

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: SB 1998 (SPB 7104)

INTRODUCER: Budget Committee

SUBJECT: Transportation

DATE: February 15, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carey	Rhodes	BC	SPB 7104, Favorable
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill makes substantive law changes to conform to provisions of the Senate Proposed General Appropriations Bill for Fiscal Year 2012-13 relating to the Florida Department of Transportation, the Department of Highway Safety and Motor Vehicles, and Florida bridge and expressway authorities. The bill includes the following provisions:

- Consolidates the Mid-Bay Bridge Authority (MBBA) into the Florida’s Turnpike Enterprise;
- Transfers the Transportation Economic Development “Road Fund” program from the Department of Economic Opportunity to the Department of Transportation (FDOT or department);
- Redirects civil penalties assessed on commercial motor vehicles from the State Transportation Trust Fund to the Highway Safety Operating Trust Fund;
- Repeals the transfer of \$5 million annually from the Highway Safety Operating Trust Fund to the Transportation Disadvantaged Trust Fund;
- Repeals the Toll Facility Revolving Trust Fund and transfers those revenues and future revenues to the State Transportation Trust Fund;
- Implements a Transportation Debt Assessment policy requiring the department to submit a debt load report in conjunction with the tentative work program;
- Requires the department to notify the Governor and Legislature prior to advancing a project in the 5-year work program utilizing funds provided by a public-private partnership to be reimbursed as programmed in the adopted work program;
- Provides for the re-distribution of certain vehicle registration and title fees currently deposited in the General Revenue Fund to be deposited in the State Transportation Trust, and specifies the uses of those revenues;

- Transfers toll collection services from expressway authorities (excluding Miami-Dade) to Florida's Turnpike Enterprise;
- Requires the Tampa-Hillsborough County Expressway Authority ("THEA") and Orlando-Orange County Expressway Authority ("OOCEA") authorities to comply with the budget process in accordance with ch. 216, Florida Statutes;
- Requires the Transportation Commission to study whether further savings may be achieved by having the department perform operations and maintenance functions for the expressway authorities; and
- Provides additional protections to ensure loan repayments to the state by requiring THEA and OOCEA to issue bonds through the Division of Bond Finance until all debt relating to operations and maintenance is paid to the Department of Transportation; and
- Provides financial protection to the state for its obligations for Wekiva Parkway construction.

This bill substantially amends the following sections of the Florida Statutes: 288.0656, 316.3025, 316.545, 319.32, 320.072, 320.08, 320.0801, 320.0804, 334.30, 338.165, 338.2275, 338.250, 339.08, 348.0004, 348.0005, 348.52, 348.54, 348.545, 348.56, 348.565, 348.57, 348.60, 348.753, 348.754, 348.7543, 348.7545, 348.7546, 348.7547, 348.755, 348.757, 348.9952, 369.317, and 377.809.

The bill repeals ss. 288.063, 320.204, 338.251, and 348.9956 of the Florida Statutes.

This bill creates ss. 339.139, 339.2821, 339.2825, 348.0013, 348.615, 348.7585, and 348.99565 of the Florida Statutes.

II. Present Situation:

Seaport Funding

Florida seaports are eligible under s. 311.07, F.S., for a minimum of \$8 million a year¹ in grants from the State Transportation Trust Fund for projects to improve the "movement and intermodal transportation" of cargo and passengers. The projects are recommended annually by the Florida Seaport Transportation and Economic Development (FSTED) Council and approved by the Florida Department of Transportation. Most years, the Legislature appropriates more than \$8 million to the seaports; for FY 2009-2010, for example, FDOT was directed to spend \$21.9 million on seaport grants and \$25.6 million in FY 10-11.²

The ports also benefit from an additional \$25 million in debt service paid with motor vehicle license fees³ from the State Transportation Trust Fund for 1996 and 1999 bond issues, under ch. 315, F.S., which financed \$375.4 million in major port projects. These bond issues will be paid off in 2026 and 2029, respectively.

Under the structure established by the Legislature in ch. 315, F.S., the Florida Ports Financing Commission was created via interlocal agreement of local governments where the 14 ports are located. It issued the 1996 and 1999 port facility improvement bonds, but none since a 2000 law

¹ Since FY 2005-2006, FDOT by agreement with FSTED has earmarked at least \$15 million for FSTED projects.

² In 2007, the Legislature appropriated an additional \$50 million for port projects as a line-item.

³ Section 320.20(3) and (4), F.S.

change to s. 320.20, F.S., requiring that the state Division of Bond Finance, at the request of FDOT, issue any future port facility bonds.⁴

The 2000 legislation also specified these two bond issues could be refinanced, but not for a longer term than the original 30 years.

