HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS

BILL #:	CS/CS/CS/HB 599 (CS/CS/SB 824)	**FINAL HOUSE FLOOR ACTION:**	
SPONSOR(S):	Economic Affairs Committee; Transportation & Economic Development Subcommittee; Transportation & Highway Safety Subcommittee; Pilon and others (Environmental Preservation and Conservation; Transportation; Dean; and others)	93 **Y's**	20 **N's**
COMPANION BILLS:	CS/CS/SB 824; CS/CS/CS/HB 1399, CS/CS/SB 1866	**GOVERNOR'S ACTION:**	Approved

SUMMARY ANALYSIS

CS/CS/CS/HB 599 passed the House on February 23, 2012, the bill was amended in the Senate on March 9, 2012, and subsequently passed the House on March 9, 2012. The bill includes portions of CS/CS/CS/HB 1399. The bill includes elements of other House bills as companion measures. Please see Leagis and myfloridahouse.gov for companion bill information. The bill is an omnibus bill related to transportation and mitigation programs. Among other things, the bill:

- Provides for no-fault liability for the National Railroad Passenger Corporation (Amtrak) operating on state-owned rail facilities.
- Revises environmental mitigation requirements related to transportation projects.
- Increases funding for the Florida Seaport Transportation and Economic Development (FSTED) program, creates a Strategic Port Investment Initiative, and an Intermodal Logistics Center Infrastructure Program.
- Allows for the mailing of toll violation citations by first-class mail, authorizes tolls on new facilities, allows the use of excess tolls for public transit, authorizes DOT to send tolls to collections, authorizes DOT to collect tolls for other entities and transfers dormant toll accounts to the Department of Financial Services' unclaimed property program.
- Authorizes participation in the Federal Aviation Administration's Airport Privatization Program.
- Authorizes DOT to post notice of load, weight, or speed limits or close local bridges.
- Moves the Florida Intrastate Highway System into the Strategic Intermodal System.
- Revises financial disclosure requirements for some transportation authorities.
- Revises the membership of the South Florida Regional Transportation Authority governing board and provides that if a local funding source is activated the DOT will stop providing funds by 2019.
- Requires a Florida Transportation Commission study of expressway authorities.
- Requires the Pinellas Suncoast Transit Authority and the Hillsborough Area Regional Transit Authority to conduct a study regarding increasing efficiencies through a possible merger.
- Codifies a Memorandum of Understanding between DOT and the Orlando-Orange County Expressway Authority concerning the Wekiva Parkway.
- Provides a statutory framework for autonomous vehicle technology operation and testing in the state.

This bill has an indeterminate fiscal impact on both state revenues and expenditures. See fiscal analysis and economic impact statement for specific details.

The bill was approved by the Governor on April 27, 2012, ch. 2012-174, Laws of Florida. The effective date of the bill is July 1, 2012.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

The bill is an omnibus bill related to transportation. For ease of understanding, this analysis is laid out by general topic.

Rail Liability (Sections 1 and 2)

Present Situation

In 2007, the Department of Transportation (DOT) entered into an agreement with CSX Corporation (CSX) to purchase 61.5 miles of track or right-of-way in Central Florida. This agreement is contingent on the passage of legislation containing certain indemnification provisions. DOT plans to use existing freight tracks to provide commuter rail service, while CSX continues to operate freight trains in the corridor. The track goes from Deland in Volusia County to Poinciana in Osceola County.[1] The project is known as SunRail.

In 2009, the Florida Legislature passed HB 1B,[2] which created a framework for passenger rail in Florida. One of the issues in the bill addressed the issue of liability as it related to CSX trains on the SunRail corridor. The purchase of the SunRail Corridor was completed in November 2011, and groundbreaking was in January 2012.

The National Railroad Passenger Corporation (Amtrak) operates four trains in Florida,[3] and currently operates some of these trains within the SunRail corridor. In December 2010, DOT and Amtrak entered into an agreement to resolve issues associated with DOT's acquisition of the SunRail corridor.

Effect of Changes

The bill authorizes substantially the same contractual no-fault liability insurance that the 2009 legislation authorized between DOT and CSX. Similar liability apportionment arrangements have long been in place on virtually all rail lines where Amtrak operates. Specifically, the bill revises the definition of "limited covered accident" in s. 341.301(7), F.S., to accommodate circumstances related to the agreement between DOT and Amtrak. As a result of the bill's changes, a "limited covered accident" includes a collision that occurs between DOT and Amtrak, and that collision is caused by Amtrak's willful misconduct.

With regard to the apportionment of liability, the bill provides that certain circumstances may require DOT to be responsible for its own property and/or indemnify Amtrak with regard to losses, costs and/or expenses depending on the type of accident and the number of trains involved.

In the event of a limited covered accident, the bill provides that DOT and Amtrak must meet their respective deductibles and protect, defend, and/or indemnify the other for all liability, costs and/or expenses in excess of whatever deductible or self-insurance retention fund that is actually in force at the time of the accident.

A third-party train will be treated as a DOT train (solely for allocation of liability purposes) when involved in an incident, only if DOT and Amtrak share responsibility equally as to the loss, injury, or damage to third parties outside the rail corridor as a result of any incident involving both a DOT and Amtrak train. However, if the third-party train is a CSX train, the provisions of the agreement between DOT and CSX will determine the apportionment of liability.

[1] SunRail, *What about freight?*, http://www.sunrail.com/cr_whataboutfreight.asp (Last visited December 4, 2009).
[2] Chapter 2009-271, L.O.F.
[3] The Sunset Limited train is currently suspended east of New Orleans, Louisiana.

For accidents involving multiple trains, the bill provides that DOT and Amtrak are responsible for their own property, with DOT being responsible for passengers inside the corridor. DOT and Amtrak will share one-half responsibility for passengers outside of the corridor. Any payment received from a third-party train involved in an accident with both a DOT train and Amtrak train will not alter the one-half split of liability between DOT and Amtrak.

Environmental Mitigation (Sections 3 and 4)

Present Situation

Background, Legislative Intent and Purpose

Section 373.4135, F.S., as part of the Environmental Reorganization Act of 1993, directs the Florida Department of Environmental Protection (DEP) and water management districts (WMDs) to participate in and encourage the establishment of private and public mitigation banks and offsite regional mitigation.[4] Section 404 of the federal Clean Water Act[5] and early Florida law attempted to regulate wetlands impacts. However, these pieces of legislation did not specifically establish a wetlands protection program. As such, the Florida Legislature responded to the lack of both a comprehensive policy and a regulatory framework to handle environmental mitigation efforts with passage of s. 373.4135, F.S.[6] With few exceptions, it was intended that the provisions for establishing mitigation banks, creating and providing mitigation would apply equally to both public and private entities.[7] Among the exceptions is that DEP and the WMDs may treat public (or governmental) and private entities differently, by rule, with respect to financial assurances required.[8]

Mitigation Banking Process

In 1994, rules were adopted to govern the establishment and use of mitigation banks.[9] The substantive aspects of these rules, which were later codified[10] in s. 373.4136, F.S., and further specified in Ch. 62-342.700, F.A.C., address the following:

- the establishment of mitigation banks by governmental, nonprofit or for-profit entities;
- requirements to ensure the financial responsibility of nongovernmental, private entities[11] proposing to develop mitigation banks – including the requirement that these entities show financial responsibility (effective prior to release of any mitigation credits) through a surety or performance bond, irrevocable letter of credit, or trust fund for the construction, implementation and perpetual management phases of the project (equal to 110% of the cost);
- requirements to ensure the financial responsibility of governmental entities[12] proposing to develop mitigation banks – including the requirement that a governmental entity provide "reasonable assurances" that it can meet the construction and implementation requirements in the mitigation bank permit and establish a trust fund for the perpetual management of the mitigation bank;

[4] Chapter 93-213, L.O.F.
[5] 33 U.S.C. s. 1344
[6] John J. Fumero, *Environmental Law: 1994 Survey of Florida Law – At a Crossroads in Natural Resource Protection and Management in Florida*, 19 Nova L. Rev. 77, 103 (1994).
[7] Section 373.4135, F.S.
[8] Section 373.4135(1)(a), F.S.
[9] The rules have been amended several times and may now be found in Ch. 62-342.700, F.A.C., effective May, 2001.
[10] In 1996, the Florida Legislature revised the statutes on mitigation banking and the substantive sections of the rules were placed in s. 373.4136, F.S. *See* the "Legal Authority" section of the Florida Department of Environmental Protection's website on the Mitigation Banking Rule and Synopsis. This information may be viewed at http://www.dep.state.fl.us/water/wetlands/mitigation/synopsis.htm (Last viewed 1/12/2012). Chapter 62-342, F.A.C. was subsequently revised in May, 2001, providing, among other things, specific financial assurance requirements.
[11] These requirements may be found in Ch. 62-342.700(1)-(11), F.A.C.
[12] These requirements may be found in Ch. 62-342.700(12), F.A.C.

- circumstances in which mitigation banking is appropriate or desirable: only when onsite mitigation is determined not to have comparable long-term viability and the bank itself would improve ecological value more than on-site mitigation;
- a framework for determining the value of a mitigation bank through the issuance of credits;
- criteria for withdrawal of mitigation credits by projects within or outside the regional watershed where the bank is located;
- measures to ensure the long-term management and protection of mitigation banks; and
- criteria governing the contribution of funds or land to an approved mitigation bank.[13]

There are separate and distinct requirements for mitigation efforts related to transportation projects.

Mitigation Requirements for Specified Transportation Projects
Section 373.4137, F.S., requires DOT to fund mitigation efforts to offset the adverse impacts of transportation projects on wetlands, wildlife and other aspects of the natural environment. Mitigation efforts are required to be carried out by a combination of WMDs and through the use of mitigation banks.

DOT's Role in the Mitigation Process
Section 373.4137, F.S., requires DOT (and transportation authorities) to annually submit (by July 1st) a copy of its adopted work program along with an environmental impact inventory of affected habitats (WMDs are responsible for ensuring compliance with federal permitting requirements). The environmental impact inventory must be submitted to the WMDs and must include the following:

- a description of habitats impacted by transportation projects, including location, acreage and type;
- a statement of the water quality classification of impacted wetlands and other surface waters;
- identification of any other state or regional designations for the habitats; and
- a survey of threatened species, endangered species and species of special concern affected by the proposed project.

WMDs Decision to Involve Mitigation Banks in the Mitigation Process
By March 1 of each year, each WMD must develop a mitigation plan in consultation with DEP, the United States Army Corps of Engineers, DOT, transportation authorities and various other federal, state and local governmental entities and submit the plan to its governing board for review and approval.[14] This plan is, in part, based off of the information provided in the environmental impact inventory and compiled in coordination with mitigation bankers.[15] Among other things, WMDs are required to consider the purchase of credits from properly permitted public or private mitigation banks when developing the plan and shall include this information in the plan when the purchase would:

- offset the impact of the transportation project;
- provide equal benefits to the water resources as compared to other mitigation options being considered; and
- provide the most cost-effective mitigation option.[16]

For each transportation project with a funding request for the next fiscal year, the mitigation plan must include a brief explanation of why a mitigation bank was or was not chosen as a mitigation option, including an estimation of identifiable costs of the mitigation bank and nonbank options to the extent practicable. Currently, factors such as time saved, liability for success of the mitigation and long-term maintenance are not required.

[13] John J. Fumero, *Environmental Law: 1994 Survey of Florida Law – At a Crossroads in Natural Resource Protection and Management in Florida*, 19 Nova L. Rev. 77, 104 (1994).
[14] Section 373.4137(4), F.S.
[15] Section 373.4137(4), F.S.
[16] Id.

Florida law also provides that a specific project may be excluded from the mitigation plan in certain instances if DOT, the applicable transportation authority and WMD agree that the efficiency or timeliness of the planning or permitting process would be hampered were the project included. Additionally, a WMD may unilaterally exclude a project from the mitigation plan if appropriate mitigation for the project is not identifiable.[17] At this time, Florida law does not allow DOT to unilaterally elect which projects to include or exclude from the mitigation plan.

Mitigation Credits

Each quarter, DOT and transportation authorities must transfer sufficient funds into escrow accounts within the State Transportation Trust Fund to pay for mitigation of projected acreage impacts resulting from projects identified in the approved mitigation plan. By statute, the amount transferred must correspond to $75,000/acre of acreage projected to be impacted and must be spent down through the use of 'mitigation credits' throughout the fiscal year. This $75,000/acre statutory figure was originally based on estimates of the historical average cost per acre that DOT was spending on mitigation on a project-by-project basis in the early 1990's (usually this mitigation was conducted strictly on-site to restore or enhance wetlands directly linked to the impacted area). Over time, the process has changed. Now, this amount is adjusted on July 1st of each year based on the percentage change in the average of the Consumer Price Index. For fiscal year 2011-2012, the adjusted amount is $104,701 per acre. As defined by statute, a 'mitigation credit' is a unit of measure which represents the increase in ecological value resulting from mitigation efforts on a proposed project or projects.[18] One mitigation credit equals the ecological value gained by successfully creating one acre of wetlands.[19]

At the end of each quarter, the projected acreage impacts are compared to the actual acreage impacts and escrow balances are adjusted accordingly. Pursuant to the process, and with limited exceptions, WMDs may request a release of funds from the escrow accounts no sooner than 30 days prior to the date the funds are needed to pay for costs associated with the development or implementation of the mitigation efforts. Associated costs relate to, but are not limited to, the following:

- design costs;
- engineering costs;
- production costs; and
- staff support.

Mitigation Expenditures

From 2007 to 2011, DOT's mitigation expenditures have totaled $169,921,562. WMDs have received $116,456,080 (68.54%) of the total expenditures, while public and private mitigation banks have received $38,107,600 (22.43%) of the total expenditures.[20] During this time, DOT also carried out its own mitigation in cases where mitigation banks were unavailable or the WMD could not identify the appropriate amount of mitigation within the existing statutory scheme. These related expenditures amount to $15,357,882 (9.04%) of total expenditures.

From inception of the DOT mitigation program in 1996 through present time, many acres of wetlands impacts have been – or plan to be – offset across the state. According to its 2011 DOT Mitigation Plan, the St. John's River Water Management District has, as of September 30, 2010, provided 35,036.68 acres of mitigation to offset 1,305 acres of wetlands and other surface waters impacts. This total includes the mitigation acreage associated with 132.09 mitigation bank credits. The Southwest Florida Water Management District, according to its draft 2012 DOT Mitigation Plan, has provided (including

[17] Id.
[18] Section 373.403(20), F.S.
[19] Chapter 62-342.200(5), F.A.C.
[20] According to DOT, "itemizing mitigation bank purchases by project is not readily available because of the ability to purchase advance mitigation credits and the ability to lump various projects within a single mitigation bank credit purchase."

proposed projects) a total of 814 acres of wetlands impacts.[21] This total includes mitigation acreage associated with 44.01 mitigation bank credits purchased from four mitigation banks and two local government regional off-site mitigation areas.[22]

Effect of Changes

The bill amends current Florida law to provide DOT the option to choose between water management districts (WMDs) and private mitigation banks when undertaking mitigation efforts for transportation projects. The bill makes this change by:

- revising legislative intent to encourage the use of public and private mitigation banks and other mitigation options that satisfy state and federal requirements;
- providing an opt-out clause authorizing DOT (and WMDs and participating transportation authorities) to exclude projects from the statutory mitigation plan carried out by WMDs provided specified criteria have been met and specified investigations have been conducted;
- providing that funds held in escrow for the benefit of a WMD may be released if the associated transportation project is excluded in whole or in part from the mitigation plan;
- requiring that mitigation plans be approved by the Florida Department of Environmental Protection (DEP), in addition to current WMD approval, before implementation; and
- revising the circumstances under which a governmental entity may create or provide mitigation for a project other than its own.

