

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Transportation Committee

BILL: SB 1866

INTRODUCER: Senator Latvala

SUBJECT: Department of Transportation

DATE: February 1, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Buford	TR	Pre-meeting
2.			BC	
3.				
4.				
5.				
6.				

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 including capping landscaping funds at 1.5% of the amount contracted for construction projects, 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.
- Require internet advertising, rather than newspaper advertising, for bids on certain low-cost construction projects.
- Expand the type of security which may be provided before installing certain monuments at rest areas in case the monument must be removed.
- Conforms sections having to do with Disadvantaged Business Enterprises with Federal law.
- Clarify the duties of a utility owner when their 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 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 limits MPOs to one plan per urbanized area.
- 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 definition of area served and 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.

This bill substantially amends ss. 20.23, 206.41, 282.0041, 282.005, 282.201, 311.07, 311.09, 311.14, 311.22, 316.003, 316.091, 316.001, 316.2122, 316.515, 318.12, 320.01, 320.20, 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, 338.166, 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, 343.52, 343.53, 349.04, 373.413, 373.4137, 403.7211, F.S.; creates ss. 311.10, 311.101, 338.151, 339.65, F.S.; and repeals ss. 337.137, 338.001, 479.28, F.S.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes:

II. Present Situation:

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.¹

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.

¹ 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 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.²

The department also runs a Right of Way Training Program the purposes of which are to:

- (A) Improve professional competence;
- (B) Provide salary incentives;
- (C) Improve the right of way property acquisition process;
- (D) Prepare employees for advancement.³

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 2008.⁴ 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.⁵ 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.

The State Data Center System

The state data center system was created by the Legislature in 2008.⁶ The system is composed of primary data centers (Southwood Shared Resource Center, Northwood Shared Resource Center

² Id. found at <http://www2.dot.state.fl.us/proceduraldocuments/procedures/bin/010000050.pdf>
Page 1, last viewed on Jan 30, 2012.

³ 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

⁴ 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.

⁵ Section 282.0056, F.S.

⁶ Chapter 2008-116, L.O.F.; CS for SB 1892.

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.⁷ 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.⁸

The AEIT is responsible for establishing operating policies for the system.⁹ 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.

The continuing and uninterrupted authority from the credit card industry to process credit card payments is essential to today’s collection of toll revenues to support the operations and maintenance of FDOT’s many toll facilities and to provide for the current and future transportation needs in the state. The Office of Toll Operations has invested substantial funding in meeting current data processing and data security needs, and in anticipating the needs of the future.

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.

⁷ Section 282.0041(18), F.S.

⁸ Section 282.0041(8), F.S.

⁹ Section 282.201(2), F.S.

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 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.

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 that 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 chapter 316, F.S., indicates that a motor vehicle is self-propelled, while the broader definition for "motor vehicle" in chapter 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.

Operation of Bicycles on Limited Access Highways

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. Highways identified with state highway route signs that include the word TOLL are limited access facilities.

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.

The change during the 2010 legislative session has increased the cost of tolls enforcement. The change has also created a legal issue regarding the enforceability of a majority of the citations issued whenever the violator's signature is not obtained on the mail receipt through no fault of FDOT, but simply because the intended recipient declines to sign for or pick up the citation at the post office. 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% of the citations issued and mailed. According to the department, FDOT is presently unable to enforce in court 69% of the citations issued to toll violators because the violator has not signed the receipt.

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.

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% 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% 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. Neither statute, nor any other, authorizes 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 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 issued a 23 C.F.R. 772 Final Rule 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 procedures require consideration of noise-control methods for capacity expansion, as well, and FDOT already undertakes such consideration as is 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.

Pursuant to 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.

Pursuant to 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 that on 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, 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.¹⁰

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. It appears that the bonding industry has reservations about issuing such bonds, and the monument has not been installed. As a result, no installations have occurred under the act.

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% 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 construction contract in excess of \$250,000 which FDOT proposes to let to 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.