Pursuant to s. 311.07, F.S., the state grant funds cannot exceed 50 percent of the total cost of an FSTED project. In order to be approved, a project must be consistent with the seaport's comprehensive master plan and the applicable local government's comprehensive plan, and comply with water-quality standards and requirements specified in ch. 403, F.S.

Eligible projects per the statute include:

- Dredging or otherwise deepening channels, harbors, and turning basins;
- Construction or rehabilitation of wharves, docks, piers, and related structures;
- Transportation facilities, such as roads or rail lines, located within a port; and
- Acquisition of land for port purposes.

The FSTED port projects also are part of FDOT's 5-Year Work Program, which is submitted to the Legislature annually for approval. The adopted work program for FY 2011-12 included \$117 million for seaports grant funding and the FY 2012-13 final tentative work program provides \$115 million for the seaports grant funding program for FSTED port projects.

Economic Development Transportation Fund

The Department of Economic Opportunity (DEO) assists the Governor in formulating policies and strategies designed to provide economic opportunities for all Floridians. DEO provides executive direction and staff support to develop policies and advocate for economic diversification and improvements in Florida's business climate and infrastructure.

Florida has a number of economic development incentive programs used to recruit industry to Florida, or to persuade existing businesses to expand their operations in the state. The Economic Development Transportation Fund (Road Fund) is created in s. 288.063, F.S. This incentive is funded by a transfer from the State Transportation Trust Fund. The Road Fund is used to assist local governments in paying for highway or other transportation infrastructure improvements that will benefit a relocating or expanding company. The amount appropriated for this transfer varies from year to year, and in FY 2011-12, \$15 million was appropriated for this program, however, \$917,000 was vetoed by the Governor. Since 1995, the DEO or its predecessor organization have issued \$60 million Road Fund projects.

Civil Penalties Assessed on Commercial Motor Vehicles

The Office of Motor Carrier Compliance was transferred from FDOT to the Department of Highway Safety and Motor Vehicles (DHSMV) pursuant to chs. 2011-66 and 69, L.O.F. Motor Carrier Compliance Officers are sworn law enforcement personnel who engage in activities to

⁴ A March 22, 2000, audit by the Florida Auditor General reported several instances where "FSTED Program Management may not have, in several material respects, complied with the significant provisions of laws, administrative rules, and other guidelines governing the FSTED Program." A summary of the report (#13612) is on file with the Senate Commerce and Tourism Committee.

enforce all commercial motor vehicle (CMV) laws and regulations pertaining to weight, size, traffic, safety, registration and licensing, fuel use taxes, hazardous materials and CMV contraband interdiction. Civilian weight inspectors with FDOT who work thirty-two fixed scale weigh stations on the interstate highways and State Highway System. Motor Carrier Officers are equipped with portable scales and the necessary equipment for performing safety inspections. They inspect commercial motor vehicles for weight violations and conduct compliance review for safety and hazardous violations in all geographic areas including weigh stations and bypass routes.

Civil penalties are collected pursuant to citations issued by Motor Carrier Officers and inspectors and those revenues are deposited in the State Transportation Trust Fund pursuant to ss. 316.025 and 316.545, F.S. Overweight vehicle penalties (fines) have historically contributed a substantial portion toward the operating costs for the Office of Motor Carrier Compliance.⁵ The operating costs for the Office of Motor Carrier Compliance at DHSMV are currently funded through the transfer of revenues from FDOT from revenues in State Transportation Trust Fund.

Original or Duplicate Issuance of Certificate of Title Fee

Currently, the fee imposed for an original or duplicate issuance of a certificate of title, is \$70, except for motor vehicle for hire, which is \$49. The State Transportation Trust Fund receives \$21 for each original or duplicate certificate of title issuance. Prior to the passage of ch. 2009-71, L.O.F., the fee for an original or duplicate certificate of title was \$24 of which \$21 was distributed to the State Transportation Trust Fund after the general revenue service charge deduction required pursuant to s. 215.20, F.S.

Initial Registration Fee

Section 320.072, F.S., provides for an additional fee of \$225 to be imposed upon the initial application for registration of a motor vehicle (new wheels on the road) for every motor vehicle classified in s. 320.08(2), (3) and (9)(c) and (d), F.S. Revenues resulting from this fee are deposited in the State Transportation Trust Fund (44.5%) and the General Revenue Fund (55.5%).