Revising Legislative Intent to Encourage the Use of Public and Private Mitigation Banks

The bill amends s. 373.4137(1), F.S., by revising legislative intent to encourage the use of public and private mitigation banks and any other mitigation options that satisfy state and federal requirements. The change is a removal of legislative intent specifically referencing that mitigation projects be carried out by WMDs.

Legislative intent related to DOT's funding of these projects is left unchanged.

Release of Funds Held in Escrow for the Benefit of WMDs When Projects are Excluded

The bill amends s. 373.4137(3)(c), F.S., providing that funds identified for or maintained in an escrow account for the benefit of a WMD may be released if the associated transportation project is excluded in whole or in part from the mitigation plan. The change is in line with the opt-out clause authorizing DOT, a participating transportation authority or a WMD to unilaterally exclude a project from the mitigation plan.

DEP Approval of Mitigation Plan before Implementation

The bill amends s. 373.4137(4), F.S., to require mitigation plans to be submitted to and approved, in part or in its entirety, by DEP before implementation. The change adds an additional requirement that the plan be approved above and beyond the already required approval from the governing board of the applicable WMD. DEP approval of the mitigation plan was a requirement eliminated during the 2005 Regular Legislative Session.[23]

Opt-out Clause Allowing Projects to be Excluded from the Mitigation Plan(s)

The bill amends s. 373.4137(4)(b), F.S., to provide an opt-out clause authorizing DOT, an applicable transportation authority or the appropriate WMD to unilaterally choose to exclude a project from the mitigation plan provided specified criteria has been met and specified investigations have been conducted. The change strikes the condition precedent that an agreement be reached among DOT, an applicable transportation authority and the appropriate WMD that the efficiency of the planning or permitting process would be hampered were a specified project included. The change also eliminates a

[21] This plan is projected to be approved by the Southwest Florida Water Management District Governing Board on January 31, 2012. The draft plan may be viewed at http://www.swfwmd.state.fl.us/projects/mitigation/ (Last viewed 1/5/2012).
[22] Id.
[23] Chapter 2005-281, L.O.F.

WMD's authority to unilaterally choose to exclude a project in whole or in part if the WMD is unable to identify mitigation that would offset impacts of the project. Instead, s. 373.4137(4)(c), F.S., provides specified criteria that must be used in determining which projects to include or exclude from the mitigation plan. The specified criteria require the following:

- a cost-effectiveness investigation (including a written analysis), which uses credits from a private mitigation bank and considers various factors, such as the nominal cost of using a private mitigation bank compared to the nominal cost of other included (or proposed) projects;
- the value of complying with federal requirements for federal aid projects;
- the value private mitigation banks provide through expedited approval during the federal permitting process as overseen by the U.S. Army Corps of Engineers; and
- the value private mitigation banks provide with regard to state and federal liability for the success of the mitigation project.

Mitigation by a Governmental Entity for a Project Other Than its Own (Section 4)
The bill creates a new subparagraph (b) in s. 373.4135(1), F.S., to provide that a governmental entity may not create or provide mitigation for a project other than its own unless the governmental entity uses land that was not previously purchased for conservation and unless the governmental entity provides the same financial assurances as required for mitigation banks permitted under s. 373.4136, F.S.

This change made by the bill only applies when a governmental entity enters the market and acts similarly to a private mitigation bank. To mirror private mitigation bank requirements, a governmental entity must:

- show financial responsibility (effective prior to release of any mitigation credits) for the construction and implementation phase of the bank, equal to 110 percent of the cost, through a surety or performance bond, irrevocable letter of credit, or trust fund;[24] and
- show financial responsibility for the perpetual management phase of the bank through a surety or performance bond, irrevocable letter of credit, trust fund or standby trust fund, in an amount sufficient to be reasonably expected to generate annual revenue equal to the annual cost of perpetual management at an assumed average rate of return of six percent per annum.[25]

Exemptions include:

- mitigation banks permitted prior to December 31, 2011;
- off-site regional mitigation areas established prior to December 31, 2011;
- mitigation for transportation projects proposed by the Department of Transportation;
- mitigation for impacts from mining activities;
- mitigation provided for single family lots or homeowners;
- entities authorized in ch. 98-492, L.O.F;
- mitigation provided for electric utility impacts; or
- mitigation provided on sovereign submerged lands under s. 373.4135(6), F.S.

Department of Transportation (Section 6)

Present Situation
DOT is a decentralized agency, organized into seven districts, the turnpike enterprise, and the rail enterprise.[26] The districts are headed by a district secretary and each enterprise has an executive director. Current law requires a district secretary or an executive director to be a registered professional

[24] Chapter 62-342.700, F.A.C.
[25] Id.
[26] Section 20.23, F.S.

engineer[27] or hold an advanced degree in an appropriate related discipline, such as a Masters of Business Administration.

Each district secretary is authorized to appoint up to three district directors, or until July 1, 2005, up to four district directors.

Effect of Changes
The bill amends s. 20.23(5), F.S., providing that a district secretary or an executive director may be a professional engineer in accordance with the laws of another state. The bill also removes obsolete authorization for district secretaries to appoint up to four district directors until July 1, 2005.

Citrus Equipment Tax Exemption (Section 7)

Present Situation
Section 206.41, F.S., imposes state taxes on motor fuel. Section 206.41(4)(c), F.S., provides that the use of motor fuel for agricultural, aquacultural, commercial fishing, or commercial aviation purposes where the local option fuel tax, the State Comprehensive Enhanced Transportation System (SCETS) Tax, and the fuel sales tax[28] is imposed is entitled to a refund of these taxes.

Section 206.41(4)(c)2., F.S. defines agricultural and aquacultural purposes as "motor fuel used in any tractor, vehicle, or other farm equipment which is used exclusively on a farm or for processing farm products on the farm, and no part of which fuel is used in any vehicle or equipment driven or operated upon the public highways of this state. This restriction does not apply to the movement of a farm vehicle or farm equipment between farms. . . ."

Effect of Changes
The bill amends s. 206.41(4)(c)2., F.S., providing that the restriction related to agricultural purposes of driving or operating on the highways of the state does not apply to the movement of citrus harvesting equipment or citrus loaders between farms. Therefore, the local option fuel tax, the SCETS Tax, and the fuel sales tax would not apply when transporting the equipment between farms.

Ports (Sections 5, 8, 9, 10, 11, 12, 13, 14, 23 and 58)

Present Situation
Florida has 14 public seaports,[29] which are considered significant economic drivers. Recent economic analyses and planning documents[30] prepared for the Florida Ports Council indicated that:

- In 2009, the maritime cargo activities at Florida seaports were responsible for generating more than 550,000 direct and indirect jobs and $66 billion in total economic value.
- In 2009, the maritime cargo activities at Florida seaports contributed $1.7 billion in state and local tax revenues.
- In 2009, the value of international trade moving through the 14 seaports was $56.9 billion, down more than one-third from 2008. Still, the $56.9 billion figure represented 55 percent of Florida's total international trade value of $103 billion in 2009.

[27] Professional engineers are regulated pursuant to ch. 471, F.S.
[28] Sections 306.41(1)(e), (f), and (g), F.S.
[29] Port of Fernandina, Port of Fort Pierce, Jacksonville (JaxPort), Port of Key West, Port of Miami, Port of Palm Beach, Port Panama City, Port of Pensacola, Port Canaveral, Port Everglades, Port Manatee, Port St. Joe, Port of St. Petersburg, and Port of Tampa. Listed in s. 403.021(9)(b), F.S. Interactive locator map is available at: http://flaports.org/Sub_Content2.aspx?id=3. (Last viewed November 2, 2011)
[30] Information for this section as gleaned from a 2010 Economic Action Plan for Florida Ports, available at http://www.flaports.org/Sub_Content2.aspx?id=34&pid=5 and from a 2011 economic analysis, available at http://flaports.org/Assets/312011100301AM_Martin_Associates_Analysis_of_Seaport_Priority_Projects_February_2011.pdf and other information provided by the Florida Ports Council. (Last viewed November 2, 2011).

- Imports and exports continue to be fairly even. Of the $56.9 billion in total value, imports were valued at $27.6 billion and exports at $29.2 billion.
- Based on 2009 figures, the average annual wage of Florida seaport-related jobs is $54,400, more than double the average annual state wage for all other non-advanced degree workers ($26,933) and over $15,000 more than the average annual state wage for all occupations ($38,470).
- The ROI for seaport projects is an estimated $6.90 to $1.

Section 311.07(2), F.S., requires that a minimum of $8 million per year be made available from the State Transportation Trust Fund (STTF) to fund the Florida Seaport Transportation and Economic Development (FSTED) Program. These funds are used to fund eligible and approved port projects as provided in s. 311.07(3), F.S. 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. The program has been funded at $15 million since 2004. Other DOT funding is currently limited to bond repayment, the Strategic Intermodal System (SIS) program, and district discretionary funds.

Effect of Changes
The bill titles ch. 311, F.S., as "Seaport Programs and Facilities."

FSTED Funding (Section 9)
The bill amends s. 311.07, F.S., providing that the FSTED program may be used to finance port projects that retain or enhance the creation of jobs in all areas of the state, by limiting it to the ports listed in s. 311.09, F.S.[31]

The bill increases the minimum FSTED funds available from $8 million to $15 million per year to match current practice. The bill directs the FSTED Council to develop guidelines for project funding. FSTED Council staff,[32] DOT, and the Department of Economic Opportunity (DEO) are to work in cooperation to review projects and allocate funds in accordance with the schedule for DOT to include these projects in DOT's tentative work program.[33]

The bill adds that seaport projects eligible for FSTED funding include all intermodal access projects and seaport master plan development or updates, including the support of data to support such plans.

The bill removes the limit of a single port's distribution of funds to $7 million during one calendar year or $30 million during any five calendar year period.

FSTED Council (Section 10)
The bill amends s. 311.09, F.S., relating to the FSTED Council. It changes the criteria for potential projects from its economic benefit to include, but not be limited to, factors such as consistency with appropriate plans, economic benefit, readiness for construction, noncompetition with other Florida ports, and capacity within the seaport system.

The bill removes the requirement that the Department of Community Affairs[34] review the list of projects for consistency with local government comprehensive plans.

DOT is required to review the list of project applications approved by the FSTED Council for consistency with the Florida Transportation Plan, the Statewide Seaport and Waterway System Plan

[31] The ports listed in s. 311.09(1), F.S., are Jacksonville, Port Canaveral, Port Citrus, Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee, St. Petersburg, Tampa, Port St. Joe, Panama City, Pensacola, Key West, and Fernandina. The bill changes a reference to ports listed in s. 403.021(9)(b), F.S., to s. 311.09, F.S., which adds Port Citrus to the list of ports eligible for funding.
[32] The FSTED Council is administered by the Florida Ports Council.
[33] Section 339.135(4), F.S.
[34] The Department of Community Affairs was repealed in 2011.

and DOT's adopted work program,[35] and notify the FSTED Council of any inconsistent project. In evaluating the project, DOT is to assess the transportation impact and economic benefit of the project.

The bill removes statutory language where in evaluating a project, DOT is required to determine whether the transportation impact of the proposed project is adequately handled by existing state-owned transportation facilities or by the construction of additional state-owned transportation facilities as identified in the Florida Transportation Plan or DOT's work program.

DEO is required to review project applications for consistency with the state's economic development goals and for consistency with state, regional, and local plans.

Strategic Port Investment Initiative (Section 11)
The bill creates the strategic port investment initiative within DOT. Beginning in Fiscal Year 2012-2013, a minimum of $35 million is to annually be available from the State Transportation Trust Fund (STTF) for the initiative. DOT is required to work with the deepwater ports to develop and maintain a priority list of strategic projects. Project selection will be based on projects that meet the state's economic development goal of becoming a hub for trade, logistics, and export-oriented activities by:

- providing important access and major on-port capacity improvements;
- providing capital improvements to strategically position the state to maximize opportunities in international trade, logistics, or the cruise industry;
- achieving state goals of an integrated intermodal transportation system; and
- demonstrating the feasibility and availability of matching funds through local or private partners.

Prior to making final project allocations, DOT is required to schedule a publicly noticed workshop with DEO and the deepwater ports. DOT shall finalize a prioritized list of potential projects after considering comments it received.

To the maximum extent feasible, DOT is required to include the seaport projects proposed to be funded in its tentative work program.

Intermodal Logistics Center Infrastructure Program (Section 12)
The bill creates the Intermodal Logistics Center Infrastructure Support Program within DOT to provide funds to local governments and seaports[36] thereby enabling the state to respond to private sector market demands and meet the state's economic development goal of becoming a hub for trade, logistics, and export-oriented activities.

The bill defines "Intermodal Logistics Center," including but not limited to an "inland port," as a facility or group of facilities serving as a point of intermodal transfer of freight in a specific area physically separated from a seaport where activities relating to transport, logistics, and goods distribution, consolidation, or value-added activities are carried out and whose activities and services are designed to support or be supported by conveyance or shipping through one or more seaports.

DOT must consider, but is not limited to, the following criteria when evaluating projects for Intermodal Logistics Center Infrastructure Program Assistance:

- The ability for the project to serve a strategic state interest.
- The ability of the project to facilitate the cost-effective and efficient movement of goods.
- The extent to which the project contributes to economic activity, including job creation, increased wages, and revenues.
- The extent to which the project efficiently interacts with and supports the transportation network.
- A commitment of a funding match.

[35] Section 339.135, F.S.
[36] For purposes of this section, seaports are defined in s. 311.09, F.S.

- The amount of investment or commitments made by the owner or developer of the existing or proposed facility.
- The extent to which the owner has commitments, including memorandums of understanding or memorandums of agreement, with private sector businesses planning to locate operations at the intermodal logistics center.
- Demonstrated local support or commitment to the project.

DOT is required to coordinate and consult with the DEO in selecting projects to be funded by this program. DOT is authorized to administer contracts on behalf of the entity selected to receive funding for a project. DOT is also required to provide up to 50 percent of a project's cost for eligible projects. Beginning in Fiscal Year 2012-2013, up to $5 million per year shall be made available from the STTF for the program. DOT is required to include projects proposed to be funded in its tentative work program. Further, DOT is authorized to adopt rules to implement the Intermodal Logistics Center Infrastructure Support Program.

Seaport Mitigation (Sections 5 and 13)
Due to being land limited, ports often have difficulty conducting stormwater mitigation activities on port property.

The bill creates s. 311.106, F.S., providing that a seaport listed in s. 403.021(9)(b), F.S.[37] is authorized to provide for onsite or offsite stormwater treatment for water quality impacts caused by a proposed port activity that requires a permit and that causes or contributes to pollution from stormwater runoff. Offsite stormwater treatment may occur outside the established boundaries of the port, but must be in the same drainage basin in which the port activity occurs. A port's offsite stormwater treatment project must be constructed and maintained by the seaport or by the seaport in conjunction with an adjacent local government. In order to limit stormwater treatment from individual parcels within a port, a seaport may provide for a regional stormwater treatment facility that must be constructed and maintained by the seaport or by the seaport in conjunction with an adjacent local government.

The bill amends s. 373.4136(6)(d), F.S., providing that if certain requirements are met, seaports are eligible to use a mitigation bank, regardless of whether it is located in the mitigation service area.

Seaport Planning (Section 14)
The bill repeals s. 311.14(1) and (2), F.S., which required the FSTED Council, in cooperation with the State Public Transportation Administrator, to develop freight mobility and trade corridor plans and for the Office of the State Public Transportation Administrator to integrate these plans into the Florida Transportation Plan, and plans and programs of the Metropolitan Planning Organizations (MPOs).