¹⁰ Note: FDOT’s handbook on installation of such monuments can be found at:
<http://www.dot.state.fl.us/statemaintenanceoffice/MemorialsonDOTRightofWayProcedure.pdf>

This statute was last revised in 2010 (s. 21, ch. 2010-225) in an effort to remove apparent confusion. Contractors did not understand that they must submit the audited financial statements and the application for qualification within the currently specified four month period. Contractors often submitted one or the other and were also confused as to when audited interim financial statements are due. 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 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 that 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% of Florida's roads, yet carries almost 30% 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. Chapter 339, F.S., defines the entire SIS, including the highway component. The continued planning for and reporting on the FIHS and the SIS highway components as separate systems is redundant.

Tolls on the State Highway System

Currently, several sections of chapter 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.

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.

Economically Feasible: Definition

Section 338.223, F.S., requires that 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. The result is that potential transportation projects that meet other established criteria will not be undertaken because of an overly restrictive economic feasibility test.

Proposed Turnpike Projects

FDOT has been encouraged to pursue innovative highway projects in accordance with s. 337.025, F.S., which also provides that FDOT’s annual cap of \$120 million in contracts for such innovative highway projects shall not apply to Turnpike Enterprise projects, and that 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.

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 no authority to close such accounts.

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:

- 1) any amendment that deletes any project or project phase;
- 2) any amendment that adds a project estimated to cost over \$150,000;
- 3) 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,
- 4) 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.

The threshold amounts for the latter three categories were established in the 1980s and have not been adjusted by normal inflation which would more accurately reflect today's project costs. Additionally, project phase advances and deferrals within one year of the original date are typically the result of a schedule change of months rather than years.

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.

In 2010, FDOT and its partners worked to update the FTP. After six meetings of a 29 member Steering Committee, twenty four web meetings of four advisory groups, one statewide summit, two statewide webinars, twelve regional workshops, nearly three hundred briefings at regularly scheduled meetings of transportation partners, and an interactive website helping to gather input and feedback from more than ten thousand Floridians, the update process is completed. The 2060 FTP establishes Florida's transportation vision and identifies goals, objectives, and strategies to guide transportation decisions and investments over the next 50 years.

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.

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.¹¹

Article I, section 24 of the Florida Constitution, chapter 119, F.S., and chapter 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 agency¹² 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

¹¹ Section 286.011, F.S.

¹² "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.

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.

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. It is often necessary for FDOT to exercise its eminent domain powers to purchase lands to provide stormwater treatment within the project area.

Although DEP Rule Chapter 62-25, FAC, 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.

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, 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.

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 signs¹³ along highways. However, the payment of just (monetary) compensation is required for the removal of any lawfully erected billboard along the Federal-Aid Primary, Interstate and National Highway System roads.
- States and localities may enact stricter laws than stipulated in the HBA.
- No new signs can be erected along the scenic portions of state designated scenic byways of the Interstate and Federal-Aid Primary highways, but billboards are allowed in segmented areas deemed un-scenic on those routes.

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

Under the provisions of a 1972 agreement between the State of Florida and the U.S. Department of Transportation (USDOT) incorporating the HBA's required controls, 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.

¹³ 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.

- South Central Rural Area of Critical Economic Concern: DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee counties, and the cities of Pahokee, Belle Glade, and South Bay (Palm Beach County), and Immokalee (Collier County).
- North Central Rural Area of Critical Economic Concern: Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor, and Union counties.

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.

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
 - 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, 1979.¹⁴ (Note: 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

¹⁴ 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 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.

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 Section 189.403, Florida Statutes, 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, Florida Statutes, 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.

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.

III. Effect of Proposed Changes:

Section 1 amends s. 20.23, F.S., to allow the department to maintain training programs for employees who are graduates of an approved engineering curriculum in order to provide broad practical experience in the areas of right-of-way acquisition, right-of-way property management, real estate appraisal, and business valuation. This section also allows for incremental increases in the base salary for those employees who complete training phases within current budget authority.

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 the highway between farms while still being entitled to a refund of the state motor fuel tax.

Section 3 amends s. 282.0041, F.S., to remove the Office of Toll Operations from the definition of "Agency" under Ch. 282 which is entitled "Communications and Data Processing."

Section 4 amends s. 282.0055, F.S., to exempt information technology used by the Office of Toll Operations from Part I of Ch. 282 entitled "Enterprise Information Technology Services Management."