License Tax Fees and Surcharges

An annual license tax is imposed for the operation of motor vehicles, mopeds, motorized bicycles, tri-vehicles and mobile homes which is collected by DHSMV or its agent upon the annual registration renewal as provided in s. 320.08. The annual vehicle registration, or renewal registration, is sometimes referred to as "base tax" as the amount is based on the weight of the vehicle. Section 320.20, F.S., specifies the annual distribution of the vehicle license tax for various constitutional and statutory purposes. To comply with the requirements of s. 18, Art. XII of the State Constitution, the first proceeds from the vehicle license tax is deposited in the district Capital Outlay and Debt Service School Trust Fund. The remaining distributions of the vehicle license tax pursuant s. 320.20, F.S. are primarily to the State Transportation Trust Fund in FDOT. However, s. 320.08, F.S., specifies a distribution to the General Revenue Fund for each vehicle weight class.

⁵ Florida Department of Transportation Program and Resource Plan, Fiscal Years 2010-11 through 2015-16, April 2011

In addition to the motor vehicle registration and renewal registration imposed in s. 320.08, F.S., an additional fee of \$10 is assessed on each commercial motor vehicle with a gross vehicle weight (GWV) of 10,000 pounds or more pursuant to the provisions of s. 320.0801, F.S. Of the \$10 GWV fee assessed on commercial motor vehicles, \$5 is deposited in the State Transportation Trust Fund and \$5 is deposited in the General Revenue Fund.

Section 320.0804, F.S., levies an additional surcharge for the transportation trust fund on each vehicle registration and renewal registration imposed in s. 320.08, F.S., excluding mobile homes. Of the \$4 surcharge imposed pursuant to this section, \$2 is deposited in the State Transportation Trust Fund and \$2 is deposited in the General Revenue Fund.

Chapter 2009-71, L.O.F., increased each of the title and vehicle registration fees discussed above, and prior to the passage of this law, these fees were primarily distributed to the State Transportation Trust Fund.

Transportation Disadvantaged Trust Fund

The Commission for the Transportation Disadvantaged (commission) is established with the purpose of developing the state coordinated transportation services program provided to the transportation disadvantaged and with the goal of providing cost-effective transportation to qualified community transportation coordinators or operators. The Transportation Disadvantaged Trust Fund (TDTF) is established under s. 427.0159, F.S. Funds deposited into the trust fund are appropriated by the Legislature to the commission and are used to carry out the responsibilities of the commission including its administrative expenses. Motor vehicle registration fees account for over \$21 million of the annual revenues distributed to the TDTF. These fees include a \$1.50 dedicated fee on initial and renewal registrations on certain private use vehicles, \$5.00 from each issuance of a temporary handicapped disabled parking permit, and a \$1.00 voluntary contribution on motor vehicle registrations.⁶

Section 320.204, F.S., directs DHSMV to transfer \$5 million beginning on July 1, 2011, and annually thereafter, to the Transportation Disadvantaged Trust Fund in FDOT. Pursuant to the provisions of s. 53 of ch. 2011-47, L.O.F., no funds were transferred in FY 2011-12.

Transportation Disadvantaged Grant Program

The transportation disadvantaged grant program is coordinated by the executive staff of the Transportation Disadvantaged Commission, and provides funding for non-sponsored trips, including the purchase of capital equipment. Trip and equipment related grants may be used for the provision of nonsponsored transportation disadvantaged services and for the purchase of capital equipment to be used for services provided to the transportation disadvantaged. Capital equipment expenditures are limited to no more than 25% of the Commission participation and the required match. Planning related grant funds may be used by an eligible Metropolitan Planning Organization or Designated Official Planning Agency to assist the Commission in their responsibilities at the local level as identified in ch. 427, F.S., including support to the local coordinating boards. Eligible grant recipients for the trip and equipment grants only, must provide at least 10% of the total project cost as a local match. The match must be cash generated from local sources. Voluntary dollar collections do not require a match. In FY 2010-11, the

⁶ Senate Issue Brief 2011-225, October 2010, Transportation Disadvantaged Trust Fund

Commission for Transportation Disadvantaged grants program distribution for trip and equipment grants was \$36.6 million.

Public-private Transportation Facilities

The Department of Transportation is authorized in s. 334.30, F.S., to advance projects which are programmed in the adopted 5 year work program which increase transportation capacity and projects greater than \$500 million in the 10 year Strategic Intermodal Plan using funds provided by public-private partnerships or private entities. These partnerships allow FDOT to advance a project utilizing private financing and to reimburse those funds in the fiscal year in which the project is programmed in the work program.

Legislative approval for FDOT to receive and solicit proposals to enter into agreements with private entities for the building, operation, ownership or financing of transportation facilities, is evidenced by the project being in FDOT's 5-year work program.

