by a covenant.
- Section 332.08, F.S., to allow municipalities participating in the FAA’s pilot program on private ownership of airports to lease or sell an airport and related property to a private party subject to FDOT approval if state funds were provided to the municipality pursuant to ss. 332.007, and 336.025, F.S., respectively, to allow local government expenditures of the local option fuel tax for the installation, operation,

³³ Id.

maintenance and repair of street lighting, traffic signs, traffic engineering, signalization, and pavement markings.

- Section 338.01, F.S., to allow FDOT, or other governmental entity responsible for toll collection, to pursue collection of unpaid tolls by contracting with a private attorney or a collection agent.
- Section 338.161, F.S., to allow FDOT to use private toll collection and video billing systems in order to increase toll revenues or add convenience or other value for its customers.
- Section 339.175, F.S., to require that, to the extent possible, only one MPO exist per urbanized area or group of contiguous urbanized areas and that, if more than one MPO exists, they coordinate in the development of regionally significant projects.
- Section 339.2819, F.S., to require that projects funded under the Transportation Regional Incentive Program be included in FDOT's work program.

Amendment barcode # 539748 amends:

- Section 316.091, F.S., to allow FDOT enough time to implement the bicycle pilot program and conclude the program.
- Sections 316.515, 337.111, 337.14, 338.151, F.S., to correct technical changes.

Amendment barcode #121766 amends section 99 to amend:

- The PSTA and HART study to set a start date for joint meetings of July 1, 2012, (rather than 30 days after the effective date of the act) and to allow for more flexibility in scheduling further meetings as necessary (rather than mandating meetings every 45 days).

Amendment barcode # 724824 creates section 100 which creates a new, unnumbered section of law that:

- Allows governmental units which are authorized to regulate the operation of public vehicles for hire to request, receive, and pay for, criminal history record information for the purpose of screening applicants for for-hire licenses.
- Allows such a criminal history record to include a national check with the FBI.
- Allows for the Florida Department of Law enforcement to process fingerprints and forward them to the FBI.
- Mandates that the cost will be borne by the governmental unit, the employer, or the person who is the subject of the check and FDLE will invoice them for the fingerprint processing.

Amendment barcode # 643322 amends:

- Section 334.044 to remove the cap on landscaping funds for project that add capacity or provide a significant enhancement to the existing highway system.

Amendment barcode # 182394 amends s. 339.63, F.S., to:

- Mandate that the FDOT secretary designate a facility which meets the definition of an intermodal logistics center and has been designated as such in the local comprehensive plan as part of the Strategic Intermodal System, upon the facilities request.

- Waive concurrency standards for such facilities, for building permits issued on or before December 31, 2017, if the facility meets certain criteria.

Amendment barcode # 297172 creates and amends a number of sections:

Mid-Bay Bridge Authority

Section 66

- Transfers the governance and control of the Mid-Bay Bridge Authority system to the Florida Turnpike Enterprise.
- Transfers the assets, facilities, property and property rights, and legal obligations of the Authority to the Turnpike Enterprise.
 - Turnpike Enterprise will be responsible for the operations and maintenance of the bridge;
 - Turnpike Enterprise will collect toll revenues on the bridge and will make the debt service payments from those revenues
 - The bridge becomes part of the Turnpike System upon defeasance of all outstanding authority bonds;
 - Turnpike Enterprise is authorized assume contractual obligations of the authority if necessary for continued operation of the bridge.
- Provides for the protection of the bondholders of Mid-Bay Bridge Authority bonds by specifying that Turnpike Enterprise will operate and maintain the bridge in accordance with the terms and covenants set forth in the lease purchase agreement and bond resolutions adopted providing the issuance of bonds.
 - Turnpike Enterprise will collect toll revenues will make the payment of debt service as provided in bond resolutions from those revenues.
- Turnpike Enterprise's obligation to pay principal and interest on bonds is not a general liability of Turnpike, and does not pledge turnpike system revenues for payment of bonds.
- Turnpike Enterprise will make annual payments to the State Transportation Trust Fund for the repayment of the Authority's long term debt obligation of \$16.1 million as of June 30, 2011, from excess toll revenues. The payments shall not exceed \$1 million annually.
- Any excess revenue after the debt service payments, operations and maintenance of the bridge and the repayment of long term debt to the State Transportation may be used for the construction, maintenance, or improvement of any toll facility of Turnpike Enterprise within the county or counties collected.

Section 348.0004, F.S., is amended to strike language pertaining to lease-purchase agreements from the powers of the expressway authorities.

Section 348.0005, F.S., is amended to:

- Require bond resolutions set aside sufficient amounts for the costs of operations and maintenance of the facility before applying revenues to the payment of debt service on the bonds.