Section 5 amends s. 282.201, F.S., to remove toll offices from those agencies which must work with the Agency for Enterprise Information Technology towards consolidation into a primary data center.

Section 6 renames Ch. 311 as "Seaport Facilities and Programs."

Section 7 amends s. 311.07, F.S., to increase funding from the STTF, from \$8 million to \$15 million per year, for the FSTED program; to direct the FSTED council, with the cooperation with FDOT and DEO, to develop guidelines for the use of project funding as well as a schedule for including projects in FDOT's tentative work program; to add seaport master plans or strategic plan development or updates to the list of projects eligible for funding under FSTED; and removes caps for matching funds for eligible seaports.

Section 8 amends s. 311.09, F.S., to give the FSTED council rulemaking authority to evaluate projects and require that they develop criteria for evaluating projects; remove obsolete references to the Department of Community Affairs; remove specific guidelines for FDOT to review projects for consistency with the Florida Transportation Plan and the Statewide Seaport and Waterways System plan, and notify the FSTED council of its findings; and mandate that DEO review project applications for consistency with state economic goals and policies as well as state, regional, and local plans, and notify the FSTED council of its findings.

Section 9 creates s. 311.10, F.S., entitled the "Strategic Port Investment Initiative", to set aside a minimum of \$35 million per year from the STTF which FDOT and the deepwater ports listed in s. 311.09 are to use to fund certain projects; mandate that FDOT and the ports create a priority list of projects and select them based on enumerated criteria; mandate that FDOT, the ports, and DEO hold a public workshop and comment period before making a final selection; and instruct

FDOT that it should include projects proposed to be funded in their tentative work program to the maximum extent feasible.

Section 10 creates s. 311.101, F.S., entitled the “Intermodal Logistics Center Infrastructure Support Program”, and states that the purpose of the program is to assist intermodal shipping through seaports in order for Florida to become a hub for trade, logistics, and export-oriented activity.

The section also authorizes FDOT to provide funds to local governments or private entities for projects that meet the purpose of this section; defines the term "intermodal logistics center"; and lays out criteria FDOT must consider when deciding to fund a project; mandates that FDOT must coordinate and consult with DEO; states that FDOT can administer contracts on behalf of the entity selected to receive funding; caps project funding at 50% of the eligible projects costs; allocates \$5 million per year from STTF to fund the program; and gives FDOT rulemaking authority.

Section 11 amends s. 311.14, F.S., to mandate that FDOT, along with the ports in s. 311.09(1), develop the Statewide Seaport and Waterways System Plan (SSWS) plan; state that the SSWS plan must be consistent with the Florida Transportation Plan and must consider both the needs identified in individual port master plans and those from seaport strategic plans required under this section; state that the SSWS plan must identify 5, 10, and 20 year needs for the seaport system; and remove old subsections (1) and (2), which mandated the creation of freight-mobility and trade corridor plans and the integration of the plans into the Florida Transportation Plan.

Section 12 amends s. 311.22 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, referencing s. 320.01, F.S.

Section 14 amends s. 316.091, F.S., to restrict bicycles or other human powered vehicles from being operated on limited access highways unless official signs and a marked bicycle lane are present; and to mandate that FDOT create a 2-year pilot program under which the department must erect signs and create marked bicycle lanes on limited access highways in three urban areas and according to the specific criteria set forth in this section.

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 that a straight truck-trailer combination may not exceed 68 feet in overall length; and to add citrus harvesting equipment and citrus fruit loaders 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. 334.03, F.S., to repeal the definition for the “Florida Intrastate Highway System”; revise the definition for “Functional Classification” to refer to procedures developed by the Federal Highway Administration; and to change the definition of “State Highway System” to “the interstate system and all other roads within the 1303 state which were under the jurisdiction of the state on June 10, 1304 1995, and roads constructed by an agency of the state for the State Highway System, plus roads transferred to the state’s 1306 jurisdiction after that date by mutual consent with another 1307 governmental entity. Roads transferred from the state’s 1308 jurisdiction are not included. Access to State Highway System 1309 facilities shall be regulated.”