Approved Turnpike Projects

Section 338.2275, F.S., specifies legislative approval of the tentative work program constitutes the approval to issue bonds as required by s. 11(f), Art. VII of the State Constitution, for turnpike projects which are included in the work program, and authorizes FDOT to use the most cost efficient combination of funds available in developing a financial plan to fund those projects. Any turnpike project which the department proposes to finance through the issuance of bonds must be economically feasible as required in s. 338.221, F.S.

Central Florida Beltway Mitigation

The Central Florida Beltway Mitigation Trust Fund was created for the environmental mitigation of lands and names the St. Johns River and South Florida Water Management Districts as acquisition agents. Title to lands acquired resides with the water management district entities that also manage the mitigation lands.

Toll Facility Revolving Trust Fund

The Toll Facilities Revolving Trust Fund is a loan program created in s. 338.251, F.S., to develop and enhance the financial feasibility of revenue-producing road projects undertaken by local governmental entities and the Turnpike enterprise. Loans can be awarded for project planning and design activities, and advanced right-of-way purchase activities by filing an application with the FDOT. The trust fund provides interest free loans as "seed money" to pay initial project development costs for toll facilities. Loan awards greater than \$1.5 million must be appropriated by the Legislature.

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.⁷ 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.⁸ 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

⁷ 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.

⁸ 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.⁹ 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.

Santa Rosa Bay Bridge Authority

The Santa Rosa Bay Bridge Authority ("SRBBA"), established in 1984 under ch. 348, F.S., oversaw the financing and construction of the 3.5-mile Garcon Point Bridge, the authority's only toll facility. Construction of the two-lane facility was financed by the Series 1996 Revenue Bonds. The bridge, which opened on May 14, 1999, spans Pensacola Bay and connects Garcon Point to the north and Redfish Point to the south, providing access to Gulf Breeze and other areas on the peninsula from areas north and east of Pensacola Bay.

The SRBBA issued approximately \$95 million in Series 1996 Revenue Bonds to finance the construction of the Bridge. The bonds are secured by gross toll revenues from the bridge, with FDOT paying operation and maintenance under a lease purchase agreement. Pursuant to the

⁹ Senate Issue Brief 2012-208, Cost Effectives of Regional Expressway and Bridge Authorities (September 2011)

bond resolution, proceeds of \$9,246,262 were deposited into a Debt Service Reserve Fund established to meet debt service payments in instances where toll revenues were deficient. Toll revenues, despite a schedule of rate increases intended to maximize revenues generated by the bridge, have been less than projected resulting in the depletion of the debt service reserve fund in January 2011. Currently, SRBBA bonds are in default. The department is committed to continue to pay O&M costs through the final payoff date of the bonds, which is scheduled for 2028, but will likely be extended since toll revenue has not been adequate to meet the debt service required for the SRBBA's bonds

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, 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, now 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.¹⁰

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 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

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

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 department's 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 \$8,832,000¹¹. These revenues support the repayment of bonds issued to build turnpike projects, and finance the operation and maintenance of the system.

Bond Issuances

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.

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

¹¹ Forecasted revenues from 2011 Adopted Finance Plan (without effects of indexing).

- 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.

III. Effect of Proposed Changes:

Section 1 creates an undesignated section of law authorizing the transfer of the governance and control of the Mid-Bay Bridge Authority system to Florida's Turnpike Enterprise and requires that turnpike enterprise 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, 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 2 repeals s. 288.063, F.S. which authorizes the Economic Development Transportation Fund (Road Fund) in the Department of Economic Opportunity. This incentive is funded by a transfer from the State Transportation Trust Fund. The Road Fund is used to assist local governments in paying for highway or other transportation infrastructure improvements that will benefit a relocating or expanding company.

Section 3 amends s. 288.0656, F.S., conforming to changes made in section 2 of the bill repealing s. 288.063, F.S., and section 20 creating s. 339.2821, F.S.

Sections 4 and 5 amend ss. 316.3025 and 316.545, F.S., respectively, authorizing revenues collected for civil penalties on citations for overweight vehicles issued by Motor Carrier Officers with DHSMV or weight inspectors with FDOT be deposited into the Highway Safety Operating Trust for the general operations of DHSMV, rather than the State Transportation Trust Fund at FDOT.

Section 6 amends s. 319.32, F.S., changing the distribution of the additional fees imposed in 2009 for the issuance of an original or duplicate certificate of title from \$24 to \$70. Of this amount, the State Transportation fund currently receives \$21, and will receive \$42 beginning in FY 2013-14.

Section 7 amends s. 320.072, F.S., changing the distribution of the revenue from the \$225 initial application fee for registration of a motor vehicle classified in s. 320.08(2), (3), and (9)(c) and (d), from 55% to the General Revenue Fund so that 100% of the revenue is distributed to the State Transportation Trust Fund.