The bill creates a new s. 311.14(1), F.S., requiring DOT to develop, in coordination with the ports and other partners, a Statewide Seaport and Waterways System Plan. The plan is to be consistent with the Florida Transportation Plan[38] and consider the needs identified in individual port master plans and those from individual seaport strategic plans.[39] The plan will identify five, ten, and twenty-year needs for the seaport system and will include seaport, waterway, road, and rail projects that are needed to ensure the success of the transportation system as a whole in supporting state economic development goals.

Freight Mobility and Trade Plans (Section 23)
The bill creates s. 334.044(33), F.S., authorizing DOT to develop, in coordination with its partners and stakeholders, a Freight Mobility and Trade Plan to assist in making freight mobility investments that contribute to the state's economic growth. Such plans should enhance the integration and connectivity

[37] The seaports listed in s. 403.021(9)(b), F.S., are the ports of Jacksonville, Tampa, Port Everglades, Miami, Port Canaveral, Ft. Pierce, Palm Beach, Port Manatee, Port St. Joe, Panama City, St. Petersburg, Pensacola, Fernandina, and Key West.
[38] Section 339.155, F.S.
[39] Seaport Strategic Plans are required under s. 311.14(3), F.S.

of the transportation system across and between transportation modes throughout the state. DOT is required to deliver the plan to the Governor and Legislature by July 1, 2013. The plan shall include, but need not be limited to, proposed policies and investments that promote the following:

- Increasing the flow of domestic and international trade through the state' s seaports and airports, including specific policies and investments that will recapture cargo currently shipped through seaports and airports located outside the state.
- Increasing the development of intermodal logistics centers throughout the state, including specific strategies, policies and investments that capitalize on the empty backhaul trucking and rail marked in the state.
- Increasing the development of manufacturing industries in the state, including specific policies and investments in transportation facilities that will promote the successful development and expansion of transportation facilities.
- Increasing the implementation of compressed natural gas (CNG), liquefied natural gas (LNG), and propane energy policies that reduce costs for businesses and residents located in the state.

Freight issues and needs are to be given emphasis in all appropriate transportation plans, including the Florida Transportation Plan and the Strategic Intermodal System Plan.[40]

Placement of an Intermodal Logistics Center on the Strategic Intermodal System (Section 58)
Section 339.63(4), F.S., provides that after the initial designation of the SIS, DOT is supposed to work with impacted entities to add or delete facilities from the SIS based on criteria adopted by DOT.[41]

The bill creates s. 339.63(5), F.S., to require the Secretary of Transportation to designate a planned facility as part of the SIS upon the request of the facility if it meets the criteria and thresholds of a planned facility to be added to the SIS, meets the definition of "intermodal logistics center," and had been designated in a local comprehensive plan or local government development order as in intermodal logistics center or equivalent planning term.

A facility designated as part of the SIS that is within the jurisdiction of a local government that maintains a transportation concurrency system shall receive a waiver of transportation concurrency requirements applicable to SIS facilities in order to accommodate any development at the facility which occurs pursuant to a building permit issued on or before December 31, 2017, but only if such a facility is located:

- within an area designated as a Rural Area of Critical Economic Concern;[42]
- within a rural enterprise zone;[43] or
- within 15 miles of the boundary of a Rural Area of Critical Economic Concern or a rural enterprise zone.

Toll Enforcement (Sections 15, 17, and 40)

Definition of Motor Vehicle (Section 15)

Present Situation

[40] Section 339.64, F.S.
[41] A list of criteria for the SIS for various types of facilities is available at: https://www3.dot.state.fl.us/EnterpriseInternetAssets/ESIS/CriteriaThreshold/CriteriaThreshold.aspx?portal=true (Last viewed January 31, 2012).
[42] Section 288.0656(7), F.S.
[43] Section 290.004(5), F.S., defines "rural enterprise zone" as "an enterprise zone that is nominated by a county having a population of 75,000 or fewer, or a county having a population of 100,000 or fewer which is contiguous to a county having a population of 75,000 or fewer, or by a municipality in such a county, or by such a county and one or more municipalities. An enterprise zone designated in accordance with s. 290.0065(5)(b) is considered to be a rural enterprise zone."

The definition of "motor vehicle" in ch. 316, F.S., associated with uniform traffic control, is not the same as the definition for "motor vehicle" in ch. 320, F.S, associated with motor vehicle registrations, which is broader.

In 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 ch. 316, F.S., indicates that a motor vehicle is self-propelled,[44] while the broader definition for "motor vehicle" in ch. 320, F.S., for motor vehicle registrations, also includes semi-trailers and other vehicles attached to a truck cab and allowed to be pulled while traveling on the roads.[45]

Because toll enforcement 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.

Effect of Changes

The bill provides that the definition of "motor vehicle" for purposes of issuance of a citation to the registered owner of the motor vehicle involved in a toll violation by amending the definition of "motor vehicle" in s. 316.003(21), F. S., to be the same as the definition of "motor vehicle" in s. 320.01(1)(a), F.S., for purposes of toll violations under s. 316.1001, F.S.

Mailing of Citations (Section 17)

Present Situation

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 2010, the statute was revised 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.[46,47]

The 2010 statute change has dramatically increased toll enforcement costs. It 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 DOT, but simply because the intended recipient declines to sign for or pick up the citation at the post office.

According to DOT, since the statutory change requiring certified mail, return receipt requested, for citations, the percentage of citations returned with the violator's signature has fallen to 31 percent of the citations issued and mailed. As a result, DOT is unable to enforce in court 69 percent of the citations issued to toll violators, not because of a wrong address used, but because the violator has not signed the receipt and there is no signed receipt for DOT to take to court to demonstrate notification under the

[44] Section 316.003(21), F.S., defines "motor vehicle" as "[a]ny self-propelled vehicle not operated upon rails or guideway, but not including any bicycle, motorized scooter, electric personal assistive mobility device, or moped."
[45] Section 320.01(1)(a) , F.S., defines "motor vehicle" as "[a]n automobile, motorcycle, truck, trailer, semitrailer, truck tractor and semitrailer combination, or any other vehicle operated on the roads of this state, used to transport persons or property, and propelled by power other than muscular power, but the term does not include traction engines, road rollers, such vehicles as run only upon a track, bicycles, or mopeds."
[46] Chapter 2010-225, L.O.F.
[47] For purposes of red-light cameras, delivery constitutes notification. See s. 316.0083(1)(c)1.b., F.S.

current version of the statute. DOT currently uses several governmental databases to verify the current address of the registered owner.

Effect of Changes
The bill amends s. 316.1001(2)(b), F.S., returning the mailing of citations to first class mail or certified mail, but without the "return receipt requested" feature. The mailing of the citation would once again constitute notification as is the case for most commercial transactions.

Toll Collections (Section 40)

Present Situation
Section 316.1001, F.S., provides that a person may not use any toll facility without paying tolls, subject to certain limited exemptions[48] and the failure to pay a prescribed toll is a noncriminal traffic infraction, punishable as a moving violation.[49] Section 316.1001, F.S., also provides for the enforcement of this section by governmental entities that own or operate toll facilities through the designation of toll enforcement officers. This section further provides related rulemaking authority for the department, and the requirements for the issuance of a citation for the failure to pay a toll.

Regarding the authority to delegate to a Toll Enforcement Officer, s. 316.1001 (2)(a), F.S., reads as follows:

> For the purpose of enforcing this section, any governmental entity, as defined in s. 334.03, that owns or operates a toll facility may, by rule or ordinance, authorize a toll enforcement officer to issue a uniform traffic citation for a violation of this section. Toll enforcement officer means the designee of a governmental entity whose authority is to enforce the payment of tolls. The governmental entity may designate toll enforcement officers pursuant to s. 316.640(1).[50]

Section 338.155(1), F.S., also provides that the failure to pay a prescribed toll constitutes a noncriminal traffic infraction, punishable as a moving violation. DOT is authorized to adopt rules relating to the payment, collection, and enforcement of tolls, authorized in chs. 316, 318, 320, 322, and 338, F.S.,[51] including, but not limited to, rules for the implementation of video or other image billing and variable pricing.

Effect of Changes
The bill creates s. 338.01(8), F.S., authorizing DOT, or other governmental entity responsible for toll collection, to pursue the collection of unpaid tolls and associated fees and other amounts to which it is entitled by contracting with a private attorney who is a member in good standing with the Florida Bar, or a collection agent who is registered and in good standing.[52] A collection fee in an amount that is reasonable within the collection industry, including reasonable attorney's fees, may be added to the delinquent amount collected by an attorney or collection agent retained by DOT or another governmental entity. The requirements of s. 287.059, F.S.[53] do not apply to private attorney services used in delinquent toll collection.

Use of Shoulder (Section 16)

[48] The exemptions are provided in s. 338.155, F.S.
[49] Moving violations are punishable under ch. 318, F.S.
[50] Section 316.640(1), F.S., concerns how the enforcement of the traffic laws of this state are vested for the State. The statute lists the various agencies.
[51] Chapter 316, F.S., relates to state uniform traffic control; ch. 318, F.S., relates to the disposition of traffic infractions; ch. 320, F.S., relates to motor vehicle licenses, ch. 322, F.S., relates to drivers' licenses, and ch. 338, F.S, relates to the Florida intrastate highway system and toll facilities.
[52] Collection agents are regulated pursuant to ch. 559, F.S.
[53] Section 287.059, F.S., relates to private attorney services procured by state government.

Present Situation
In 2007, as a pilot project, Miami-Dade Transit buses began operating on shoulder lanes to help alleviate congestion and by-pass slower moving traffic on several high-volume arterials and freeways. This project, called "Buses on Shoulders," was modeled after a successful, similar program started in Minneapolis, Minnesota 12 years ago, and which now utilizes more than 400 buses and 200 miles of shoulder lanes daily. The bus on shoulders pilot program in Miami-Dade became permanent in October 2010. The project was carried out in partnership with the Miami-Dade Expressway Authority, Florida Department of Transportation, Florida Turnpike Enterprise, the Florida Highway Patrol, the Metropolitan Planning Organization and Miami-Dade Transit.

In addition to Miami-Dade County, buses are also being operated on the shoulder of Interstate 4 in Orlando, on Interstate 275, and on Interstate 75 in Sarasota.

Effect of Changes
The bill creates s. 316.091(5), F.S., authorizing DOT and expressway authorities to designate the use of shoulders of limited access facilities and interstate highways under their jurisdiction for such vehicular traffic determined to improve safety, reliability, and transportation system efficiency. The bill requires appropriate traffic signs or dynamic lane control signs to be erected along those portions of the facility affected to give notice to the public of the action to be taken, clearly indicating when the shoulder is open to designated vehicular traffic. This is not to be deemed to authorize a designation in violation of any federal law or any covenant established in a resolution or trust indenture relating to the issuance of turnpike bonds, expressway authority bonds or other bonds.

Bicycle Pilot Program (Section 16)

Present Situation
A limited access facility is a street or highway especially designed for through traffic and over, from, or to which owners or occupants of abutting land or other persons have no right or easement, or only a limited right or easement, of access.[54] Section 316.091(4), F.S., prohibits persons from operating a bicycle on a limited access facility and along the shoulder of a limited access highway, except as provided in statute. Currently, the only exception is the Jacksonville Expressway System, as provided under s. 349.04(1), F.S. Highways identified with state highway route signs that include the word TOLL are limited access facilities.

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

Regulation of Electric Personal Assistive Mobility Devices (Section 18)

Present Situation
Section 316.003 (82), F.S., defines "Electric Personal Assistive Mobility Device" as any self-balancing, two non-tandem wheeled device, designed to transport only one person, with an electric propulsion system with average power of 750 watts (1 h.p.) and a maximum speed of less than 20 miles per hour. Currently, only one device, the Segway,™ falls under the definition. Section 316.003(21), F.S., specifically exempts an electric personal assistive mobility device from the definition of "motor vehicle" and s. 316.2068, F.S., regulates the operation of electric personal assistive mobility devices. Such devices may be operated on the following:

[54] Section 334.03(12), F.S.

- a road or street where the posted speed limit is 25 miles per hour or less;
- a marked bicycle path;
- any street or road where bicycles are permitted;
- at an intersection, to cross a road or street, even if the posted speed limit is greater than 25 miles per hour; or
- on a sidewalk if the operator yields the right of way to pedestrians and gives an audible signal before overtaking and passing a pedestrian.

A driver's license is not required to operate an electric personal assistive mobility device. Similarly, such devices need not be registered and insured under ch. 320, F.S. Persons under the age of 16 years may not operate or ride on an electric personal assistive mobility device unless the person wears a bicycle helmet that is properly fitted and fastened, and that meets appropriate safety standards. A county or municipality may prohibit the operation of an electric personal assistive mobility device on any road, street, or bicycle path if the county or municipality determines that such a prohibition is necessary in the interest of safety. Additionally, DOT may prohibit the operation of such a device on any road under its jurisdiction if it determines that such a prohibition is necessary in the interest of safety.

Effect of Changes
The bill amends s. 316.2068(5), F.S., authorizing a county or municipality to regulate the operation of electric personal assistive mobility device on any road, street, sidewalk, or bicycle path if it determines the regulation is necessary in the interest of safety.

Straight Trucks (Section 19)

Present Situation
Section 316.515(3)(a), F.S., limits the length of a straight truck to 40 feet, excluding safety and energy conservation devices. A straight truck may tow one trailer not to exceed 28 feet in length; however, the trailer length limitation does not apply if the overall length of the truck-trailer combination is 65 feet or less, including the load. Section 316.516(4)(b), F.S., provides the penalties for a violation of length limits as follows:

1. $40 for length limit violations not exceeding 2 feet over the length limit;
2. $100 for length limit violations of greater than 2 feet but not exceeding 10 feet over the length limit; or
3. $250 for length limit violations of greater than 10 feet, plus $250 for every additional foot or any portion thereof that exceeds 11 feet over the length limit.

Section 316.516(4)(c), F.S., provides for a maximum penalty of $1,000 for each violation.

As the statute is currently written, if a straight truck is pulling a 47 foot trailer and has a 18 foot-6 inch truck, the driver would then exceed the overall dimension allowed of 65 feet by 6 inches. The fine associated with this is $1,000 because of the way the statute is written. Since the statute only allows a trailer length of 28 feet, the fine is written based on a overlength trailer of 19 feet (47 – 28 = 19) which results in the maximum fine of $1,000 when in reality, the driver only exceeded the overall length of 65 feet by 6 inches, which should result in a $40 fine.[55]

Effect of Changes
The bill amends s. 316.515(3)(a), F.S., providing that the overall length of a truck-trailer combination may not exceed 68 feet, which is consistent with the current maximum length in statute.

Citrus Equipment Use of Roadway (Section 19)

Present Situation

[55] These fines are deposited into the State Transportation Trust Fund.

Section 316.515(5)(a), F.S., authorizes the transport of specified implements of husbandry, farm equipment, and products from their specified locations. This is generally from the point of production to the first point of change of custody or storage returning to the point of production.

Effect of Changes
The bill amends s. 316.515(5)(a), F.S., to include citrus harvesting equipment, citrus fruit loaders, and citrus in the current authorization for the transport of specified implements of husbandry, farm equipment and products.

Low Speed Vehicle (Section 20)

Present Situation
Section 320.01(42), F.S. defines a "low-speed vehicle" as "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 47 C.F.R. s. 571.500 and s. 316.2122."

Effect of Changes
The bill amends s. 320.01(43), F.S., redefining "low-speed vehicle" to provide that it does not only apply to electric vehicles and that it includes, but is not limited to, neighborhood electric vehicles.