Section 22 amends s. 344.044 to revise FDOT’s powers and duties by:

- By removing assignment of jurisdictional responsibilities for roads;
- By removing the power to designate existing transportation facilities as part of the State Highway System;
- By capping landscaping funds at 1.5% of the amount contracted for construction projects;
- By preventing FDOT districts from expending funds for landscaping in connection with a resurfacing project unless specifically approved by the secretary or the secretary's designee;
- And by requiring the development of freight mobility and trade plans which should enhance the integration and connectivity of the transportation system access and between transportation modes for people and freight throughout the state.

Section 23 amends s. 334.047, F.S., to remove an obsolete reference.

Section 24 amends s. 335.02, F.S., to correct cross-references.

Section 25 amends s. 335.074, F.S., to bring the Florida Statutes into conformity with Federal law by mandating that:

- Upon the receipt of an inspection report recommending limits on a bridge, the governmental entity responsible for that bridge must institute those limits, post them in accordance with s. 316.555 and notify FDOT they have done so within 30 days.
- If those actions are not taken within 30 days, FDOT will implement the recommendations of the inspection report and charge all costs to the governmental entity in charge of the bridge.
- The same procedure applies if the inspection report recommends closure, however, all actions must be taken immediately.

Section 26 amends s. 335.17, F.S., to require that FDOT must now use noise-control methods as part of highway construction projects that involve new location or capacity expansion.

Sections 27 and 28 amend ss. 336.021 and 336.025, F.S., to require that the 1/9th cent fuel tax levy and the local option fuel tax be levied before October 1, instead of before July 1.

Section 29 amends s. 337.11, F.S., by mandating that FDOT must advertise for bids for construction contracts of \$250k, or \$500k, with prequalification under s. 337.14, on its internet website instead of in a newspaper having general circulation in the county in which the work is located, as was previously required.

Section 30 amends s. 337.111, F.S., to allow groups or organizations proposing the monument to provide annual renewable bonds, an irrevocable letters of credit, or other forms of security as approved by FDOT's comptroller, for the purpose of removing the monument, should it become necessary. Previously, only a 10-year bond was acceptable.

Sections 31-33 amend ss. 337.125, 337.137, and 337.139, F.S., to bring the language on Disadvantaged Business Enterprises into conformity with Federal statutes by:

- Clarifying that the prime contractor must submit disadvantaged business utilization intent after the contract goals are established.
- Repealing s. 337.137, F.S., which prohibited disadvantaged businesses from subcontracting more than 49% of work and grants authority to de-certify disadvantaged businesses.
- And by updating the definition of "disadvantaged business" to reflect the most current federal definition.

Section 34 amends s. 337.14, F.S., to allow a 15 day extension on the time period allowed to turn in the application and the interim financial statement, if requested by the applicant; and to allow applicants who are desiring to bid exclusively on projects worth less than \$1 million to submit their financial statements with the opinion of a CPA, rather than requiring they be audited by a CPA.

Section 35 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 and also must complete the work in the time allotted by the notice or in the time agreed upon by the authority and the utility owner.

Section 36 amends s. 337.404, F.S., to change the term "removal and relocation" to the term "work" in order to comply with the changes to s. 337.403 in section 35.

Section 37 amends s. 337.408, F.S., to add bus stops to the types of structures regulated under s. 337.408; direct that all installations must be compliance with all applicable laws and rules, specifically the ADA; state that local governments should indemnify, defend and hold harmless FDOT for suits, etc., relating to the installation, removal, or relocation of such installations; allow FDOT to direct the immediate relocation or removal of an installation which does not

comply with applicable laws and rules; and direct FDOT to remove such structures if the local government fails to do so and to bill the local government for the work.

Section 38 renames Ch. 338, F.S., as “Limited Access and Toll Facilities.”

Section 39 repeals s. 338.001, F.S., which is the requirement to develop a Florida Intrastate Highway System Plan.

Section 40 amends s. 338.01, F.S., so that it:

- Allows FDOT to establish limited access facilities as provided in s. 335.02, F.S.
- States that their primary purpose is to allow high-speed and high-volume traffic movements within the state.
- Makes access to abutting land a subordinate function which must be prohibited or highly regulated.