Section 8 amends s. 320.08, F.S., changing the distribution of 2009 increase in the annual license tax for the operation of motor vehicles, mopeds, motorized bicycles and tri-vehicles. This section eliminates the base tax distribution of revenue to the General Revenue Fund. The annual license tax revenues are distributed pursuant to s. 320.20, F.S., with the first proceeds deposited in the District Capital Outlay and Debt Service School Trust Fund, and the remaining distributions being made primarily to the State Transportation Trust Fund.

Section 9 amends s. 320.0801, F.S., changing the distribution of the existing surcharge of \$10 imposed on each commercial motor vehicle with gross vehicle weight (GVW) of 10,000 pounds or more from 50% to the General Revenue Fund and 50% to the State Transportation Trust Fund, so that 100% of the surcharge is distributed to the State Transportation Trust Fund.

Section 10 amends s. 320.804, F.S., changing the distribution of the existing \$4 surcharge imposed on each annual license tax for the operation of motor vehicles, issued pursuant to s. 320.08, and excluding mobile homes as defined in 320.08(11), from 50% to the General Revenue Fund and 50% to the State Transportation Trust Fund, so that 100% of the surcharge is distributed to the State Transportation Trust Fund.

Section 11 creates an undesignated section of statutes allocating and providing for the use of revenues derived from the redistribution of funds in sections 6 through 10 of the bill as follows:

- Beginning in FY 2012-13, and annually thereafter for 30 years - \$15 million for the Seaport Investment Program pledged to the payment of debt service. These revenues are to be used for funding any seaport project identified in the FY 2011-12 FDOT adopted work program;
- Beginning in FY 2012-13, and annually thereafter for 30 years, \$50 million is transferred to the Florida's Turnpike Enterprise to be used in accordance with Florida Turnpike Enterprise Law;
- Beginning in FY 2012-13, \$5 million is transferred to the Transportation Disadvantaged Trust Fund for the purposes of the Transportation Disadvantaged Commission as provided in ch. 427, F.S., and beginning in FY 2013-14, \$10 million is transferred annually to the Transportation Disadvantaged Trust Fund.

After the distributions described above, the remaining funds must be distributed as follows:

- Beginning in FY 2012-13, \$10 million is for the Small County Outreach Program, as specified in s. 339.2818, F.S., and, beginning in FY 2013-14, \$25 million annually is for the Small County Outreach Program. These funds are in addition to funds provided in s. 201.15(1)(c)1.b., F.S.;
- Beginning in FY 2013-14, \$25 million annually for the Transportation Regional Incentive Program as specified in s. 339.28919, F.S. These funds are in addition to the funds provided in s. 201.15(1)(c)1.d., F.S.;
- In FY 2012-13, \$287,320,240 is transferred to the General Revenue Fund; and
- The remaining funds must be used annually for strategic corridor transportation projects which include existing or planned strategic corridors connecting major markets with Florida, or between Florida and other states with a focus on job creation and Florida's viability in national and global markets.

Section 12 repeals s. 320.204, F.S., providing for a \$5 million transfer from the Highway Safety Operating Trust Fund in DHSMV to the Transportation Disadvantaged Trust Fund in FDOT beginning July 1, 2012. Repealing the transfer eliminates the DHSMV obligation and will allow those funds to be used for expenditures of DHSMV.

Section 13 repeals subsection (7) of s. 334.30, F.S., which authorizes FDOT to lend funds from the Toll Facilities Revolving Trust Fund to private entities constructing projects on the State Highway System containing toll facilities.

Section 14 amends s. 338.165, F.S., allowing the transfer of FDOT's Beachline-East Expressway to the turnpike system under Florida Turnpike Enterprise Law; and specifies any funds paid by Turnpike for the acquisition of Beachline-East Expressway be deposited into the State Transportation Trust Fund and allocated to fund the department's obligation to construct the Wekiva Parkway.

Section 15 creates a new subsection (4) in s. 338.2275, F.S., specifying that no bonds may be issued by the department to fund the department's obligation to construct the Wekiva Parkway and defines the Wekiva Parkway.

Section 16 amends s. 338.250, F.S., exempting the Wekiva Parkway and related transportation facilities from the requirements of this section which provides funds for environmental mitigation relating to transportation construction projects on the Central Florida Beltway. This section also defines the Wekiva Parkway.

Section 17 repeals s. 338.251, F.S., which created the Toll Facilities Revolving Trust Fund and authorized FDOT to advance funds to expressway authorities, the turnpike enterprise, counties, and local government entities to undertake revenue-producing road projects. Section 47 of the bill transfers the current revenues and future revenues to the State Transportation Trust Fund.