Airport Privatization Pilot Program (Section 21)

Present Situation
In 1996, Congress established the Airport Privatization Pilot Program as a way to look at privatization as a way of generating access to private capital for airport improvements and development. The law allows private companies to "own, manage, lease and develop public airports." The Federal Aviation Administration (FAA) is authorized "to permit up to five public airport sponsors to sell or lease an airport" and exempts the sponsor from certain federal requirements which could make airport privatization impractical, including the repayment of federal grants, returning property acquired with federal assistance, and the requirement that proceeds from the airport's sale or lease be used exclusively for airport purposes.[56]

Hendry County's Airglades Airport has applied and been approved for this program. However, current law appears to only authorize the sale of the airport to a private party if the county determines that the property is no longer needed for aeronautic purposes.[57]

Effect of Change
The bill creates s. 332.08(6), F.S., providing that notwithstanding any other provision of that section, a municipality participating in the FAA's Airport Privatization Pilot Program[58] may lease or sell an airport or other air navigation facility or real property, together with improvements and equipment, acquired or set apart for airport purposes to a private party under the terms and conditions negotiated by the municipality. However, if state funds were provided to the municipality pursuant to s. 332.007, F.S.,[59] the municipality must obtain DOT approval of the agreement. DOT is authorized to approve the agreement if it determines that the state's investment has been adequately considered and protected consistent with the applicable conditions specified in federal law.[60]

Road System Definitions and References (Sections 22, 23 and 24)

[56] Federal Aviation Administration Airport Privatization Pilot Program information. Available at: http://www.faa.gov/airports/airport_compliance/privatization (Last viewed January 23, 2012).
[57] Attorney General Opinion AGO, 2011-11, June 24, 2011.
[58] 49 U.S.C. s. 47134
[59] Section 332.007, F.S., relates to the administration and financing of aviation and airport programs and projects and the state plan.
[60] 49 U.S.C. s. 47134

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

Effect of Changes
The bill amends s. 334.03, F.S., providing definitions for the Florida Transportation Code.[61] It redefines "functional classification" to provide that road classifications may be developed using procedures promulgated by the FHWA. The bill also redefines "State Highway System" to include the interstate system, all roads under the jurisdiction of the state on June 10, 1995, plus any road transferred to the state by mutual consent, but not roads transferred from the state's jurisdiction.

The bill amends s. 334.044(13), F.S., removing DOT's ability to designate existing transportation facilities on the State Highway System.

The bill also amends s. 334.047, F.S., removing an obsolete provision prohibiting DOT from setting a maximum number of miles of "urban principal arterial roads"[62] within a district or county, and amends the powers and duties of DOT in s. 334.044(11), F.S., to remove DOT's authority to assign jurisdictional responsibility for public roads.

Landscaping (Section 23)

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

- 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 Fiscal Year 2011-2012, DOT allocated $41,836,338 for landscaping, comprising 1.86 percent of the amount contracted for construction projects.

Effect of Changes
The bill amends s. 334.044(26), F.S., requiring that on a statewide basis no less than 1.5 percent of the amount contracted for construction shall be allocated by DOT for landscaping. The bill also prohibits DOT districts from expending funds for landscaping on projects limited to resurfacing existing lanes unless the expenditure has been approved by DOT's secretary or the secretary's designee.

[61] Section 334.01, F.S., provides that the "Florida Transportation Code" is Chs. 334 through 339, 341, 348, and 349 and ss. 332.003-332.007, 351.35, 351.36, 351.37, and 861.011, F.S.
[62] Section 334.03(35), F.S., defines "urban principal arterial road" as "a route that generally interconnects with and augments an urban principal arterial road and provides service to trips of shorter length and a lower level of travel mobility. The term includes all arterials not classified as 'principal' and contain facilities that place more emphasis on land access than the higher system."

Safety Inspection of Bridges (Section 25)

Present Situation

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.[63] 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 DOT 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 this statute, nor any other, authorizes DOT to take any action to ensure that locally owned bridges are inspected or physically posted with loads, weight, or speed limits or closed.

DOT recently received from the FHWA 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.[64] ... 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 C.F.R. 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.[65]

Currently, DOT obtains compliance from local agencies by persuasion; however, except for the withholding of Federal Highway funds to the local agency, DOT does not have the authority to post load, weight, or speed limits 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.

Effect of Changes

The bill amends s. 335.074, F.S., bringing Florida law to compliance with federal law. It provides that upon receipt of an inspection report recommending reducing weight, size, or speed limit on a bridge, the governmental entity responsible for maintaining the bridge must reduce the maximum limits for the bridge in accordance with the inspection reports and post the limits.[66] Within 30 days, the governmental

[63] It is DOT's practice to inspect local bridges for local governments using federal funds. Pursuant s. 335.074, F.S., each bridge on a public transportation facility is inspected for structural soundness and safety for the passage of traffic at regular intervals not to exceed two years. DOT inspects more frequently if condition is in question, based on the last inspection findings.

[64] NBIS is National Bridge Inspection Standards

[65] A copy of this memorandum is on file with the staff of the Transportation & Highway Safety Subcommittee.

[66] The limits must be posted in accordance with s. 316.555, F.S.

entity must notify DOT that the limitations have been implemented and the bridge has been posted accordingly with load, weight, or speed limits. If the governmental entity does not take the required actions within 30 days, DOT is required to post the bridge in accordance with the inspection report. All costs incurred by DOT in connection with providing notice of the bridge's limitations or restrictions are to be assessed against and collected from the governmental entity responsible for maintaining the bridge.

If an inspection report recommends a bridge's closure, the bridge shall be immediately closed. If a governmental entity does not immediately close the bridge, DOT is required to close the bridge and all costs incurred in connection with the bridge closure shall be assessed and collected from the governmental entity responsible for maintaining the bridge. This shall not be construed as altering existing jurisdictional responsibilities for the operation and maintenance of bridges.

Noise Abatement (Section 26)

Present Situation
On July 23, 2010, the FHWA issued 23 C.F.R. 772 Final Rule, effective July 13, 2011, amending the federal "Procedures for Abatement of Highway Traffic Noise and Construction Noise." The changes in federal procedures have no effect on current DOT policy or procedures, but s. 337.17, F.S., contains an out-of-date regulation of March 1, 1989.

Additionally, s. 335.17, F.S., directs DOT to make use of noise-control methods in construction on all "new state highways." However, federal procedures require consideration of noise-control methods for capacity expansion as well and DOT already undertakes such consideration as required by federal law.

Effect of Changes
The bill amends ss. 335.17(1) and (2), F.S., making technical changes to conform to federal law related to noise abatement.

Local Option Fuel Taxes (Sections 27 and 28)

Ninth-Cent Fuel Tax (Section 27)

Present Situation
Sections 206.41(1)(d), 206.87(1)(b), and 336.021, F.S., authorize the ninth-cent fuel tax, which is a one-cent tax on every net gallon of motor and diesel fuel sold within a county. The tax is authorized either by ordinance adopted by an extraordinary vote of the governing body or approved by voters in a countywide referendum. While all counties are eligible to levy this tax, it will be levied by 51 counties in 2012. However, due to statewide equalization, it is imposed on diesel fuel in every county.[67] All impositions of this tax must be levied before July 1 to be effective on January 1 of the following year.

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

Effect of Changes
The bill amends s. 336.021(5), F.S., changing the imposition date of the ninth-cent fuel tax from July 1 to October 1 to match the start of the local government's fiscal year.

One to Six Cents Local Option Fuel Tax (Section 28)

Present Situation

[67] The local tax on diesel fuel is six cents per gallon statewide.

Sections 206.41(1)(e), 206.87(1)(c), and 336.025(1)(a), F.S., authorize local governments to levy a tax of 1 to 6 cents on every net gallon of motor fuel sold in the county. The tax is authorized either by ordinance adopted by an extraordinary vote of the governing body or approved by voters in a countywide referendum. In 2011, all counties, except Franklin, levied the tax at the maximum rate of six cents per gallon.[68] All impositions of this tax must be levied before July 1 to be effective on January 1 of the following year.

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

The tax proceeds may be used for transportation expenditures as defined in s. 336.025(7), F.S. However, small counties[69] and municipalities in those counties are authorized to use the proceeds to fund infrastructure projects if the projects are consistent with the local government's comprehensive plan. Except as provided in s. 336.025(7), F.S., these funds may not be used for the operational expenses of any infrastructure.

Effect of Changes
The bill amends s. 336.025(1)(a)1., F.S., changing the imposition date of the one to six cents local option fuel tax from July 1 to October 1 to match the start of the local government's fiscal year.

1 to 5 Cents Local Option Fuel Tax (Section 28)

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

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

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

Effect of Changes
The bill amends s. 336.025(1)(b)1., F.S., changing the imposition date of the one to five cents local option fuel tax from July 1 to October 1 to match the start of the local government's fiscal year.

Notification to the Department of Revenue (Section 28)

Present Situation

[68] Franklin County levies the tax at 5 cents per gallon.
[69] Small counties are defined as having a total population of 50,000 or less on April 1, 1992.

Current law requires the Department of Revenue (DOR) to be notified of changes to the one to six cents local option fuel tax and the one to five cents local option fuel tax by July 1 of each year.

Effect of Change
The bill amends s. 336.025(5)(a) to change the notification date to DOR for these local option fuel taxes to October 1, to conform to the changes in implementation date.

Use of Local Option Tax (Section 28)

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

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

A 2010 Attorney General's Opinion addresses the use of the local option fuel tax to pay for electricity and water to operate street lighting, traffic signals, and water pumps for drainage. The opinion states "that proceeds from the local option fuel tax revenues levied pursuant to section 226.035(1)(a), Florida Statutes, may not be used to pay operational expenditures for storm drainage, street lighting, and traffic signalization."[70]

Effect of Changes
The bill amends s. 336.025(7), F.S., incorporating the installation, operation, maintenance, and repair of street lighting, traffic signs, traffic engineering, signalization, and pavement markings as permitted uses of the local option fuel tax.

Monuments at Rest Areas (Section 29)

Present Situation
In 2005, the Legislature created the "Ellwood Robinson 'Bob' Pipping, Jr., Memorial Act" (Act). In order to create an environment in which state residents and visitors will be reminded of the accomplishments made by military veterans in past conflicts and continuing sacrifices made by military veterans in past conflicts and the continuing sacrifices made by veterans and their families to protect the freedoms we enjoy today. [71] The Act authorized DOT to enter into contracts, approved by a reviewing committee, with any specified not-for-profit group or organization to provide for the installation of monuments and memorials honoring military veterans at the state's highway rest areas.

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

[70] Florida Attorney General's Opinion 2010-29.
[71] Chapter 2005-43, L.O.F.

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

Effect of Changes
The bill amends s. 337.111(4), F.S., providing for forms of security, which could be provided by groups interested in installing monuments and memorials at rest areas. These include an annual renewable bond, an irrevocable letter of credit, or other form of security approved by DOT's comptroller.[72] The bill no longer requires the automatic renewal of the security instrument when it expires.

Disadvantaged Business Enterprises (Sections 30, 31, 32, and 52)

Present Situation
The Code of Federal Regulations applicable to the Disadvantaged Business Enterprise (DBE) Program[73] changed significantly in 1999 and the Florida Statutes have not been updated to reflect these changes. Specifically, the new federal regulations deleted the 10 percent requirement and required each state to follow a methodology to develop their own goals. Certain DBE certification issues were also changed to clarify that a certified DBE is always certified until their certification is removed, and the recertification process has been changed to an annual affidavit of continuing eligibility.

Effect of Changes
The bill makes technical revisions to Florida law to bring it into compliance with federal regulations that require a DBE program in order to receive federal funds.

The bill amends s. 337.125(1), F.S., relating to notice requirements regarding socially and economically disadvantaged enterprises to provide that documenting a subcontract with a DBE takes place when contract goals are established. The bill repeals s. 337.137, F.S., relating to subcontracting by socially and economically disadvantaged business enterprises. The bill amends s. 337.139, F.S., to update a reference to federal law. Finally, the bill amends s. 339.0805, F.S., updating references to federal law and conforming provisions to federal law.

Contractor Financial Statements (Section 33)

Present Situation
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 DOT proposes to let to first be certified by DOT 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 DOT, then an audited interim financial statement must be submitted and accompanied by an updated application.

This statute was last revised in 2010 in an effort to remove apparent confusion.[74] 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.

[72] This proposed change to s. 337.111(4), F.S., is consistent with s. 334.087, F.S., relating to guarantee of obligations to DOT.
[73] 47 C.F.R. Part 26.
[74] s. 21, ch. 2010-225, L.O.F.

Effect of Changes
The bill amends s. 337.14, F.S., providing that upon request by the applicant, an application and accompanying annual or interim financial statement received by DOT within 15 days of either four-month period is to be considered timely. Additionally, the bill provides that an applicant desiring to bid exclusively for the performance of construction contracts with proposed budget estimates of less than $1 million may submit reviewed annual or reviewed interim financial statements prepared by a certified public accountant, which is less costly and burdensome.

Transfer of Right-of-Way (Section 34)

Current Situation
The mapping of Florida's roads is done at both the state and local levels. County general highway maps are a statewide series of maps depicting the general road system of each county. DOT maintains an Official Transportation Map for the state as well as maps of each of the Department of Transportation's districts. Right-of-way maps contain maps of local and state roads specific enough to show how they delineate the boundaries between the public right-of-way and abutting properties.[75] Right-of-way maps are kept by DOT's district surveying and mapping offices[76]and by each county circuit court clerk.[77]

Section 337.29, F.S., states that title to all roads designated in the State Highway System or State Park Road System is vested in the state. Transfer of title must be done in accordance with s. 335.0415, F.S.[78] Section 337.29, F.S., also requires local governments to record a deed or right-of-way map when:

- title vests for highway purposes in the state, or
- DOT acquires lands.

Section 335.0415, F.S., sets the jurisdiction of public roads and creates a process by which they may be transferred. It specifically directs that public roads may be transferred between jurisdictions only by mutual agreement of the affected governmental entities.

The title to roads transferred between jurisdictions is held by the governmental entity to which the roads have been transferred. However the process cannot be completed until the receiving government entity records road information on the right-of-way map with the county in which such rights-of-way are located. Therefore, unlike state acquisition of roadways, local government acquisition cannot be accomplished by deed.

Effect of Changes
The bill amends s. 337.29(3), F.S., allowing government entities to transfer title to a road by recording a deed with the county or counties in which the right-of-way is located. This change would decrease the length of time that the transfer of title process requires under current law.

Interference by Utilities (Sections 35 and 36)

Present Situation
Section 337.401, F.S., addresses the use of road and rail corridor right-of-way by utilities. Section 337.401(1), F.S., provides that DOT and local government entities which have jurisdiction and control of public roads and publicly-owned rail corridors are authorized to prescribe and enforce reasonable

[75] Department of Transportation Surveying & Mapping Office, Online Maps, http://www.dot.state.fl.us/surveyingandmapping/maps.shtm (last visited February 25, 2012).
[76] Department of Transportation Surveying & Mapping Office, Right of Way Maps, http://www.dot.state.fl.us/surveyingandmapping/rowmap.shtm (last visited February 25, 2012).
[77] Section 177.131, F.S.
[78] Section 335.0415, F.S., relates to the public road jurisdiction and transfer process.

rules or regulations with reference to the placing and maintaining of any electric transmission lines along, across, or on any road or publicly-owned rail corridors under their respective jurisdictions.

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

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

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

Effect of Changes

The bill amends s. 337.403, F.S., relating to interference caused by utilities. The bill provides that upon 30 days' written notice, the utility is required to initiate the work to alleviate the interference with the safe continuous use, maintenance, improvement, extension or expansion of the road or rail corridor. The bill requires the work to be completed within a reasonable time as stated in the notice or in the time agreed to by the authority and the utility owner. The bill changes from department to authority that the authority bears the cost of removing or relocating utility facilities initially installed to exclusively serve the authority, but it is not responsible for subsequent additions to the facility for the purpose of serving others.

The bill also provides that the authority may bear the cost of utility work required to eliminate an unreasonable interference when the utility is not able to establish that it has a compensable property right in the particular property where the utility is located if:

- the utility was physically located on the particular property before the authority acquired rights in the property;
- the utility demonstrates that it has a compensable property right in all adjacent properties along the alignment of the utility; and
- the information available to the authority does not establish the relative priorities of the authority's and the utility's interest in a particular property.