- Restrict expressway authorities created on or after July 1, 2012 from the bonding provisions of s. 348.0005, F.S.

Section 348.0013, F.S., is created so that it:

- Clarifies that this section applies to new authorities.
- Assigns the department as the agent of new authorities to operate and maintain the systems and design and construct any new projects that an authority may wish to build.
- Allows the authority to use a local agency, certified by the department, to manage federal aid projects in accordance with federal law, with the consent of the department.
- Authorizes the Division of Bond Finance to transfer proceeds from the issuance of bonds for construction of a project to the State Treasury the funds necessary for construction.
- Requires an authority who wishes to construct an expressway to submit a work plan identifying the project as a part of its budget, including a financial plan which demonstrates the financial feasibility of the project. Legislative approval of the authority's budget is required prior to the issuance of bonds to finance the construction.
- Costs incurred by the department for the operation and maintenance of the facility are required to be reimbursed from revenues generated by the facility. The authorities may establish and collect tolls, rate, fees, rentals and other charges for the facilities.

Tampa-Hillsborough County Expressway Authority

Section 348.52, F.S., is amended so that it restricts the Tampa-Hillsborough County Expressway Authority from hiring legal, financial or other professional consultants.

Section 348.54, F.S., is amended so that it:

- Enumerates the lease-purchase agreements which exist between the authority and the department.
- Specifies the authority may not enter into new lease-purchase agreements, or amend the existing agreement with the department, to expand or increase the department's obligations, unless the department determines that an amendment or change is necessary to permit the refunding of bonds issued prior to July 1, 2012.
- Terminates the departments obligations under the lease-purchase agreement upon the earlier of:
 - The date of payment in full of the authority's bonds issued before July 1, 2012;
 - A date agreed to by the bondholders of the authority for bonds issued; or
 - The date of termination of department's obligations under the terms of the memorandum of agreement dated October 26, 2010 between department and authority.

Section 348.545, F.S., is amended to correct cross-references.

Section 348.56, F.S., is amended so that it:

- Requires the authority to utilize the service of the Division of Bond Finance for all bond issuance; and requires that bond resolutions set aside sufficient amounts for the costs of operations and maintenance of the facility before applying revenues to the payment of debt service on the bonds. (No “gross” revenue pledge).
- Requires the department’s consent to issue bonds which pledge revenues of the authority which are senior to, or in parity with, the authority’s obligations to fully reimburse the department for the costs of operations and maintenance, and repair and rehabilitation of the expressway system paid by the department.
- Specifies that the authority may not issue any bonds which provide any rights against the department and are enforceable by the bond holders.
- Sets limits on the terms of refund bond issuance; refund bonds may not be issued if the final maturity is later than the bond being refunded or if debt service on the refund bond is higher than that currently paid on bonds being refunded.
- Terminates the department’s obligations under the lease-purchase agreement with the authority, upon the earlier of:
 - The date of payment in full of the authority’s bonds issued before July 1, 2012;
 - A date agreed to by the bondholders of the authority for bonds issued; or
 - The date of termination of department’s obligations under the terms of the memorandum of agreement dated October 26, 2010 between department and authority.
- Requires bond resolutions set aside sufficient amounts for the costs of operations and maintenance of the facility before applying revenues to the payment of debt service on the bonds. (No “gross” revenue pledge).
- Restricts the authority from bonding under the provisions of s. 348.56(1)(b), F.S., in any year in which the department’s obligations under a lease-purchase agreement are outstanding or in which the authority has not fully reimbursed the department for amounts expended on the expressway system.

Section 348.565, F.S., is amended so that it:

- Removes a provision allowing the issuance of revenue bonds by the authority and requires that the authority utilize the service of the Division of Bond Finance.
- Removes a project from the list of projects previously approved to be financed or refinanced by the issuance of revenue bonds. The connector highway linking the Lee Roy Selmon Crosstown Expressway to Interstate 4 is being completed by FDOT.

Section 348.57, F.S., is amended to correct cross-references.

Section 348.60, F.S., is amended so that it:

- Provides that the authority may not enter into any other lease-purchase agreement other than those in currently in place between the department and authority, unless the department determines that an amendment is necessary to permit the refunding of bonds issued prior to July 1, 2012.

- Provides that upon the payment in full of all bonds issued prior to July 1, 2012, including refunding bonds, or on a date which the bondholders have consented, whichever is earlier.
- The department's obligations under the lease-purchase agreement terminate, including any obligation to pay the costs of operation and maintenance, repair, or rehabilitation of the expressway.
- The lease-purchase agreement terminates.
- The expressway system remains the property of the authority.
- The authority remains obligated to reimburse the department for all costs of operation, maintenance, repair and rehabilitation of the expressway system, and that the department will operate and maintain the system as the agent of the authority.
- The department will operate the system as the agent of the authority.