Section 18 amends s. 339.08, F.S., conforming to changes made in section 2 of the bill repealing s. 288.063, F.S., and section 31 creating s. 339.2821, F.S.

Section 19 creates s. 339.139, F.S., requiring FDOT to establish a transportation debt assessment report. This section directs FDOT to submit, in conjunction with the tentative work program, a debt assessment report which includes all debt and debt-like contractual obligations. The debt assessment report shall include current and planned commitments which are payable from the State Transportation Trust Fund, as follows:

- Debt service payments on the issuance of bonds secured by a lien on federal highway aid reimbursements or motor fuel and diesel fuel taxes;
- Funding for Seaports pledged to the payment of debt service for bonds issued pursuant to s. 320.20, F.S.;
- Commitments to pay the costs of operations and maintenance and renewal and replacement costs of expressway and bridge systems under lease-purchase agreements which are enforceable by bondholders;
- Availability, milestone and final acceptance payments required by public-private partnerships agreements in accordance with s. 334.30, F.S., excluding the cost of operations and maintenance of the facility;
- Scheduled payments to a contractor for work that is occurring in the current fiscal year for which the payment is deferred to a later fiscal year in accordance with s. 334.30, F.S.
- Reimbursements to local governments for work performed on a project for which payment is deferred to a later fiscal year in accordance with s. 339.12, F.S.; and
- Loan repayments on state infrastructure bank loans issued in accordance with s. 339.55, F.S.

A separate report on debt obligations secured solely from pledged revenues is also required to be submitted in conjunction with the tentative work program.

Beginning in FY 2017-18, FDOT is required to manage all levels of debt to ensure that no more than 20 percent of the total projected state and federal revenues, and local funds committed to department projects are committed to the obligations identified in the debt assessment report. Further, FDOT is required to provide notification to the Executive Office of the Governor, the Speaker of the House of Representatives, the President of the Senate and the chairs of the legislative appropriations committees, when a critical project is identified that would exceed the debt limitations established in this section. A 14-day legislative review process is provided, and the Governor may approve the project provided that no objection is filed.

Section 20 creates s. 339.2821, F.S., authorizing the Economic Development Transportation Road Fund in FDOT. This economic development incentive was previously authorized in s. 288.063, F.S. The Road Fund is used to assist local governments in paying for highway or other transportation infrastructure improvements that will benefit a relocating or expanding company. The General Appropriations Act, as proposed by the Senate, provides \$30 million for this program in FDOT.

Section 21 creates s. 339.2825, F.S., requiring FDOT to notify the Executive Office of the Governor, the Speaker of the House of Representatives, the President of the Senate and the chairs of the legislative appropriations committees, prior to soliciting proposals, or when receiving an unsolicited proposals, to advance a project or projects programmed in adopted 5 year work program, or in the 10-year Strategic Intermodal Plan, using funds provided by a

public-private partnership or private entity which are to be reimbursed by FDOT in the fiscal year in which the project is programmed in the work program, pursuant to s. 334.30, F.S. As part of the notification, FDOT is required to provide a summary of the proposed project or projects including:

- A description of any anticipated commitment by the department for the years outside of the adopted work program;
- A description of anticipated impacts on the department's overall debt load;
- Sufficient information to demonstrate that the project(s) will not cause FDOT to exceed the overall debt limitation provided in s. 339.139.

The Governor may approve the advancement of the project or projects provided that no objection is filed within the 14 day legislative review period.

Public-private partnership agreements in which FDOT leases an existing toll facility pursuant to s. 334.30(2)(a), F.S., require approval of the Legislative Budget Commission.

Section 22 amends s. 348.0004, F.S., removing a provision which allows an authority to pledge gross revenues as security when issuing bonds pursuant to a lease-purchase agreement with the FDOT.

Section 23 amends s. 348.0005, F.S., allowing 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.

Section 24 amends s. 348.0013, F.S., assigning 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 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 25 amends s. 348.52, F.S., modifying the authority of THEA to employ certain employees and assigns THEA to the Office of the Secretary of FDOT for administrative and fiscal accountability purposes; however, THEA will otherwise function independently of the control, supervision and direction of the department. Other provisions of this section include:

- Beginning in FY 2012-13, THEA is required to develop a budget pursuant to the provisions of chapter 216, F.S.;

- THEA's revenues are "deemed" deposited into the State Transportation Trust Fund in FDOT and appropriated to THEA based on the original source of the revenues
- Budget authority for expenditures of THEA are provided in the General Appropriations Act (GAA) from the State Transportation Trust Fund, and the expenditure of funds from the THEA's local accounts may not exceed the authority provided in the GAA; and
- Prohibits any employee to be compensated at a rate exceeding the salary rate of the Executive Director of Florida's Turnpike Enterprise.