Section 41 creates s. 338.151, F.S., which:

- Allows FDOT to establish tolls in the State Highway System on new limited access facilities, 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.
- Restricts FDOT from establishing tolls on limited access facility lanes that exist on July 1, 2012, and lists exceptions to this restriction.
- And clarifies that the authority in this section is in addition to the Florida Turnpike Enterprise.

Section 42 amends s. 338.155, F.S., so that it allows FDOT to use rulemaking authority to exempt public transit vehicles and vehicles participating in funeral processions for active duty military from tolls if such tolls are not pledged to the repayment of bonds.

Section 43 amends s. 338.166, F.S., to remove the language that restricts bond issuance to those lanes located on I-95 in Miami-Dade and Broward Counties and restrict the usage of toll revenues to projects in the counties where the tolls were collected or to support express bus service on the facility where the tolls were collected.

Section 44 amends s. 338.221, F.S., by revising the definition of "economically feasible" as it relates to turnpike projects so that annual debt service on bonds must be paid by the end of the 30th year of operation, rather than the 22nd year.

Section 45 amends s. 338.223, F.S., by reducing the how complete the design phase of a proposed project must be, before it can be submitted to the legislature for approval, from 60% to 30%.

Sections 46-48 amend ss. 338.227, 338.2275, and 338.228, F.S., to correct cross-references.

Section 49 amends s. 338.231, F.S., in order to assess a \$.25 per month fee against toll accounts which are inactive for 24-48 months so long as they maintain a positive account balance and state that if a positive balance remains after 48 months, they funds are presumed unclaimed and are disposed of in accordance with Ch. 17 and the toll account is closed.

Section 50 amends s. 338.234, F.S., to correct cross-references.

Section 51 amends s. 339.0805, F.S., which has to do with Disadvantaged Business Enterprises, so that it is in conformity with 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.
- Eliminating non-subcontracting requirements in conformance with the repeal of s. 337.137 in section 32 of this bill.

Section 52 amends s. 339.135, F.S., in order to revise threshold amounts for review of amendments to the department's adopted work program and direct FDOT to index the budget amendment threshold amounts as specified but prohibits such adjustments more frequently than once a year and subjects such adjustments to specified notice and review procedures.

Section 53 amends s. 339.155, F.S., to repeal the requirement to annually update the Florida Transportation Plan, eliminate statutory planning process requirements and instead reference federal requirements, and eliminate the short-range component of the plan.

Section 54 amends s. 339.175, F.S., to change FDOT representatives on the MPO's governing boards from members to advisors and to limit priority project listings to one per urbanized area, regardless of the number of MPOs in the area.

Sections 55-57 amend ss. 339.2819, 339.285, and 339.62, F.S., to correct cross-references.

Section 58 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.

Section 59 amends s. 339.64, F.S., to repeal provisions creating the Statewide Intermodal Transportation Advisory Council.

Section 60 creates s. 339.65, F.S., which:

- Mandates that FDOT plan and develop SIS highway corridors with the primary purpose of traffic movement.
- Lists facilities which must be included from the State Highway System.

- Lists policy guidelines which FDOT must follow.
- Mandates that FDOT must create a 20 year project plan for the SIS highway corridors and establish standards and criteria for functional characteristics and design of facilities proposed.
- Provides an adjusted allocation based on a 2003-2004 allocation of \$450 million.
- Mandates that any project must be included in the FDOT work plan.

Sections 61 and 62 amend ss. 341.053 and 341.84, F.S., to correct cross-references.

Section 63 amends s. 343.52, F.S., to revise the definition of the “area served” for the South Florida Regional Transportation Authority (SFRTA) in order to remove provisions allowing the expansion of the area served.

Section 64 amends s. 343.53, F.S., to revise the membership of the governing board of SFRTA, reducing it from 9 to 7 members by eliminating citizen members appointed by county commissioners and increasing the members appointed by the governor from 2 to 3.

Section 65 amends s. 349.04, F.S., to allow the Jacksonville Transportation Authority to conduct public meetings and workshops by means of communications media technology.