Section 348.615, F.S., is created so that it:

- Makes the department the agent of the authority for the purpose of collecting tolls.
- States the department must be reimbursed for the costs of collection.
- Allows the authority to fix the toll rates.

Orlando-Orange County Expressway Authority

Section 348.753, F.S., is amended so that it restricts the types of employees who may be hired by the authority and authorizes the authority to contract with the Division of Bond Finance for financial services.

Section 348.754, F.S., is amended so that it:

- Enumerates the lease-purchase agreements which exist between the authority and the department.
- Specifies the authority may not enter into new lease-purchase agreements, or amend the existing agreement with the department, to expand or increase the department's obligations, unless the department determines that an amendment or change is necessary to permit the refunding of bonds issued prior to July 1, 2012.

Sections 348.7543, 348.7545, and 348.7547, F.S., are amended to correct cross-references.

Section 348.755, F.S., is amended so that it:

- States the authority may not request bonds be issued that provide any rights against the department.
- States authority may not refinance bonds if the new bond has a maturity date later than the old bond, or if the new bond has a higher debt service than the old bond at any time.
- Terminates the obligations of the department under lease-purchase agreements upon certain criteria.
- Requires the department's consent to issue bonds which pledge revenues of the authority which are senior to, or in parity with, the authority's obligations to fully

reimburse the department for the costs of operations and maintenance, and repair and rehabilitation of the expressway system paid by the department.

- Requires bond resolutions set aside sufficient amounts for the costs of operations and maintenance of the facility before applying revenues to the payment of debt service on the bonds. (No “gross” revenue pledge). States the authority may not bond under the provisions of s. 348.755(1)(b) or (d), F.S., until the department’s obligations under the lease-purchase agreements are satisfied or until the department has been fully reimbursed the costs of operation, maintenance, repair and rehabilitation of the expressway system.

Section 348.757, F.S., is amended so that it:

- Provides that the authority may not enter into any other lease-purchase agreement other than those in currently in place between the department and authority, unless the department determines that an amendment is necessary to permit the refunding of bonds issued prior to July 1, 2012.
- States that the department’s obligations under the lease-purchase agreement terminate, including any obligation to pay the costs of operation and maintenance, repair, or rehabilitation of the expressway, under certain conditions.

Section 348.7585, F.S., is created so that it:

- Makes the department the agent of the authority for the purpose of collecting tolls.
- States the department must be reimbursed for the costs of collection.
- States the authority may fix the toll rates.

Osceola County Expressway Authority

Section 348.9952, F.S., is amended so that it restricts the types of employees who may be hired by the authority.

Section 348.9956, F.S., which states the department may be appointed the agent of the authority for construction, is repealed.

Section 348.99565, F.S., is created, and:

- Assigns the department as the agent of the authority to operate and maintain the systems and design and construct any new projects that an authority may wish to build.
- Authorizes the Division of Bond Finance to transfer proceeds from the issuance of bonds for construction of a project to the State Treasury the funds necessary for construction.
- Allows the authority to use a local agency, certified by the department, to manage federal aid projects in accordance with federal law, with the consent of the department.
- States that if the authority wishes to construct improvements to the expressway system, they are required to submit a work plan identifying the project as a part of its budget, including a financial plan which demonstrates the financial feasibility of the

project. Legislative approval of the authority's budget is required prior to the issuance of bonds to finance the construction.

- States that the authority is required to reimburse the department for costs incurred for the operation and maintenance of the facility from revenues generated by the facility.
- Allows the authority to establish and collect tolls, rate, fees, rentals and other charges for the facilities.

Section 90 requires the Florida Transportation Commission must study and report on the potential cost savings which might be realized through consolidation of the expressway authorities.

Amendment barcode # 410482 amends s. 349.03, F.S., to state members of the Jacksonville Transportation Authority should file a statement of financial interest with the Commission on Ethics.

Amendment barcode # 254496 amends s. 337.403, F.S., to mandate that work must be completed within such reasonable time as stated in the notice, to change "department" to "authority" in paragraph (d), and add paragraph (g) which requires the authority to bear the cost of removal if they acquire the property before the utility is removed or relocated.

Amendment barcode # 161740 creates section 97 which:

- Prohibits local governments from using certain paints in their road projects.
- Prohibits persons from manufacturing, selling, or offering for promotional purposes, such paints.
- Provides penalties for violations.

Amendment barcode # 594398 amends s. 343.53, F.S., to amend the membership of the governing board of the South Florida Regional Transportation Authority.

Amendment barcode # 342714 amends s. 337.11, F.S., to return it to existing law.

B. Amendments:

None.