The requirements of this section only apply until THEA's obligations under the lease-purchase agreement with FDOT have been terminated and the authority has fully reimbursed the department for its long-term debt.

Section 26 amends s. 348.54, F.S., prohibiting THEA 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.

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 27 amends s. 348.545, F.S., clarifying THEA's approval for bond finance is pursuant to the provisions of s. 348.56, F.S.

Section 28 amends s. 348.56, F.S., notwithstanding other provisions of law, and sets forth certain restrictions relating to bond issuance by or on behalf of the 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 29 amends s. 348.565, F.S., allowing 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 30 amends s. 348.57, F.S., to authorize THEA to issue bonds pursuant to s. 348.56, F.S.

Section 31 amends s. 348.60, F.S., prohibiting 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 32 creates s. 348.615, F.S., providing for 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 33 amends s. 348.753, F.S., modifying the authority of OOCEA to employ certain employees and assigns OOCEA to the Office of the Secretary of FDOT for administrative and fiscal accountability purposes; however, OOCEA will otherwise function independently of the control, supervision and direction of the department. Other provisions of this section include:

- Beginning in FY 2012-13, OOCEA is required to develop a budget pursuant to the provisions of ch. 216, F.S.:
- OOCEA's revenues are "deemed" deposited into the State Transportation Trust Fund in FDOT and appropriated to the authority based on the original source of the revenues;
- Budget authority for expenditures are provided in the GAA from the State Transportation Trust Fund, and the expenditure of funds from OOCEA's local accounts may not exceed the authority provided in the GAA.
- Prohibits any employee of OOCEA to be compensated at a rate exceeding the salary rate of the Executive Director of Florida's Turnpike Enterprise.

The requirements of this section only apply until OOCEA's obligations under the lease-purchase agreement with FDOT have been terminated and the OOCEA has fully reimbursed the department for its long-term debt.

Section 34 amends s. 348.754, F.S.; prohibiting 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 35 amends s. 348.7543, F.S., clarifying the terms and conditions for OOCEA's bond financing is pursuant to the provisions of s. 348.755, F.S.

Section 36 amends s. 348.7545, F.S., conforming a cross reference to section 39 clarifying the terms and conditions for OOCEA's bond financing is pursuant to the provisions of s. 348.755, F.S.

Section 37 amends s. 348.7546, authorizing OOCEA to construct, finance, operate, and own portions of the Wekiva Parkway identified by agreement between the authority and FDOT and which are included in OOCEA's long-range capital improvement plan.

This section provides for the repayment of FDOT expenditures relating to the costs of operation and maintenance of the Orlando-Orange County Expressway System through an annual transfer to the State Treasury, after debt service obligations have been met on bonds issued prior to July 1, 2012, as follows:

- \$10 million on July 1, 2012, and annual payments of \$20 million on July 1 thereafter, until all costs are reimbursed, with a final payment of the remaining balance.
- If OOCEA fails to make a payment, the authority is required to raise tolls, defer projects, or reduce administrative and other expenditures until it becomes current in payments; and
- The funds paid to FDOT by OOCEA are to be allocated by FDOT for the construction of the Wekiva Parkway.

The section specifies FDOT's obligation to construct its portions of the Wekiva Parkway is contingent upon the timely annual payments required of OOCEA and the pending receipt of required environmental permits and approvals by the Federal Government.

This section notwithstanding other provisions of law, and sets forth certain restrictions relating to bond issuance by or on behalf of OOCEA beginning July 1, 2012:

- Requires FDOT's approval prior to the issuance of 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.

Section 38 amends s. 348.7547, F.S., conforming a cross reference to section 39 clarifying the terms and conditions for OOCEA's bond financing is pursuant to the provisions of s. 348.755, F.S.

Section 39 amends s. 348.755, F.S., notwithstanding other provisions of law, and sets 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:

- 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 40 amends s. 348.757, F.S., prohibiting the 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, and provides for the termination of the lease-purchase agreement upon the earlier of: the payment in full of OOCEA's bonds issued prior to July 1, 2012, (including refunding bonds) or an earlier date which the bondholders have agreed.

Section 41 creates s. 348.7585, F.S., authorizing 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 42 amends s. 348.9952, F.S., which authorizes the Osceola County Expressway Authority (Osceola authority) to employ certain employees to exclude fiscal agents.

Section 43 repeals s. 348.9956, which authorizes FDOT as the agent of the Osceola authority for construction.