Section 66 amends s. 373.413, F.S., so that it:

- Provides legislative intent that there should be flexibility when permitting the construction or alteration of stormwater management systems serving state transportation projects.
- Mandates a balancing test between the cost of the most cost-efficient and effective method of stormwater treatment and the public benefit of such a method.
- Allows for alternatives for onsite stormwater treatment.
- Relieves FDOT of responsibility for abatement of pollutants and flows from offsite sources, but does not prohibit their management by FDOT.
- States FDOT is responsible for stormwater management for an acquired right-of-way, but not for adjusting permits for adjacent lands.
- Grants rulemaking authority to FDOT.

Section 67 amends s. 373.4137, F.S., to:

- Change the legislative intent to include the use of other mitigation options that satisfy state and federal requirements.
- Allow FDOT to elect whether or not to incorporate its mitigation efforts into the planning structure detailed under this section.
- Adjust the requirements for the environmental impact inventory so that it only must have a list, rather than a survey, of threatened species, endangered species, and species of special concern threatened by the proposed project.
- Allow the release of funds that are identified or maintained in escrow for the WMDs if the transportation project falls outside, in whole or in part, of the WMD mitigation plan.

Section 68 amends s. 403.7211, F.S., to correct cross-references.

Section 69 repeals s. 479.28, F.S., which created the Rest Area Information Panel or Device Program.

Section 70 creates a new unnumbered section of the Florida Statutes in order to allow FDOT to seek federal approval for a Tourist-Oriented Commerce Sign Pilot Program.

Section 71 creates a new unnumbered section of the Florida Statutes in order to initiate a study by the Pinellas Suncoast and the Hillsborough Area Regional Transit Authorities. The new section of law designates 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.

Other Potential Implications:

Section 65 makes revisions to allow the Jacksonville Transportation Authority to conduct public meetings and workshops by means of communications media technology. This change will subject that 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.¹⁵ 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.¹⁶

Section 53 proposes 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 re-enactment of the reference is more efficient than revising the current list of factors in state statute with each round of federal changes.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

¹⁵ see 2005 WL 3262434 (Fla.A.G.)

¹⁶ see AGO 2003-41

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Section 206.41 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 316.003 is amended to revise the definition of motor vehicles as it pertains to toll collections in order to allow for 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 316.515 is amended to clarify the 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 337.11 is amended to require FDOT to advertise for bids for certain projects on FDOT's website. Previously, FDOT was required to advertise in a news paper of general circulation in the county in which the work was to be done. This change will have an indeterminate negative fiscal impact on the publishers of such newspapers, due to the loss of advertising revenues.

Section 337.14 is amended to allow 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 such applicants.

Section 383.151 is amended to allow 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 must use such tolled installations.

Section 338.231 is amended to allow 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.

C. Government Sector Impact:

Section 20.23 is amended to codify an existing program and will not create a fiscal impact.

Section 311.07 is amended to codify funding practices which have been current practice since 2004 and, as such, will have no fiscal impact.

New sections 311.10 and 311.101 create new allocations from the STTF which may need to be offset from other projects.

Section 316.1001 is amended to remove the requirement that toll citations be mailed return receipt requested. This section will cause an indeterminate positive fiscal impact due to the reduced cost of mailing citations.

Section 316.515 is amended to clarify the 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 impact on the authorities writing such citations.

Section 334.044 is amended to change language pertaining to FDOT powers and duties to cap landscaping funds, rather than require a minimum amount of landscaping funds. This should have an indeterminate positive fiscal impact.

Section 337.11 is amended to require FDOT to advertise widely accessible bids for certain projects on FDOT's website. Advertising on a website is a low-cost method of advertising and, as such, this section should create an indeterminate positive fiscal impact.

Section 383.151 is amended to allow 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 338.155 is amended to allow 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 338.231 is amended to allow 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 373.413 is amended to allow for flexibility in permitting construction or alteration of stormwater management systems. If proven more efficient, such flexible permitting could cause an indeterminate positive fiscal impact.

Section 373.4137 is amended to allow 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.

Section 71 creates a new unnumbered section of the Florida Statutes which mandates a study that is to be paid for from the existing budgets of the PSTA and HART.

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.)

None.

B. Amendments:

None.