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

Facilities on the Right-of-Way (Section 37)

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

DOT currently does not have the authority to deny installation of bus stops, bus benches, or transit shelters within the right-of-way for failure to comply with the Americans with Disability Act (ADA). However, DOT may be liable for such non-compliance and subject to legal action as a result of its jurisdiction over the State Highway System (SHS).

Effect of Changes
The bill amends s. 337.408, F.S., providing that the installation of bus stops and transit shelters on the right-of-way must comply with all applicable laws and rules including, without limitation, the ADA. Municipalities and counties that authorize or have authorized a bench or transit shelter to be installed within the right of way limits of any road on the SHS is responsible for ensuring that the bench or transit shelter complies with all applicable laws and rules, including the ADA, or shall remove the bench or transit shelter. DOT has no liability for any claims, losses, costs, charges, expenses, damages, liabilities, attorney fees, or court costs relating to the installation, removal, or relocation of any benches or transit shelters authorized by a municipality or county.

On and after July 1, 2012, a municipality or county that authorizes a bench or transit shelter to be installed within the right-of-way limits of any road on the SHS will require the qualified private supplier, or any other person under contract to install the bench or transit shelter, to indemnify, defend, and hold harmless DOT from any suits, actions, proceedings, claims, losses, costs, charges, expenses, damages, liabilities, attorney fees, and court costs relating to the installation, removal, or relocation of such installations, and shall annually certify to DOT in a notarized signed statement that this requirement has been met.

Municipalities and counties that have authorized the installation of benches or transit shelters within the right-of-way limits of any road on the SHS must remove or relocate, or cause the removal or relocation of, the installation at no cost to the DOT, within 60 days after written notice by DOT that the installation is unreasonably interfering in any way with the convenient, safe, or continuous use, or the maintenance, improvement, extension, or expansion of the SHS road.

The bill also clarifies that bus stops may not be in the right-of-way in a manner that conflicts with the requirements of federal law, regulations, or safety standards which would cause a loss in federal funds and that competition among persons seeking to provide bus stops may be regulated, restricted, or denied by the appropriate local government.

Florida Intrastate Highway System/Strategic Intermodal System (Sections 22, 38, 39, 40, 57, 58, 59, and 60)

Present Situation

Chapter 338, F.S., contains provisions for developing and updating the Florida Intrastate Highway System Plan (FIHS). Chapter 339, F.S., includes provisions for developing and updating the Florida Strategic Intermodal System Plan (SIS). All but a few highway miles in the FIHS are also in the SIS. The 2010 SIS Strategic Plan, developed by DOT and other partners,[79] recommended sunsetting the FIHS as a separate statewide highway network to simplify the planning process.[80]

Effect of Changes

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

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

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

The bill amends s. 339.62, F.S., changing that the SIS consists of highway corridors instead of the Florida Intrastate Highway System and that it includes other existing or planned corridors that serve a statewide or interregional purpose.

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

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

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

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

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

[79] The plan was created by a 31-member 2010 SIS Strategic Plan Leadership Committee. This committee "provided overall guidance to this process. Members of the committee represented transportation agencies and providers, regional and local governments, business and economic development interests, and community and environmental interests." *See* Florida Department of Transportation, *2010 SIS Strategic Plan* (January 31, 2010). This document is available at http://www.dot.state.fl.us/planning/sis/strategicplan/2010sisplan.pdf (Last viewed November 28, 2011).
[80] Florida Department of Transportation, *2010 SIS Strategic Plan* (January 31, 2010).

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

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

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

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

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

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

Innovative Financing (Sections 41, 42, and 44)

Present Situation

Federal law generally prohibits the imposition of tolls on facilities constructed with federal funds; however, exemptions are provided. For example, 23 USC 129 permits the imposition of tolls on free non-Interstate highways, bridges, and tunnels and certain tolled facilities pursuant to the provisions of this section. In addition, 23 USC 166 permits the conversion of high occupancy vehicle lanes into high occupancy toll lanes. The federal authorization act passed in 2005 (SAFETEA-LU) also continued and established new exemptions to 23 USC 301 (e.g., Value Pricing Pilot Program, Express Lanes Demonstration Program).

Currently, several sections of ch. 338, F.S., set forth provisions related to tolling. Section 338.155, F.S., requires the payment of tolls on toll facilities with some exceptions (e.g., any person operating a fire or rescue vehicle when on official business). Section 338.165, F.S., authorizes the collection of tolls on a revenue-producing project after the discharge of any bond indebtedness and the use of this revenue; however, these provisions do not apply to high occupancy toll lanes or express lanes.

Section 338.166, F.S., authorizes DOT 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. DOT is authorized to implement variable rate tolls on these lanes. This section of law also

specifies, except for high occupancy toll lanes or express lanes, that no tolls may be charged for the use of an interstate highway where tolls were not charged as of July 1, 1999.

Effect of Changes
The bill creates s. 338.151, F.S., authorizing DOT to establish tolls on new limited access facilities on the State Highway System, lanes added to existing limited access facilities on the State Highway System, new major bridges on the State Highway System over waterways, and replacements for existing major bridges on the State Highway System over waterways to pay for, fully or partially, the cost of such projects. This authority is in addition to the authority provided under the Florida Turnpike Enterprise Law. In addition, the bill prohibits DOT from establishing tolls on lanes of limited access facilities that exist as of July 1, 2012, except as otherwise authorized by law unless tolls were in effect for the lanes prior to that date. This authority is in addition to the authority provided under the Florida Turnpike Enterprise Law and the law authorizing high-occupancy toll (HOT) lanes.[81]

The bill amends s. 338.155, F.S., providing that with respect to DOT managed toll facilities, the revenues which are not pledged for repayment of bonds, DOT may by rule allow the use of such facilities by public transit vehicles or by vehicles participating in a funeral processional for an active duty military service member without the payment of a toll.

The bill also amends s. 338.166, F.S., removing the limit for bonding authority for HOT or express lanes to Interstate 95 in Miami-Dade and Broward counties and limiting it to facilities owned by DOT. Additionally, any remaining toll revenues from HOT or express lanes are to be used by DOT for the construction, maintenance, or improvement of any road on the State Highway System within the county or counties in which the toll revenues were collected, or to support express bus service on the facility where the toll revenues were collected.

Non-toll Revenues (Section 43)

Present Situation
DOT has been approached by other toll facility owners regarding toll collection and enforcement on facilities that are currently not interoperable with SunPass.[82] However, it is unclear what DOT's authority is to contract with these facilities for toll collection and enforcement.

Effect of Changes
The bill creates s. 338.161(3)(c), F.S., providing that if DOT finds that it can increase nontoll revenues or add convenience or other value to its customers, it is authorized to enter into agreements with private or public entities for DOT's use of its electronic toll collection and video billing systems to collect tolls, fares, administrative fees, or other applicable charges imposed in connection with transportation facilities of the private or public entities that become interoperable with DOT's electronic toll collection system. DOT may modify its rules regarding toll collection and procedures and the imposition of an administrative charge to be applicable to toll facilities that are not part of the turnpike system or otherwise owned by DOT. This is not to be construed to limit the authority of DOT under any other provision of law or any agreement entered into prior to July 1, 2012.

Turnpike Projects (Sections 45 and 46)

Economic Feasibility (Section 45)

Present Situation
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 means 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

[81] Section 338.166, F.S.
[82] SunPass is DOT's electronic toll collection system.

and sufficient to pay 100 percent of the annual debt service by the end of the 22nd year of operation. This definition does not adequately relate the needed economic test to the estimated service life of the Turnpike project.

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.

Effect of Changes
The bill amends s. 338.221(8), F.S., modifying the definition of economically feasible to require that the estimated net revenues of a proposed Turnpike project will be sufficient to pay 100 percent of the annual debt service on the bonds associated with the project by the end of the 30th year of operation.

Legislative Approval (Section 46)

Present Situation
DOT has been encouraged to pursue innovative highway projects in accordance with s. 337.025, F.S., which also provides that DOT'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. Before the Turnpike Enterprise may construct a new Turnpike project, however, there are many requirements to be met, as set out in s. 338.223, F.S. One requirement is that the design phase of a proposed Turnpike project must be at least 60 percent completed before DOT may request approval from the Legislature to construct the project. At the 60 percent plan phase, most of the project's design is essentially completed, and the potential advantages and opportunities provided with innovative highway projects, such as design-build projects, are substantially diminished.

Effect of Changes
The bill amends s. 338.223(1)(a), F.S., allowing the Florida Turnpike Enterprise to seek Legislative approval for a proposed Turnpike project at 30 percent design completion, rather than the current 60 percent design completion, and thereby allow the Turnpike Enterprise to more fully participate in innovative highway projects as clearly intended by s. 337.025, F.S., and to more fully leverage the potential time and cost saving opportunities associated with design-build projects and other innovative highway project practices. This could accelerate project delivery times by allowing design-build contractors opportunities to more fully participate in project designs.

Dormant Toll Accounts (Section 50)

Present Situation
Section 338.231, F.S., authorizes DOT to establish tolls on the turnpike system to cover the debt service and the cost of operating and maintaining the turnpike system. However, dormant Sunpass toll accounts are not addressed in the law.

Effect of Changes
The bill creates s. 338.231(3)(c), F.S., providing that notwithstanding any other provision of law to the contrary, any prepaid toll account of any kind which has remained inactive for three years is presumed unclaimed and its disposition is handled by the Department of Financial Services in accordance with the applicable statutory provisions regarding the disposition of unclaimed property and the prepaid toll account is closed.

Work Program Amendments (Section 53)

Present Situation
DOT is responsible for the development of a Five-Year Work Program [83] 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 and the Legislature for review 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 for inflation which may 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.

Effect of Changes
The bill amends s. 339.135(7)(e), F.S., revising the thresholds for submittal to the Governor and Legislature of Work Program amendments as follows:

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

The bill provides that beginning July 1, 2013, DOT is required to index the budget amendment threshold amounts to the Consumer Price Index or similar inflation indicator. The threshold adjustment may be made no more frequently than once a year and are subject to notice and review procedures in s. 216.177, F.S.[84]

Transportation Planning (Section 54)

Present Situation
Federal law requires each state to adhere to certain requirements in its transportation planning process.[85] Occasionally, these requirements change and the state revises its statutes to conform to federal provisions. The federal Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) contained 23 planning factors to considered in the statewide planning process and 16 planning factors to be included in the metropolitan planning process. In 1999, Congress passed the Transportation

[83] Section 339.135, F.S.
[84] Section 216.177, F.S., relates to notice and review associated with the appropriations act.
[85] 23 U.S.C. s. 135

Equity Act for the 21st Century (TEA-21) and consolidated the statewide and metropolitan planning factors into seven broad areas for consideration. The 1999 Florida Legislature amended the statutes to accommodate TEA-21. Section 339.155, F.S., currently reflects the seven broad factors to consider in the planning process.[86] These factors require plans to:

1. support the economic vitality of the United States, Florida, and the metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;
2. increase the safety and security of the transportation system for motorized and non-motorized users;
3. increase the accessibility and mobility options available to people and for freight;
4. protect and enhance the environment, promote energy conservation, and improve quality of life;
5. enhance the integration and connectivity of the transportation system, across and between modes throughout Florida, for people and freight;
6. promote efficient system management and operation; and
7. emphasize the preservation of the existing transportation system.[87]

The 2005 federal Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), separated the "safety and security" factor into two separate factors and modified the wording of other factors. The SAFETEA-LU legislation has expired, though Congress has extended the law until March 2012.

Federal law requiring each state to have a "Long-Range Transportation Plan" was modified in SAFETEA-LU to be a "Long-Range Statewide Transportation Plan." Federal law has not required a short-range component of the long-range plan or an annual performance report, which is required under state law. In the past, DOT has issued a separate Short-Range Component of its Florida Transportation Plan[88] and an annual performance report. DOT has recently combined these reports into a single report. The Short Range Component is not an annual update of the Florida Transportation Plan, but rather documents DOT's implementation of the Florida Transportation Plan. DOT and the Florida Transportation Commission[89] conduct extensive performance measurements of Florida's transportation system. DOT also submits an annual Long Range Program Plan to the Governor and Legislature that reflects state goals, agency program objectives, and service outcomes.[90]

Effect of Changes

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

1. supporting the economic vitality of the United States, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;
2. increasing the safety of the transportation system for motorized and nonmotorized users;
3. increasing the security of the transportation system for motorized and nonmotorized users;
4. increasing the accessibility and mobility of people and freight;
5. protecting and enhancing the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and state and local planned growth and economic development patterns;
6. enhancing the integration and connectivity of the transportation system, across and between modes throughout the state, for people and freight;
7. promoting efficient system management and operation; and

[86] Chapter 99-385, L.O.F.
[87] Section 339.155(2), F.S.
[88] A copy of DOT's 2060 Florida Transportation Plan, which was adopted in December 2010, is available at http://www.2060ftp.org/images/uploads/home/2060%20FTP%20Final%2001272011F.pdf (Last viewed December 1, 2011).
[89] The Florida Transportation Commission provides leadership in meeting Florida's transportation needs through policy guidance on issues of statewide importance and by maintaining oversight and public accountability for the Department of Transportation and other statutorily specified transportation authorities.
[90] Section 216.013, F.S.

8. emphasizing the preservation of the existing transportation system.[91]

The bill also removes the short-range component of the long-range plan and the annual performance report requirement.

Metropolitan Planning Organizations (Section 55)

Present Situation
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. This section requires representation by DOT on each MPO. Such representation is limited to non-voting membership. DOT membership on the MPO subjects the representative's interaction with other MPO members to certain public meeting requirements.

Effect of Changes
The bill amends s. 339.175(2), F.S., providing to the extent possible, only one MPO is to be designated for each urbanized area or group of contiguous urbanized areas. The bill also amends s. 339.175(4)(a), F.S., to make representatives of DOT non-voting advisers to MPOs, rather than non-voting members. Additionally, the bill amends s. 339.175(8)(b), F.S., to provide that where more than one MPO exists in an urbanized area, the MPOs are to coordinate in developing regionally significant project priorities.

Transportation Regional Incentive Program (Section 56)

Present Situation
Section 339.2819, F.S., creates the Transportation Regional Incentive Program (TRIP) within DOT to provide funds to improve regionally significant transportation facilities in regional transportation areas created pursuant to s. 339.155, F.S. The percentage of matching funds provided by the TRIP program is 50 percent of the project cost.

At a minimum, projects funded with TRIP funds shall:

- Support the transportation facilities that serve a national, statewide, or regional function and function as an integrated regional transportation system.
- Be identified in the capital improvements element of a comprehensive plan that has been determined to be in compliance with part II of ch. 163, F.S.,[92] after July 1, 2005. Further, the project shall be in compliance with local government comprehensive plan policies relative to corridor management.
- Be consistent with the Strategic Intermodal System Plan.[93]
- Have a commitment for local, regional, or private financial matching funds as a percentage of the overall project.

In allocating TRIP funds, priority is to be given to projects that:

- Provide connectivity to the Strategic Intermodal System.
- Support economic development and the movement of goods in rural areas of critical economic concern.[94]
- Are subject to a local ordinance that establishes corridor management techniques, including access management strategies, right-of-way acquisition and protection measures, appropriate land use strategies, zoning, and setback requirements for adjacent lands.

[91] 23 U.S.C. s. 135(d)(1).
[92] Part II of ch. 163, F.S., relates to growth policy, county and municipal planning; and land development regulation.
[93] The Strategic Intermodal System Plan is developed pursuant to s. 339.64, F.S.
[94] Rural areas of critical economic concern are designated under s. 288.0656(7), F.S.