Section 44 creates s. 348.99565, assigning FDOT as the agent of the Osceola County Expressway Authority for all phases of a project. 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 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 45 amends s. 369.317, F.S., specifying the Department of Environmental Regulation as the exclusive permitting authority for activities associated with the Wekiva Parkway and related transportation facilities which require authorization pursuant to part IV of ch. 373, F.S. This section authorizes FDOT to locate the precise corridor and interchanges for the Wekiva Parkway in Seminole County.

Section 46 amends s. 377.809, F.S., conforming a cross reference to s. 339.2821, F.S.

Section 47 creates an undesignated section of law specifying the cash balance in the Toll Facilities Revolving Trust Fund and all future payments obligated to the trust fund, to be deposited into the State Transportation Trust fund for the purposes specified in s. 339.08, F.S.

Section 48 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 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 49 provides an effective date of July 1, 2012.

Other Potential Implications:

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Every \$1 billion spent on transportation product supports 28,000 jobs; and one-third of those jobs are in construction related employment. Approximately 20% of total employment in Florida is comprised of employment in the transportation, trade, and utilities sectors. Every dollar invested in transportation is estimated to result in a return of nearly \$5 in user and economic benefits to Florida's residents and businesses.

The redirection of revenue to the State Transportation Trust Fund will result in more construction projects being let by the department in FY 2012-13 and future fiscal years, and will positively impact the number of jobs available in the construction and related industries.

C. Government Sector Impact:

This bill has not been reviewed by the Revenue Impact Conference; however, it is expected to have a recurring negative impact on the General Revenue Fund and a positive fiscal impact on the State Transportation Trust Fund. In FY 2012-13, the negative impact on the General Revenue Fund is \$130 million, as a \$287 million non-recurring transfer from STTF to the general revenue fund will occur. Beginning in FY 2013-14, the annual General Revenue Fund impact is expected to be \$417 million.

The following revenue distributions are being modified, and are in all or part, being redirected from the General Revenue Fund to the State Transportation Trust Fund (STTF). Beginning in FY 2012-13, the:

- Annual License Tax will be distributed to the State Transportation Trust Fund. This will have a negative impact of \$101 million on the General Revenue Fund and a positive impact on STTF;
- Original or Duplicate Certificate of Title – the distribution to the State Transportation Trust Fund will be modified from \$21 to \$42. This will have a negative impact of \$89 million on the General Revenue Fund and a positive impact on STTF;
- The initial registration fee of \$225 will be distributed to State Transportation Trust Fund. This will have a negative impact of \$101.6 million on the General Revenue Fund and a positive impact on STTF;

- The commercial motor vehicle surcharge of \$10 will be distributed to State Transportation Trust Fund. This will have a negative impact of \$1.5 million on the General Revenue Fund and a positive impact on the STTF; and
- The license tax surcharge/transportation trust fund of \$4 will be distributed to State Transportation Trust Fund. This will have a negative impact of \$33.5 million on the General Revenue Fund and a positive impact on the STTF.

The bill provides for the distribution of a total of \$130 million of additional revenues in FY 2012-13 to the STTF. These include: (a) an annual transfer of \$15 million to the Seaport Investment Program; (b) an annual transfer of \$50 million to Florida's Turnpike Enterprise; (c) an annual transfer of \$10 million to the Small County Outreach Program (and \$25 million beginning in FY 2013-14); (d) \$5 million to the Transportation Disadvantaged Trust Fund (and \$10 million beginning in FY 2013-14); (e) \$25 million to the Transportation Regional Incentive Program beginning in FY 2013-14; and (f) the remaining revenues are to be used for Strategic Transportation Corridors.

Utilizing FDOT's unique commitment based financing, the additional \$50 million for Strategic Transportation Corridors can be leveraged to \$100 million for new commitments. Together with bond revenues of \$650 million, this will result in over \$750 million of new commitments in the FDOT FY 2012-13 work program.

The bill fully consolidates the Mid-Bay Bridge Authority 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% 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.

The Highway Safety Operating Trust Fund revenues will increase by \$16 million resulting from:

- The repeal of the \$5 million transfer to the Transportation Disadvantaged Trust Fund in FDOT; and
- The redirection of \$11 million of revenue from civil penalties issued for overweight commercial vehicles. (The civil penalties are being redirected from the State Transportation Trust Fund at FDOT).

Other increases to the STTF in FDOT include:

- \$19 million of current revenues and future revenues, from the Toll Facilities Revolving Trust Fund, which is being repealed, will be transferred to the STTF;

- \$10 million increase resulting from eliminating the appropriation transferring \$21 million from FDOT to the DHSMV for Motor Carrier Compliance funding. This reduction when netted against the civil penalty redirect results in a \$10 million increase to the STTF.

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.