- Improve connectivity between military installations and the Strategic Highway Network or the Strategic Rail Corridor Network.

Effect of Changes
The bill amends s. 339.2819(2), F.S., changing the percentage of matching funds provided by DOT to up to 50 percent of the project costs.

The bill amends s. 339.2819(4), F.S., to strengthen statutory language to highlight regionalism. It also provides that TRIP projects are to be included in DOT's work program.[95] The bill also prohibits DOT from funding projects under the TRIP program unless the project meets that program's requirements.

The bill requires DOT to consider the extent to which local matching funds are available to commit to the project.

Strategic Intermodal Transportation Advisory Council (Section 59)

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

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

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

Effect of Changes
The bill repeals the SITAC contained in s. 339.64(5), F.S.

High Speed Rail Technical Change (Section 61)

Current Situation
Chapter 2009-271, L.O.F., repealed the Florida High Speed Rail Authority and related provisions and established the Florida Rail Enterprise within DOT. Section 341.840, F.S.,[96] still contains references to the repealed authority which should have been changed.

Effect of Changes
The bill replaces the references to the repealed "authority" still contained in s. 341.840, F.S., with "enterprise" referring to the Florida Rail Enterprise within DOT.

South Florida Regional Transportation Authority (Sections 62, 63, 64, 65, 66 and 67)

Present Situation
Part I of ch. 343, F.S. creates the South Florida Regional Transportation Authority (SFRTA), which currently operates Tri-Rail in Palm Beach, Broward, and Miami-Dade Counties; however its area may

[95] DOT's work program is developed pursuant to s. 339.135, F.S.
[96] Section 341.840, F.S., relates to a tax exemption for high-speed rail.

expand by mutual consent of the authority and the board of county commissioners representing the proposed expansion area.

Tri-Rail's board consists of a county commissioner from each of the three counties, a citizen member appointed by the county commission from each of the three counties, a DOT district secretary, or his or her designee, whose district is within the area served by SFRTA, and two residents and qualified electors of the area served who are appointed by the Governor. The statute also contains provisions related to the board if its area served ever expands.

In Fiscal Year 2010-2011, the state provided $35.8 million in funding to SFRTA, or 59.83 percent of its actual operating expenses.

Effect of Changes

The bill amends ss. 343.52 and 343.54, F.S., limiting SFRTA's ability to expand to Monroe county. Expansion into any additional counties would require DOT's written approval.

The bill amends s. 343.53, F.S., expanding the board from nine voting members to 10. Board representation on behalf of Miami-Dade, Broward, and Palm Beach counties remains unchanged, but the Governor shall appoint three members to the board who are residents and qualified electors in the area served by the authority. The secretary or DOT's appointee serves as an ex officio, voting member.

If SFRTA's service area expands into another county, the board will increase by two members, one of whom is appointed by the county commission of the county and the other by the governor. Appointees must be a resident and qualified elector of that county.

The bill also removes some obsolete language regarding the terms of board members.

The bill creates s. 343.54(3)(q), F.S., providing that for SFRTA to privatize any administrative function of the authority existing as of July 1, 2012, it requires a two-thirds vote of the membership of the entire board.

The bill amends s. 343.56, F.S., relating to SFRTA's bonds not being debt or pledges of the state providing that federal funds that are passed through DOT to SFRTA and state matching funds required by the United States Department of Transportation as a condition of federal funding may be used to pay principal or interest of any bonds issued.

The bill amends s. 343.57, F.S., relating to the pledges of bondholders to provide that nothing in that section of law or in any agreement between SFRTA and DOT is to be construed to require the Legislature to make or continue any appropriation of state funds to SFRTA, including, but not limited to the required funding in s. 343.58(4), F.S.,[97] nor shall any bondholder have any right to require the Legislature to make or continue to make any appropriation of state funds.

The bill creates s. 348.58(3)(c), F.S., providing that funds provided to SFRTA by DOT under s. 348.58(3), F.S., may not be committed by SFRTA without DOT approval, which may not be unreasonably withheld. SFRTA is required to notify DOT at least 90 days before advertising any procurement or renewing an existing contract that will require state funds for payment of a proposed procurement or renewal and the proposed terms of the renewal. If within 60 days of receiving the notice, DOT objects in writing, specifying its reasons for the objection, SFRTA may not proceed with the proposed procurement or renewal. DOT's failure to object in writing within 60 days after the notice is considered consent. This does not impair or cause SFRTA to cancel contracts that exist as of June 30, 2012,

[97] The amount of funding that DOT sends to SFRTA is based on whether or not SFRTA becomes responsible for maintaining and dispatching on the corridor.

To enable DOT to evaluate SFRTA's proposed use of state funds, SFRTA is required to annually provide DOT with its proposed budget for the following authority fiscal year and shall provide DOT with any additional documentation or information DOT requires for its evaluation of the proposed uses of state funds.

The bill creates s. 343.58(4)(d), F.S., providing that funding required under that subsection ceases upon the commencement of an alternate dedicated funding source sufficient for SFRTA to meet its responsibilities for operating, maintaining, and dispatching the South Florida Rail Corridor. SFRTA and DOT are required to cooperate in an effort to identify and implement such an alternate dedicated local funding source by July 1, 2019. Upon commencement of the alternative dedicated local funding source, DOT is required to convey to SFRTA a perpetual commuter rail easement in the South Florida Rail Corridor and all of DOT's right, title, and interest in rolling stock, equipment, tracks, and other personal property owned and used by DOT in the operation and maintenance of the commuter rail operations in the South Florida Rail Corridor.

The bill creates s. 343.58(6), F.S., providing that before SFRTA undertakes any new capital project or transit system improvements not approved by the SFRTA board, and not identified in SFRTA's 5-year capital program, on or before July 1, 2012, SFRTA is required to ensure that the funding available to SFRTA under s. 343.58, F.S., together with any revenues available to SFRTA, are currently, and anticipated to be, sufficient for SFRTA to meet its obligations under any agreement through which federal funds have been or are anticipated to be received by SFRTA.

St. Johns River Ferry (Section 68)

Present Situation
Operating since 1948, the St. Johns River Ferry operates between the historic village of Mayport and Fort George Island in Jacksonville. For most of its existence, it was run by DOT. While the City of Jacksonville briefly ran it, the Jacksonville Port Authority or JaxPort took over operating the service in 2007 and uses port revenue to underwrite its operations, since it operates at a deficit.

Effect of Change
The bill creates s. 347.215, F.S., providing that the county commission of any county that has granted a license to operate a ferry in the county may authorize the operation of such ferry by a single party or multiple parties under a joint agreement between public entities and one or more private corporations conducting business in the state.

Financial Disclosure (Sections 69 and 71)

Present Situation
Article II, Section 8(a) of the Florida Constitution provides "[a]ll elected constitutional officers and candidates for such offices and, as may be determined by law, other public officers, candidates, and employees shall file a full and public disclosure of their financial interests." Section 112.3144, F.S., implements this constitutional requirement. The "Full and Public Disclosure of Financial Interests" is known as a Form 6.

Section 112.3145(2)(b), F.S., requires each local officer, specified state employee, or state officer to file a statement of financial interests, known as a Form 1. Included in the definition of "local officer" are appointed members of an expressway authority or transportation authority created by general law.[98]

In 2007, the Legislature amended s. 348.0003, F.S., the model expressway authority act, to require members of the authority to comply with the financial disclosure requirements in s. 8, Art. II of the State

[98] Section 112.3145(1)(a), F.S.

Constitution.[99] Since only the Miami-Dade Expressway Authority is created under the model expressway authority act, it was the only authority whose financial disclosure requirements changed.

In 2009, the Legislature amended s. 348.0003, F.S., to require members of each expressway authority, transportation authority, bridge authority, or toll authority, created pursuant to chapters 343, 348, or 349, F.S.,[100] or other legislative enactment to comply with the applicable financial disclosure requirements of s. 8, Art. II of the State Constitution, thus requiring members of these authorities to file a Form 6.[101] A Commission on Ethics Opinion determined that based on this statute, a Form 6 is required of both voting and non-voting members of a bridge authority created by a special act;[102] however, the opinion is in the process of being appealed in the First District Court of Appeal.[103]

Effect of Changes
The bill amends s. 348.0003(4)(c), F.S., revising the financial disclosure requirements for expressway, transportation, bridge, or toll authorities to remove a citation to ch. 349, F.S., which creates the Jacksonville Transportation Authority. This section is also amended to limit the statute's scope of application to entities created by general legislative enactment.

The bill amends s. 349.03(3), F.S., relating to the Jacksonville Transportation Authority, to provide that members of that authority are required to file a Form 1 with the Commission on Ethics.

Orlando-Orange County Expressway Authority (Section 70)

Present Situation
The Orlando Orange County Expressway Authority (OOCEA) currently owns and operates 105 miles of roadways in Orange County.

Effect of Changes
The bill creates s. 348.7065, F.S., providing that notwithstanding anything to the contrary, the OOCEA, upon the request by a specific university, shall erect signage at the most convenient, existing exit directing traffic to a university with at least 6,000 full time students that is located within five miles of a roadway operated by OOCEA. The university shall pay the authority the actual cost of the sign erected. This will assist Full Sail University in getting signs to the school on the Orlando-Orange County Expressway.

Meetings of the Jacksonville Transportation Authority (Section 72)

Present Situation
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.[104]

[99] Section 2007-196, F.S.
[100] Chapter 343, F.S., creates the South Florida Regional Transportation Authority (SFRTA/Tri-Rail), Central Florida Regional Transportation Authority (CFRTA/LYNX), Northwest Florida Transportation Corridor Authority (NWFTCA), and the Tampa Bay Area Regional Transportation Authority (TBARTA); Ch. 348, F.S., creates Miami-Dade Expressway Authority (MDX,; Tampa-Hillsborough Expressway Authority (THEA), Orlando-Orange County Expressway Authority (OOCEA), Santa Rosa Bay Bridge Authority (SRBBA), and the Osceola County Expressway Authority (OCEA); ch. 349, F.S., creates the Jacksonville Transportation Authority.
[101] Chapter 2009-85, L.O.F.
[102] Commission on Ethics Opinion 10-18; dated September 8, 2010. The special act creating this bridge authority requires voting members of the board of supervisors to file a Form 1.
[103] Case No. 1D 10-5383. Gasparilla Island Bridge Authority vs. State of Florida Commission on Ethics.
[104] Section 286.011, F.S.

Article I, section 24 of the Florida Constitution, ch. 119, F.S., and ch. 286, F.S., all provide different definitions as to who is subject to the open meeting and public records laws. Under article I, Section 24(a) of the Florida Constitution, "any public body, officer, or employee of the state, or persons acting on their behalf" is subject to the public records law. Under article I, section 24(b), all meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, is subject to the open meetings law. Under ch. 119, F.S., any agency[105] 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.

The Administration Commission has codified rules regarding conducting meetings by communications media technology.[106] It permits agencies to conduct proceedings for the purpose of taking evidence, testimony or argument. Additionally, the rules are not to be construed to permit agencies to conduct proceedings subject to s. 286.011, F.S., by means of communications media technology without making provisions for member of the public who wish to attend. Notice is required to be provided in the same manner as for a meeting conducted without communications media technology.

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

There have been multiple Attorney General Opinions regarding the use of media technology for meetings of local and regional entities. Based on those opinions participation by board members by communications media technology in meetings were formal action is going to be taken is only in extraordinary circumstances and when a quorum of the board members is present.[107]

Effect of Changes
The bill creates s. 286.011(8), F.S., to 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. However, a resolution, rule, or formal action is not binding unless a quorum is physically present in person at the noticed meeting location, and only members physically present may vote on any item.

Airside Stormwater Management (Section 73)

Present Situation
The Federal Aviation Authority (FAA) provides grants to the Florida Department of Transportation (DOT) Aviation Office for airport airside improvements. The grants have 18 month time frames, making it difficult to permit and complete a stormwater project within the required time to take advantage of the grant.

[105] Section 119.011(2), F.S., defines "agency" as "any state, county, district, authority, or municipal officer, department, division, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency."
[106] Chapter 28-109, F.A.C.
[107] Florida Attorney General's Opinion 2003-41.

In 1998, the DOT, the Department of Environmental Protection (DEP) and three water management districts (WMDs) outlined a study to evaluate airport runway, taxiway and apron stormwater quality. In 1997, the FAA set limitations on stormwater designs on airports to limit wildlife strikes in an advisory circular.[108] The FAA found that stormwater management systems known as "wet ponds" attracted birds and posed a threat to airline safety. A joint study by the DEP and the FAA has evaluated chemical loading characteristics of airside runoff and how best management practices can help airports meet federal and state water quality standards.

Another phase of the study will be funded by the FAA once a general permit for these stormwater systems is developed and adopted. This phase will convert the wet pond at Orlando International Airport into a wet detention system that complies with the 1997 advisory circular. The system will be monitored for pollutant loading and remediation, including nutrients. About 30 percent of Florida's airports have soil and water table considerations that prevent the use of wet detention systems.

Effect of Changes
The bill amends s. 373.118, F.S., directing DEP to initiate rulemaking to adopt a general permit for stormwater management systems serving airside activities at airports. The permit applies statewide and must be administered by any WMD or delegated local government, with no additional rulemaking required. The bill also provides that the rules are not subject to any special rulemaking requirements related to small business. This change will allow the DOT to take advantage of grant money offered by the FAA to address the specific needs of stormwater management systems that serve airports.

Stormwater Management (Section 74)

Present Situation
The Department of Environmental Protection (DEP) and the water management districts (WMDs) regulate and control the management and storage of surface waters pursuant to ch. 373, F.S., and ch. 62-302 and ch. 62-40, F.A.C.

In general, the WMDs regulate construction of new facilities and alterations to existing systems. The water quality portion of the WMD permit requires the project be designed such that discharges meet water quality standards established in ch. 62-4.242, F.A.C., and ch. 62-302, F.A.C.

Chapter 14-86, F.A.C., provides standards and procedures for drainage connections from the properties adjacent to DOT's rights-of-way.

Given the linear characteristics 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 DOT to exercise its eminent domain powers to purchase lands at exorbitant costs[109] to provide stormwater treatment within the project area.

Effect of Changes
The bill amends s. 373.413, F.S., establishing legislative intent to allow flexibility in the permitting of stormwater treatment facilities for transportation facilities due to their linear nature. It requires DEP or the governing board of the WMDs to balance the expenditure of public funds for stormwater treatment for state transportation projects and facilities with the benefits to the public in providing the most cost efficient and effective method of achieving the treatment objectives. The governing board of the WMDs or DEP is required to allow alternatives to onsite treatment, including but not limited to regional stormwater treatment systems. DEP is responsible for treating stormwater generated from state

[108] U.S. Dep't of Transportation Federal Aviation Administration, Advisory Circular 150/5200-33, *Hazardous Wildlife Attractants On or Near Airports* (May 1997), available at http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgAdvisoryCircular.nsf/0/53bdbf1c5aa1083986256c690074ebab/$FILE/150-5200-33.pdf (Last Visited February 19, 2012).
[109] DOT indicates that the costs could up to $1 million to $5 million per acre.

transportation projects, but is not responsible for the abatement of pollutants and flows entering its stormwater management system from offsite. However, it may do so if receiving and managing these pollutants is found to be cost-effective and prudent.

Further, the bill clarifies that in association with rights-of-way acquisition, DOT is responsible for providing stormwater treatment and attenuation for additional rights-of-way, but is not responsible for modifying adjacent landowners' stormwater permits.

The bill requires the governing boards of the WMDs and DEP to adopt rules for these stormwater activities; however, some of these entities may have existing rules which could be amended to implement these provisions.

Rest Area Information Panel or Device Program (Section 75)

Present Situation
Section 479.28, F.S., requires DOT to implement a rest area information panel or device program in rest areas along the interstate highway system and the federal–aid primary highway system to present information in the specific interest of the traveling public and to promote tourist-oriented businesses. The statute provides that the information panel be designed to accommodate the names, locations, and short messages regarding numerous businesses. It authorizes DOT to contract with private persons for the construction, erection, and maintenance of the devices, whose compensation would be from fees it charged participating businesses. DOT is required to receive from the contractors sufficient revenues to cover the cost of administering the program.

According to DOT, since the law was passed in 1984,[110] it has only received two letters of interest related to the program, and neither company participated past a trial period. DOT has not received any further requests for participation.

Effect of Changes
The bill repeals s. 479.28, F.S., relating to the rest area information panel or device program, which is not being used.

Tourist Oriented Signs (Section 76)

Present Situation
Since the passage of the Highway Beautification Act (HBA) in 1965, the Federal Highway Administration (FHWA) has established controls for outdoor advertising along Federal-Aid Primary, Interstate and National Highway System (NHS) roads. The HBA allows the placement 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 HBA mandates state compliance and the development of standards for certain signs as well as the removal of nonconforming signs. Expeditious removal of illegal signs is required by federal regulations. While the states are not required to directly control sign placement, 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.

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 Primary Highway, and other highways that are part

[110] Chapter 84-227, L.O.F. It was also readopted from a scheduled 1994 repeal in 1991 (ch. 91-429, L.O.F.).

of the NHS. The FAP routes are highways designated by state DOTs to be of significant service value and importance.
- States have the discretion to remove legal nonconforming signs 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.

Under the provisions of a 1972 federal-state agreement incorporating the HBA, DOT requires commercial signs to meet certain requirements when they are within 660 feet of interstate and Federal-Aid Primary highways in urban areas, or visible at any distance from the same roadways when outside of urban areas.

Effect of Changes
The bill authorizes DOT to seek Federal Highway Administration approval of a tourist-oriented commerce sign pilot program for small businesses[111] in rural areas of critical economic concern.[112] Upon Federal Highway Administration approval, DOT is required to submit the pilot program for legislative approval in the next regular legislative session.

Palm Beach County Pilot Project (Section 77)

Present Situation
In 2008, the Legislature created a pilot program allowing the Palm Beach County School District to recognize its business partners by publicly displaying its business partners' names on school district property in unincorporated areas. The pilot program expired on June 30, 2011.

Effect of Changes
The bill creates a new pilot program through June 30, 2014. It requires the district to make every effort to display its business partner's names in a manner that is consistent with the county standards for uniformity in size, color, and placement of signs. If these provisions are inconsistent with county ordinances or regulations relating to signs in the unincorporated areas of the county inconsistent with ch. 125, F.S., relating to county government or ch. 166, F.S., relating to municipalities[113] the provisions of this section prevail.

Harbor Pilots (Section 78)

[111] The bill provides that small business is defined in s. 288.703, F.S., which defines "small business" as "an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than $5 million or any firm based in this state which has a Small Business Administration 8(a) certification. As applicable to sole proprietorships, the $5 million net worth requirement shall include both personal and business investments.

[112] The bill provides that rural areas of economic concern are defined by s. 288.0656(2)(d) and (e), F.S. Section 288.0656(2)(d), defines rural area of critical economic concern as "a rural community, or a region composed of rural communities, designated by the Governor, that has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster or that presents a unique economic development opportunity of regional impact." Section 288.0656(2)(e), F.S., defines rural community as:
1. A county with a population of 75,000 or fewer.
2. A county with a population of 125,000 or fewer which is contiguous to a county with a population of 75,000 or fewer.
3. A municipality within a county described in subparagraph 1. or subparagraph 2.
4. An unincorporated federal enterprise community or an incorporated rural city with a population of 25,000 or fewer and an employment base focused on traditional agricultural or resource-based industries, located in a county not defined as rural, which has at least three or more of the economic distress factors identified in paragraph (c) and verified by the department [Department of Economic Opportunity].

For purposes of this paragraph, population shall be determined in accordance with the most recent official estimate pursuant to s. 186.901.

[113] The original pilot program contained a reference to ch. 479, F.S., relating to outdoor advertising.

Present Situation
In 2010, the Pilotage Rate Review Board was redesignated as the Pilotage Rate Review Committee.[114] However, the relevant administrative rules were not transferred.

Effect of Changes
The bill provides that, effective upon becoming law, all administrative rules adopted by the former Pilotage Rate Review Board, which were in effect upon the effective date of ss. 5 and 6 of ch. 2010-225, L.O.F., are transferred by a type two transfer[115] to the Pilotage Rate Review Committee of the Board of Pilot Commissioners and apply retroactively to the effective date of ss. 5 and 6 of ch. 2010-225, L.O.F.[116]

Florida Transportation Commission Study (Section 79)

Present Situation
The Florida Transportation Commission is created under s. 20.23, F.S., to serve as a citizen's oversight board for DOT. The Commission is assigned to DOT for administrative and fiscal purposes; otherwise, it functions independently of the control and direction of DOT.

Chapter 348, F.S., creates various expressway and bridge authorities and also contains the model expressway authority under which the Miami-Dade Expressway Authority is created. Each act creating an expressway authority contains various provisions regarding the governance of each of the expressway authorities.

Effect of Changes
The bill requires the Florida Transportation Commission to conduct a study of the potential cost savings that might be realized through increased efficiencies through sharing resources for the accomplishment of design, construction, and maintenance activities by or on behalf of the state's expressway authorities. The commission may retain such experts as are reasonably necessary to complete the study, and DOT is to pay the expenses of the experts. The commission is to complete the study and provide a written report of its findings and conclusions to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of each of the appropriations committees by December 31, 2012. In conducting the study, the commission is required to seek input from the existing expressway authorities.

Miami Port Dredging Permit (Section 80)

Present Situation
There is currently a dredging project at the Port of Miami. The bill seeks to reduce the delay in the dredging project due to administrative challenges related to environmental permits.

Effect of Changes
The bill provides that notwithstanding ss. 120.569,[117] 120.57,[118] or 373.427, F.S.,[119] or any other provision of law to the contrary, a consolidated environmental permit or any associated variance or any sovereign submerged lands authorization proposed or issued by DEP in connection with the state's deepwater ports[120] shall be subject to a summary hearing.[121] However, the summary proceeding shall be conducted within 30 days after a party files a motion for a summary hearing, and the administrative law judge's decision shall be in the form of a recommended order and does not constitute final agency

[114] Chapter 2010-225, L.O.F.
[115] A type two transfer is pursuant to s. 20.06(2), F.S.
[116] Chapter 2010-225, L.O.F., has an effective date of July 1, 2010.
[117] Section 120.569, F.S., relates to decisions which affect substantial interest.
[118] Section 120.57, F.S., relates to additional procedures for particular cases.
[119] Section 373.427, F.S., relates to concurrent permit review.
[120] For purposes of this section, it is the ports listed in s. 403.021(9), F.S.
[121] Section 120.574, F.S.

action by DEP. DEP shall issue the final order within 45 working days after receiving the administrative law judge's recommended order. The summary hearing provisions of this section apply to pending administrative proceedings. However, the provisions of s. 120.574(1) (b) and (d), F.S.,[122] do not apply to pending administrative proceedings. This section takes effect upon this act becoming law.

PSTA/HART (Section 81)

Present Situation

Pinellas Suncoast Transit Authority (PSTA)
The Pinellas Suncoast Transit Authority, formerly known as Central Pinellas Transit Authority (CPTA), was created by the "Pinellas Suncoast Transit Authority Law"[123] 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 percent of the county's population and 97 percent of its land area. The service area is specifically defined in law.

Hillsborough Area Regional Transit Authority (HART)
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.[124,125] HART was chartered for the purpose of providing mass transit service to its two charter members, the City of Tampa and the unincorporated areas of Hillsborough County. The Authority may admit to membership any county or municipality contiguous to one of its members upon application and after approval by a majority vote of the entire Board of Directors. The City of Temple Terrace has been admitted as a member of the Authority.

Effect of Changes
The bill provides legislative intent to encourage and facilitate a review by PSTA and HART in order to search for possible 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 Regional Transportation Authority's (TBARTA) Regional Transportation Master Plan.[126] The Legislature finds that improvements and efficiencies can best be achieved through a joint review, evaluation, and recommendations by PSTA and HART.

The bill requires the governing bodies or a designated subcommittee of both PSTA and HART to hold a joint meeting within 30 days after July 1, 2012, and as often as deemed necessary thereafter in order to consider and identify opportunities for greater efficiency and service improvements, including specific methods for increasing service connectivity between jurisdictions of each agency. The elements to be reviewed must also include:

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[122] Section 120.574, F.S., relate to whether or not a motion for summary hearing is filed after the initial order.
[123] Chapters 70-907, 82-368, 82-416, 90-449, 91-338, 94-433, 94-438, 99-440, 00-424, and 02-341, L.O.F.
[124] 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.
[125] This should not be confused with the statutory language in ch. 343, F.S., which creates other regional transportation authorities including TBARTA.
[126] A copy of TBARTA's Master Plan is available at: http://72.249.65.70/update (Last viewed February 21, 2012).

- governance structure, including governing board membership, terms, responsibilities, officers, powers, duties, and responsibilities;
- funding options and implementation;
- facilities ownership and management;
- current financial obligations and resources; and
- actions to be taken that are consistent with TBARTA's master plan.

The bill provides that PSTA and HART jointly submit a report to the Speaker of the House of Representatives and the President of the Senate by February 1, 2013, on the elements described above. The report must include proposed legislation to implement each recommendation and specific recommendations concerning the reorganization of each agency, the organizational merger of both agencies, or the consolidation of functions within and between each agency.

The bill requires TBARTA to assist and facilitate PSTA and HART in carrying out the bill's purpose. TBARTA is required to provide technical assistance and information regarding its master plan, make recommendations for achieving consistency and improved regional connectivity, and provide support to PSTA and HART in preparing their joint report and recommendations to the Legislature. For this purpose, PSTA and HART are to reimburse TBARTA for necessary and reasonable expense in a total amount not to exceed $100,000.

Mobility 2000 Bonds (Section 82)

Present Situation
In 2000, the Legislature created s. 215.616(7), F.S.,[127] authorizing up to $325 million in bonds for the Mobility 2000 Initiative[128] with emphasis on the Florida Intrastate Highway System to advance projects in the most cost-effective manner to support emergency evacuation, improved access to urban areas, or the enhancement of trade and economic growth corridors of statewide and regional significance which promote Florida's economic growth.

According to DOT, no bonds were ever issued and the Mobility 2000 projects are nearly complete.

Effect of Changes
The bill repeals s. 215.616(7), F.S., relating to bonds for the Mobility 2000 Initiative.

Conforming Changes (Sections 47 through 49, 51, 83 through 96)

The bill amends ss. 288.063, 311.22, 316.3122, 318.12, 320.20, 335.02, 338.222, 338.223, 338.227, 338.2275, 338.228, 338.234 339.285, 341.053, 341.8225, 403.7211, 479.01, 479.07, 479.261, F.S., to make conforming changes. Additionally, other sections of the bill discussed in this analysis may include conforming changes.

Road Designations (Sections 97 and 110)

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

DOT is required to place a marker at each termini or intersection of an identified road or bridge, and to erect other markers it deems appropriate for the transportation facility. The statute also provides that a

[127] Chapter 2000-257, L.O.F.
[128] Mobility 2000 is created pursuant to s. 339.371, F.S.

city or county must pass a resolution in support of a particular designation before road markers are erected. Additionally, if the designated road segment extends through multiple cities or counties, a resolution must be passed by each affected local government.

Effect of Changes
The bill makes the following honorary designations:

- That portion of State Road 858/Hallandale Beach Boulevard between Interstate 95/State Road 9 and S.W. 56th Avenue in Broward County as "Pembroke Park Boulevard."
- That portion of 118th Avenue North/County Road 296 between U.S. 19/S.R. 55 and 28th Street North/County Road 683 in Pinellas County as "St. Pete Crosstown."

Traffic Infraction Detectors (Section 98)

Current Situation
Section 316.0083, F.S., among other things provides for the issuance and, in some cases, the dismissal of notices of violation for those ticketed as a result of running a red light and being photographed by a red light camera. As set forth in the statute, there are four exemptions that may lead to a dismissal. The registered owner of the motor vehicle is responsible for payment of the fine unless the owner can establish that the vehicle:

- passed through the intersection to yield the right-of-way to an emergency vehicle or as part of a funeral procession;
- passed through the intersection at the direction of a law enforcement officer;
- was, at the time of the violation, in the care, custody, or control of another person; or
- received a UTC for the alleged violation issued by a law enforcement officer.[129]
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Effect of Proposed Changes
The bill amends s. 316.0083, F.S., to provide an additional exemption that may lead to the dismissal of a notice of violation for violating the red light camera statute. Specifically, the bill provides an exemption for the situation that occurs where the motor vehicle's owner was deceased on or before the date the uniformed traffic citation was issued, as established by an affidavit submitted by the representative of the motor vehicle owner's estate or other designated person or family member. The bill also sets forth what must be included with the affidavit.

License Plates (Section 99)

Present Situation
DHSMV administers the issuance of motor vehicle license plates as a part of the tag and registration requirements specified in ch. 320, F.S. License plates are issued for a ten-year period and are replaced upon renewal at the end of the ten-year period. The license plate fee for both an original issuance and replacement is $28.00. An advance replacement fee of $2.80 is applied to the annual vehicle registration and is credited towards the next replacement. Section 320.08, F.S., requires the payment of an annual license tax, which varies by motor vehicle type and weight. For a standard passenger vehicle weighing between 2,500 and 3,500 pounds, the annual tax is $30.50.

Current law provides for several types of license plates. In addition to plates issued for governmental or business purposes, DHSMV offers four basic types of plates to the general public:

- Standard Plates: The standard license plate currently comes in three configurations: the county name designation, the state motto designation or the state slogan designation.
- Specialty License Plates: Specialty license plates are used to generate revenue for colleges, universities and other civic organizations. Organizations seeking to participate in the specialty

[129] s. 316.0083(1)(d), F.S.

plate program are required to submit an application to DHSMV, pay an application fee and obtain authority from the Florida Legislature. The recipient must pay applicable taxes pursuant to s. 320.08, F.S., and s. 320.06(1)(b), F.S., and an additional charitable contribution as provided in s. 320.08056(a) – (zzz), F.S., in order to receive a specialty license plate. The creation of new specialty license plates by DHSMV is prohibited until July 1, 2014.[130]

- Personalized Prestige License Plates: Personalized license plates allow motorists to define the alpha numeric design (up to seven characters) on a standard plate that must be approved by the DHSMV. The cost for a personalized prestige license plate (in addition to the applicable taxes) is $15, pursuant to s. 320.0805, F.S.
- Special Use License Plates: Certain members of the general public may be eligible to apply for special use license plates if they are able to document their eligibility pursuant to various sections of Ch. 320, F.S. This category of plates primarily includes special military license plates as well as plates for the handicapped. Examples include the Purple Heart, National Guard, United States Armed Forces, Pearl Harbor, Iraqi Freedom, Enduring Freedom,[131] Disabled Veteran[132] and Paralyzed Veterans of America plates.[133] The first $100,000 of revenue from the sales of these special plates is deposited into the Grants and Donations Trust Fund under the Veterans' Nursing Homes of Florida Act. Any additional revenues are deposited into the State Homes for Veterans Trust Fund and used to construct, operate, and maintain domiciliary and nursing homes for veterans.

The Combat Infantryman Badge is the United States Army combat service recognition decoration awarded to soldiers—enlisted men and officers (commissioned and warrant) holding colonel rank or below, who personally fought in active ground combat while an assigned member of either an infantry or a Special Forces unit, of brigade size or smaller, any time after December 6, 1941 when the unit was engaged in active ground combat.[134]

Combat Infantryman Badge recipients must have met the following criteria to have been awarded this honor as provided by the Military Awards Army Regulation 600-8-22:

- be an infantryman satisfactorily performing infantry duties;
- assigned to an infantry unit during such time as the unit is engaged in active ground combat; and
- actively participate in such ground combat – campaign or battle credit alone is not sufficient for the award of the Combat Infantryman Badge.

The Combat Action Badge is a badge that may be awarded to any soldier performing assigned duties in areas where hostile fire pay or imminent danger pay is authorized. The soldier must be actively engaging or be actively engaged by the enemy and must not be assigned/attached to a unit that would qualify the solder for the Combat Infantry Badge/Combat Medical Badge.[135]

Effect of Changes

The bill amends s. 320.089, F.S., to create a special use plate for recipients of the Combat Infantry Badge. Upon payment of the license tax for the vehicle as provided in s. 320.08, F.S., and proof of membership in the Combat Infantrymen's Association, Inc., or other proof of being a recipient of the Combat Infantry Badge, the applicant may receive a Special Use plate bearing the words "Combat Infantry Badge," followed by the serial number of the license plate.

[130] The moratorium on new specialty license plates is created by s. 45, ch. 2008-176, Laws of Florida, as amended by s. 21, ch. 2010-223, Laws of Florida.
[131] Section 320.089, F.S. Some of these plates require payment of the annual license tax in s. 320.08, F.S., while others are exempt from the tax.
[132] Section 320.084, F.S. The statute provides that an eligible person may receive one free Disabled Veteran license plate, although other taxes apply.
[133] Section 320.0845, F.S. This plate requires payment of the annual license tax in s. 320.08, F.S.
[134] Combat Infantry Badge Information http://www.army.mil/symbols/CombatBadges/infantry.html (Last visited March 5, 2012).
[135] Combat Action Badge Information http://www.army.mil/symbols/CombatBadges/action.html (Last visited March 5, 2012).

Wekiva Parkway (Sections 100, 101, 102, 103, and 104)

Present Situation

The Wekiva Parkway Protection Act[136] authorized the Wekiva Parkway (Parkway) to complete the beltway around the northwest side of metropolitan Orlando. The proposed parkway is a 27 mile long project in Orange, Lake, and Seminole counties.

On February 22, 2012, the board of the Orlando-Orange County Expressway Authority (OOCEA) ratified a Memorandum of Understanding (MOU) between it and DOT, which outlines the basic terms under which the Wekiva Parkway will be financed, constructed, operated, and maintained. The project will be produced in phases or sections, with the OOCEA having the responsibility to fund, design, construct, own, operate, and maintain portions of the project located in Orange and Lake counties and the Department having the responsibility to fund, design, construct, own, operate, and maintain a portion of the project located in Lake County and all of the project located in Seminole County. Preliminary estimates indicate that the OOCEA section is expected to cost approximately $600 million and the Department section is expected to cost approximately $1.2 billion.

Effect of Changes

The bill incorporates in statute the MOU between OOCEA and DOT which was ratified on February 22, 2012.

The bill amends s. 338.165, F.S., providing that DOT's Beachline-East Expressway may be transferred by DOT and become part of the turnpike system under the Florida Turnpike Enterprise Law. Any funds expended by the Florida Turnpike Enterprise to acquire the Beachline-East Expressway are to be deposited into the State Transportation Trust Fund and the funds are to be used to fund DOT's obligation to construct the Wekiva Parkway.

The bill defines "Wekiva Parkway" as a limited access highway or expressway constructed between State Road 429 and Interstate 4 specifically incorporating the corridor alignment recommended by Recommendation 2 of the Wekiva River Basin Area Task Force Final Report dated January 15, 2003, and the recommendations of the SR 429 Working Group which were adopted January 16, 2004, and related transportation facilities.[137]

The bill amends s. 348.7546, F.S., authorizing the construction of the Wekiva Parkway to provide that the OOCEA is authorized to construct, operate, finance, and maintain those portions of the parkway identified in the agreement between OOCEA and DOT. This does not invalidate the exercise by OOCEA of its condemnation powers or the acquisition of any property for the Wekiva Parkway before July 1, 2012.

Beginning July 1, 2012, in order to ensure that funds are available to DOT for its portion of the parkway, OOCEA is required to repay DOT's expenditures for the operating and maintenance of the Orlando-Orange County Expressway System (Expressway System) in accordance with the terms of the MOU. OOCEA must pay DOT $10 million on July 1, 2012, and $20 million on each successive July 1 until DOT has been fully reimbursed for all costs of the Expressway System which were paid, advanced, or reimbursed to OOCEA by DOT, with the final payment being in the amount in the balance remaining. Funds paid are to be allocated by DOT for the construction of the Wekiva Parkway.

DOT' s obligation to construct its portion of the Wekiva Parkway is contingent upon the timely payment by OOCEA of the annual payments required of OOCEA and receiving all required environmental permits and federal government approvals.

[136] Part III of Ch. 369, F.S.

[137] Except for "related transportation facilities" this definition is identical to the definition of "Wekiva Parkway" in s. 348.7546, F.S.

The bill amends s. 348.755, F.S., relating to bonds of OOCEA, providing that on or after July 1, 2012, OOCEA may not issue any bonds except as permitted under the MOU.

The bill amends s. 348.757, F.S., providing that the only lease-purchase agreement authorized is the lease-purchase agreement between DOT and OOCEA dated December 23, 1985, as supplemented by a first supplement to the agreement dated November 25, 1986, and a second supplement dated October 27, 1988.

Upon the earlier of the defeasance, redemption or payment in full for the OOCEA bonds issued before July 1, 2012, or the earlier date to which the purchasers of the bonds have consented:

- the obligation of DOT under the lease-purchase agreement with OOCEA, including any obligation to pay any cost of operation, maintenance, repair, or rehabilitation of the expressway system terminate;
- the lease-purchase agreement terminates;
- the expressway system remains the property of OOCEA and may not be transferred to DOT; and
- the authority remains obliged to reimburse DOT in accordance with the MOU.

The bill amends s. 369.317, F.S., relating to the Wekiva Parkway to provide that those activities related to the parkway and related transportation facilities which require authorization pursuant to part IV of ch. 373, F.S.,[138] DEP is the exclusive permitting authority. It also provides that in Seminole County, DOT locates the precise corridor of interchanges in the Wekiva Parkway and removes the influence of the Seminole County Expressway Authority[139] and the Florida Turnpike Enterprise.

Autonomous Vehicle Technology (Sections 105, 106, 107, 108, 109)

Present Situation

Autonomous vehicles are driverless cars that are able to fulfill human transportation needs.[140] While they are not in widespread use, they can provide several distinct advantages including reduced fuel consumption, not requiring anyone behind the wheel so cars could be shared, and the need for fewer parking spaces.[141]

The only jurisdiction in the world where it is legal to operate autonomous vehicles on public roads is in the state of Nevada, where a law authorizing them passed in June 2011.[142]

Effect of Changes

Intent

The bill provides legislative intent to encourage the safe development, testing, and operation of motor vehicles with autonomous technology on the public roads of the state. The Legislature finds that the state does not prohibit or specifically regulate the testing or operation of autonomous technology in motor vehicles on public roads

Definitions

The bill defines "autonomous technology" as "technology installed on a motor vehicle that has the capability to drive the vehicle on which the technology is installed without the active control or

[138] Part IV of ch. 373, F.S., relates to the management and storage of surface waters.
[139] The Seminole County Expressway Authority was repealed in 2011.
[140] A video of an autonomous vehicle is available at http://www.ted.com/talks/sebastian_thrun_google_s_driverless_car.html (Last visited January 17, 2011).
[141] *Google Cars Drive Themselves, in Traffic*, New York Times, October 9, 2010. http://www.nytimes.com/2010/10/10/science/10google.html (Last visited January 18, 2010).
[142] Nevada Assembly Bill 511.

monitoring by a human operator. The term excludes a motor vehicle enabled with active safety systems or driver assistance systems, including, without limitation, a system to provide electronic blind spot assistance, crash avoidance, emergency breaking, park assistance, adaptive cruise control, lane keep assist, lane departure warning, or traffic jam and queuing assistant, unless any such system alone or in combination with other systems enables the vehicle on which the technology is installed to drive without the active control or monitoring by a human operator."

The bill creates. s. 316.003(89), F.S., defining "autonomous vehicle" as any vehicle equipped with autonomous technology.

The bill creates s. 316.85, F.S., relating to the operation of autonomous vehicles. It provides an autonomous vehicle may be driven in autonomous mode by a person who possesses a valid driver license.

Operation
The bill also provides that unless the context otherwise requires, a person is deemed to be the operator of a motor vehicle operating in autonomous mode when the person causes the vehicle's autonomous technology to engage, regardless of whether the person is physically present in the vehicle while the vehicle is operating in autonomous mode.

The bill creates s. 319.145, F.S., relating to autonomous vehicles. It provides that autonomous vehicles registered in this state must continue to meet federal standards and regulations for a motor vehicle. The vehicle shall:

- Have a means to engage and disengage the autonomous technology which is easily accessible to the operator.
- Have a means, inside the vehicle, to visually indicate when the vehicle is in autonomous mode.
- Have a means to alert the operator of the vehicle if a technology failure affecting the ability of the vehicle to safely operate autonomously is detected while the vehicle is operating autonomously in order to indicate to the operator to take control of the vehicle.
- Be capable of being operated in compliance with applicable traffic and motor vehicle laws of this state.

The bill provides that federal regulations promulgated by the National Highway Traffic Safety Administration supersede these regulations when they are found to be in conflict.

Testing
The bill provides that vehicles equipped with autonomous technology may be operated on roads in this state by employees, contractors, or other persons designated by manufacturers of autonomous technology for the purpose of testing the technology. For testing purposes, a human operator shall be present in the autonomous vehicle such that he or she has the ability to monitor the vehicle's performance and intervene, if necessary, unless the vehicle is being tested on a closed course. Prior to the start of testing in this state, the entity performing the testing must submit to the Department of Highway Safety and Motor Vehicles (DHSMV) an instrument of insurance, surety bond or proof of self-insurance acceptable to DHSMV in the amount of $5 million.

Liability
The bill provides that the original manufacturer of a vehicle converted by a third party into an autonomous vehicle is not liable in, and shall have a defense and be dismissed from, any legal action brought against the original manufacturer by a person injured due to an alleged vehicle defect caused by the conversion of the vehicle, or by equipment installed by the converter, unless the alleged defect was present in the vehicle as originally manufactured.

DHSMV Report
The bill requires the Department of Highway Safety and Motor Vehicles to submit a report to the President of the Senate and the Speaker of the House of Representatives by February 12, 2014,

recommending additional legislative or regulatory action that may be required for the safe testing and operation of motor vehicles equipped with autonomous technology.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill modifies the definition of "motor vehicle" as it relates to toll enforcement and may have an insignificant but positive impact. In 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. This clarification ensures the registered owner of the truck cab is responsible for payment of the traffic citation.

The bill restores the mailing of failure to pay toll notices to first class or certified mail instead of return receipt requested mail, which will result in a revenue increase of approximately $10.2 million per year since DOT will be able to collect additional fines. DOT currently collects 31 percent of fines since the remaining 69 percent are not enforceable in court without the violator's signature on the return receipt. Current year estimates for fines by DOT are $14.8 million.

The bill modifies the definition of "straight-truck," which is expected to have an indeterminate decrease in fines associated with vehicle length. Currently the truck and trailer are measured separately to determine if a fine should be assessed. The modification provides for the overall length of a truck-trailer combination.

The bill authorizes DOT may contract with other entities to collect their tolls for them. DOT advises this will result in an indeterminate amount of nontoll revenue through administrative charges to toll facilities that are not part of the turnpike system or otherwise owned by DOT.

The bill authorizes toll accounts that have been dormant for at least three years to be considered unclaimed property and treats them pursuant to the state's unclaimed property law. This may eventually place some of those revenues in the state school trust fund.

Some Department of Veterans Affairs' trust funds may see additional revenues from the creation of the Combat Infantryman and Combat Action Badge license plates.

The bill authorizes DOT 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 positive fiscal impact should DOT utilize this authority.

2. Expenditures:
Indeterminate. The bill has a potentially negative fiscal impact on DEP and DOT. DEP will be required to approve a WMD's mitigation plan before it can be implemented. DOT, when determining which projects to include or exclude from the mitigation plan, must provide an analysis of the cost-effectiveness of using private mitigation bank credits as an alternative to including a project in the mitigation plan. However, any possible negative fiscal impact to DEP or DOT appears to be insignificant.

The bill authorizes DOT and expressway authorities to designate the use of shoulders of limited access facilities and interstate highways in certain situations. The bill requires appropriate traffic

signs or dynamic lane control signs to be erected when the shoulder is open to designated vehicular traffic, but DOT can absorb these costs within existing resources.

The bill also establishes a two year bicycle pilot program, providing access to bicycles and other human-powered vehicles to select limited access bridges when no other non-limited access alternative is located within two miles. DOT is expecting to incur minor expenses establishing this pilot program and reporting to the Governor and Legislature, which it can absorb within existing resources.

The bill restores the mailing of failure to pay toll notices to first class or certified mail instead of return receipt requested mail. DOT estimates that no longer requiring a return receipt will result in an administrative cost savings of approximately $2 million per year.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
   None.

2. Expenditures:

   The bill has a potentially negative fiscal impact on local government entities that wish to provide mitigation for projects that are not their own by requiring the local government entity to supply additional financial assurances for such mitigation efforts. The financial assurances are identical to those required for a permitted mitigation bank.

   Related to utility relocation, the change from “department” to “authority” will have an indeterminate negative fiscal impact on local governments who may have to cover the cost of utility relocation under certain circumstances.

   The bill allows local governments to transfer right of way by deed instead of using maps, which may reduce the cost of the transfer.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill has a potentially positive fiscal impact for mitigation bankers who may receive additional work with DOT transportation projects.

The bill revises 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.

The bill provides that the overall length of a truck-trailer combination may not exceed 68 feet. Clarifying the definition of “straight truck” could result in a reduction of fines to the trucking industry, but this impact is indeterminate.

The bill qualifies the landscaping allocation on transportation construction projects to spending on a statewide basis a minimum of 1.5 percent only on projects adding capacity or providing significant system enhancements. This may result in a reduction in revenues to landscaping businesses and a corresponding reduction in DOT expenditures, its impact is indeterminate.

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

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

The bill allows DOT 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 choosing to use such tolled installations.

D. FISCAL COMMENTS:

To the extent the bill results in the exclusion of mitigation projects from the statutory mitigation plan, due to the use of purchasing mitigation bank credits, the bill could result in a decrease in revenues received by WMDs from DOT, and thus WMDs will have a corresponding decrease in associated expenditures.

The bill expands s. 206.41, F.S., to add citrus harvesting equipment and citrus fruit loaders to the exemption from the state motor fuel tax. The expansion was reviewed by the Revenue Estimating Conference on January 13, 2012, and was determined to have no fiscal impact since citrus harvesting equipment and citrus fruit loaders already meet the criteria for “farm equipment” and are already exempted.

The bill gives DOT the statutory authority to post load, weight, or speed limits or close local bridges following an inspection. Failure to provide this authority may result in FHWA sanctions against the state, which may include a loss of federal highway funds; however, the amount of any possible penalty is unknown.

The bill provides an additional defense for a red light camera violation of the vehicle owner is deceased. This will have an indeterminate fiscal impact on state and local government.

DOT is statutorily required to provide SFRTA $13 million in dedicated funding and in fiscal year 2011-2012 SFRTA’s budget provides for an additional $17.3 million in funding. Should an alternative funding source be initiated, beginning in 2019, DOT will stop funding SFRTA and will no longer be providing additional funding, saving DOT approximately $30.3 million per year.